

MINUTES
STATE FAMILY LAW ADVISORY COMMITTEE
September 7, 2007
12:30 p.m. to 4:30 p.m.

DHS Bldg. 500 Summer St. NE, Room 166
Salem, Oregon

Members Present: Hon. Paula Brownhill, Bill Howe, Jim Adams, Ernie Mazorol, Ramona Foley, Ed Vien, Linda Scher, Robin Selig, Hon. Maureen McKnight, Dave Hakanson, Stephen Adams

Members Absent: Butch Castor, Hon. Terry Leggert, Lauren Mac Neill, Hon. Robert Selander

Guests Present: Chief Justice Paul De Muniz, State Court Administrator Kingsley Click, Leola McKenzie, Acting Director of Court Programs and Services Division, Hon. James Rhoades, David Bertram, Angelica Vega, Lisa Mayfield, Megan Hassen

Staff: BeaLisa Sydlik, Maria Hinton

Introductions

Judge Brownhill and the committee welcomed the Chief Justice, the State Court Administrator, and the Marion County FLAC representatives.

POLICY CONCERNS AND DEVELOPMENTS—Old

Judge Brownhill provided an overview of the SFLAC projects and accomplishments from 1998 to 2006, and discussed the SFLAC Retreat that was held on June 8, 2007. The Retreat identified three areas that the SFLAC would like to focus on in the next two years:

- Model Community Court Project—possibility of moving some components of family law away from the court and into the community, e.g., small claims, uncontested divorce, etc. This project would look at courts and the capacity of their community to see how services could potentially be shifted from the courts. The workgroup would look nationally and globally for examples of processes that could be adopted by Oregon, and submit this information to the Chief Justice and State Court Administrator for review (see handout);
- Infra-Structure—coordinating and preparing for changes in technology and laying the groundwork in advance to be ready in the family law arena for these changes, and continuing support in the areas of education and training for judges and court staff;

- Self-represented litigants—the SFLAC believes that the majority of family law court cases involve one or more self-represented parties and this is a huge issue for the trial courts.

Included in handouts was a list of family-law related initiatives and projects overseen by Family Law Staff Counsel and the part-time Family Law Analyst. Many of the projects are labor intensive and require a great deal of staff time. Additional resources would be a benefit to the SFLAC so it can achieve its goals and BeaLisa Sydlík and Maria Hinton can get their work done.

Judge Brownhill said that in addition to the priorities identified at the retreat, SFLAC members continue to do their ongoing committee work. She asked the Chief Justice and State Court Administrator if they would prefer the SFLAC to fulfill an advisory role or if they want SFLAC members to continue to work on family law-related projects. Put another way, would they like doers or dreamers, policy advisors or project managers? Guidance from the Chief and SCA would be greatly appreciated.

POLICY CONCERNS AND DEVELOPMENTS--New

Report by Judge McKnight and presentation of the report “*Self-Representation in Oregon’s Family Law Cases: Next Steps.*”

Judge McKnight stated that the Self-Represented Legal Services Subcommittee was formed some years ago with a project focus, and as work continued it had become apparent that what was really needed was to focus more globally in order to develop a plan and initiate steps to address the issue of self-represented litigants. Data supports that Oregon is comparable with California and Washington states where the numbers reflect a 69-70% rate of family law cases having one or both self-represented parties. Many of our systems (both court and attorney) are built on the paradigm that there are lawyers managing the cases. This is no longer true for the majority of cases in family law, and this function is falling to court staff to assist parties through the system.

The subcommittee contacted a variety of stakeholders and asked a consistent set of questions to help identify barriers and provide solutions to this issue. Up to this point, Oregon had not had a comprehensive look as a legal community statewide at the self-represented issue. Several common themes emerged:

- we know that self-representation is a reality in Oregon (although access to full representation remains a goal);
- collaboration with community based providers of legal services and social service organizations is essential.

The report identifies seven recommendations that the subcommittee found to be key elements for moving Oregon forward in the family law arena. Below is a brief summary of each recommendation:

1. Oregon should develop interactive forms and set criteria for the initiation of mandated forms. This would support the technology initiatives of the OJD, and also address the need for standardization or equality of access to services for court users across the state. Additional benefits would include the ability to translate materials in a cost-effective manner.
2. Judicial education programs and guidance are needed to address issues involving self-represented litigants.
3. Simplification of forms and processes needs examination and implementation.
4. Support and enhance Facilitation Programs.
5. Promote attorney involvement throughout the state in handling pro bono, reduced fee, and unbundled legal services.
6. Develop case management strategies that assist self-represented litigants to move through the system.
7. Create an Oregon Task Force on Self-Represented Litigants to prioritize and implement the recommendations of this report.

BeaLisa added that pro bono efforts here in Oregon need enthusiasm and motivation. Past efforts have not been successful, due in part to struggling with what is appropriate judicial involvement in pro bono. Definitive guidance would be very helpful in efforts to move several stalled projects forward.

Bill Howe reiterated that self-represented cases have continued to increase over the years, and in many ways this impacts the way all cases are processed. This is a very important issue that needs a global plan in order for Oregon courts to continue to provide access to justice for self-represented litigants. Also, the SFLAC wants to be sensitive not to overstep its bounds, therefore asks for clarification from the Chief and SCA as to what focus they would like the committee to develop. Ernie Mazorol stated that whichever focus the SFLAC takes, it is important that the committee be sensitive to available staff support needed to make the committee efficient and responsive.

The Chief stated that in the eighteen months he has been Chief Justice, he has been very impressed with all the work that has been done by this committee. He read the *Self-Representation in Oregon's Family Law Cases: Next Steps* report and thought it was excellent. The Chief stated that he set three priorities for the OJD: compensation, court facilities, and technology. Technology crosses the boundaries into all of these issues.

The issue of self-represented litigation is at the top of the list for every state, as reflected during the Chief Justices' Conference. It runs parallel to technology advances. The Chief is very aware of the issue and wants to work with the SFLAC to develop a strategic plan on how to meet the needs of the self-represented who approach the court each day. As a first step, the Chief has asked two judges and Mollie Croisan, Education Manager, to accompany him to a national conference on self-represented litigation in Boston in

November 2007. His goal is to become thoroughly informed so he can lead the state on this issue. Once the group returns from the national conference, OJD will begin strategic planning on the issue.

The Chief is open to finding solutions “outside the box”. He said the University of Colorado Law School has a successful program that uses law students with regard to self-representation. The Chief also is aware that the judicial code can be an impediment, and he hopes the national conference will address this problem. The Chief is creating a committee, headed by the Hon. Ellen Rosenblum, that will review new ABA canons. This committee will look at Oregon’s judicial canons and determine what could be changed to meet the needs of the self-represented.

State Court Administrator Kingsley Click said she believes we need both vision and project orientation for the SFLAC. The key would be to narrow the focus to what is do-able with available resources and see those projects to completion. Kingsley acknowledged that there are functions carried out by a few individuals and the processes have not been institutionalized in a way that the process could carry on by itself. This is something that needs to be looked at and could be part of future planning.

Bill Howe stated that the SFLAC greatly appreciates the support it has received over the years from OJD, and he invites feedback on any issue being addressed by the SFLAC. Bill suggested that some self-represented groundwork could be laid immediately with bar members and Board of Bar Governors. He believes Bar president Albert Menashe will be supportive. Bill stated that technology has played a key role in the successes of other states working with self-represented parties, and this piece very much supports the technology initiatives of the OJD.

Stephen Adams commended the work of the Self-Represented Legal Services subcommittee. Stephen said that, in his opinion, nothing is as important in meeting the 2020 vision of access to justice as the courts being able to effectively meet the needs of self-represented customers. The issue of self-representation is the key national issue facing the judiciary. Stephen suggests that the work preliminarily outlined by this subcommittee, (and hopes that will be carried forward by a newly created task force), will only be effective if it is seen as a top priority. This work will also need to be accompanied by a financial commitment. The task force will need paid staff and should be chaired by a professional (judge or attorney). Without this commitment, Stephen fears the project will falter and Oregon will fall further behind rather than becoming the leader that Oregon needs to be.

Jim Adams stated that, although the SFLAC maintains a “vision” for the future, he believes there are concrete steps that could be taken immediately. Randomly selected OJD statewide forms are written at a 16th grade level, as stated in the report, and many of the people we serve read at a 4th grade level. The forms need to be worked on now; we do not have to wait for technology to be in place. We already know what the standards are for Adobe Acrobat, and we know how to create live forms. It will take time

to revise all of the forms, and this is work that could be started now so that it can all come together when the technology is in place.

Leola McKenzie reported that preliminary steps have already been taken in this area. BeaLisa has a temporary intern who will work on updates to some statewide forms. During this update process, forms will be converted from WordPerfect to Word, then into an adobe format for the web. There have been preliminary discussions within our division regarding simplification of language across the board. This is the direction we need to move and with updates mandated for some forms by 1-1-08, it is the perfect time to start the process. Kingsley added that part of the reason for the complexity of some family law forms is that they were mandated by statute. With the passage of recent legislation, that barrier has been removed, leaving the way open to develop more user-friendly forms.

Ernie Mazorol suggested surveying Facilitation Program customers to gather internal information and find out how effective the process was for them. That way we would have data to support improvements.

Judge McKnight stated that Oregon is still in the transition of statewide forms, and she is concerned that we will not have support of the legal community unless they are involved in this process. We need to build support now.

Ramona Foley thanked the Chief for setting priorities. She said we have to make tough choices, but we cannot do everything.

Bill Howe said if we get people involved on take-off, they will be on board for the landing. He will make an announcement at the OSB Family Law Conference in October.

Judge Brownhill informed the Chief that the committee is beginning to plan the 2008 Family Law Conference, and she invited the Chief and Kingsley to let her know if they have ideas for theme or focus for the conference.

After the break, Judge Brownhill stated that she would like a brief discussion about the comments from the Chief and Kingsley. She stated that it appears the SFLAC is going in many different directions and the committee should think about narrowing its focus to match the Chief's priorities.

Many committee chairs stated that narrowing the focus to self-represented litigants and technology would blend very well with the work of their subcommittees. Jim Adams suggested that the SFLAC invite a representative from the Technology Committee or ITD to explain how IT initiatives will affect family law in Oregon.

Stephen Adams asked the SFLAC what the next steps will be to address the self-represented issue. The Chief has voiced support for creating a plan to move this issue forward, but where does the SFLAC fit in that plan? It would be a mistake to drift into the

task force role and only address these issues once a quarter.

Judge McKnight agreed it would be good to have a conversation with IT. Communication in this area is very important. Judge McKnight agreed with Stephen that the SFLAC or a subcommittee cannot complete the work necessary to implement the recommendations; there is tension between what we can do to springboard the issue vs. taking over the issue.

Ernie Mazorol suggested that the SFLAC draft a letter to the Chief and Kingsley, thanking them for attending the meeting and making the issue of self-represented litigation a priority for Oregon. The SFLAC realizes the Chief's leadership is essential to this project and we look forward to supporting the Chief's plan. He will suggest a few things we can do to help. Ernie will draft the letter and forward it to Judge Brownhill.

Bill Howe moved that Jim Adams become the SFLAC representative on the Technology Committee and that Jim inform Bud Borja of family law needs. Motion passed unanimously.

Linda Scher said we should include a parenting plan vision on the task force. She will support her suggestion with a written or oral report.

Leola believes IT has a good understanding of family law issues and needs of the self-represented. The Web Portal project is huge and they have discussed in depth the need for people to get on-line 24/7 and get a fee waiver, fill out a parenting plan, get answers, and file petitions. Self-representation is a key component of the plan. CPSD has two staff members attending a requirements meeting on ECM and e-filing, and they understand the importance of these issues for self-represented litigants. Maria Hinton will attend a Web Portal meeting in October where this same message will be delivered. Leola believes IT understands this must be a key component of the new system.

BeaLisa reported that Judge Murphy, chair of the Technology Committee, in his response to the self-represented report said that these are good concepts and the OJD needs simplified forms but it would be 2012 before we can implement interactive forms. BeaLisa talked with ITD about turning some forms into adobe live forms, and ITD stated it is too complicated and adobe live could only do simple forms. Judge McKnight added that states using interactive forms have found that prompts and menu driven forms are needed in order for people to successfully complete them.

Judge McKnight clarified that she did not hear the Chief commit to forming a task force, but rather that he would attend the national conference in November, increase his understanding of the issue, then formulate a plan. Leola said she heard the Chief say that he wanted to work with the SFLAC and others to develop a strategic plan for dealing with self-represented issues. This may or may not include creating a task force.

Regarding resources, Leola stated that CPSD has staff and a structure in place and is in

the process of aligning priorities.

Leola suggested that the SFLAC subcommittees align their work to support the two OJD priorities: technology and self-representation. Ernie is concerned that SFLAC's third priority, finding non-traditional ways to handle cases by moving some tasks from court to community-based programs, will drop off the radar. He suggested that a group of SFLAC members work on this issue. Judge McKnight urged SFLAC to be realistic about undertaking projects with limited or no staff support. BeLisa concurred.

Bill Howe was in favor of keeping this issue on the table. Jim Adams said the issue of 'non-traditional ways of moving cases from the courts' runs parallel with services for the self-represented, and we need to keep the third leg of the stool as a viable option.

Stephen suggested that a model community/court subcommittee start to meet to determine the depth of the project and assume responsibility for the workload; he pointed out that effective subcommittees are self-directed. This approach will keep the topic on the table but not cause concern regarding the speed of accomplishment or development of a product. Reports would be given to the SFLAC quarterly. The Futures Committee could be the placeholder for it.

Linda suggested that we keep our subcommittee structure and have each subcommittee look at the three themes of technology, self-representation, and nontraditional programs. She believes that each subcommittee does this, but suggested that reports to the SFLAC could be tailored so these themes are in the forefront and are always addressed. The SFLAC agreed it is a good approach to stay focused as each subcommittee continues its work. It was suggested that the priorities be listed on every agenda.

Bill said if funds are a stumbling block to the progress of an important project, he believes grants or donations could be obtained. He is willing to carry grant applications as needed.

GUEST PRESENTATION:

Judge Brownhill welcomed the Marion County Local Family Law Advisory Committee. Judge James Rhoades, past Chair, identified three major projects the Marion County FLAC has been developing, and provided an overview for each project and written material for the committee to review: Highlights include:

- Parental Access Program
 - Family Building Blocks Supervised Visitation
 - Random Substance Abuse Testing
 - Substance Abuse Assessment and Treatment
 - Domestic Violence Intervention
 - Parenting Classes

- High Conflict Symposia

- Interdisciplinary Forum to Review Cutting Edge Ideas and Programs
- Young Child Case Processing Protocol
 - Focus on Children Age 0 to 3
 - Mediation Orientation
 - Parenting Resources
 - Expedited Case Processing

SUBCOMMITTEE REPORTS:

Annual Family Law Conference: The Wittenberg Inn in Keizer has been confirmed for the 2008 Family Law Conference scheduled for September 12-13, 2008. The theme for the conference is “**Cold Circuits, Warm Hearts: Using Technology to Serve Family Law Customers**”.

Suggestions for workshop topics include:

- Civil Unions and Domestic Partnerships
- Mediation and Working with Families
- Paternity Disestablishment
- Technology in the Justice System

We would welcome any suggestions regarding workshop topics and most especially potential presenters. Please feel free to forward ideas to Maria, Bealisa, or Judge Brownhill.

Bill Howe volunteered to contact national speakers as needed.

Domestic Violence Subcommittee: The subcommittee celebrated the accomplishment of finalizing and posting the confidentiality brochure on the website. The subcommittee is currently working on minor adjustments to the website and Robin suggested that the DV subcommittee take a larger role in making sure that the website is updated and current. The subcommittee provided Bealisa some input on the bench guide that she is developing to appraise the courts of the 2005 judicial notification requirements. Also, the subcommittee will assist in putting together a workgroup to look at drafting new forms as the result of new legislation that took statutory forms out of ORS.

Parenting Plan Outreach Workgroup (PPOW): The subcommittee has been circulating drafts of parenting plan material by email. It is hoped that after the next meeting scheduled for October 10, 2007, materials will be ready to circulate to a broader audience for comments. Feedback will be considered when creating the final version of the material. It is hoped that a stand alone webpage can be created to test the new documents before final roll-out.

Court/Child Support Agency Child Support Coordination: Judge McKnight stated the subcommittee continues to meet every other month. Bealisa reported that she has

been working with Shawn Brenizer on possible ways to deliver judicial and court staff training on the new Child Support Guidelines-(medical insurance). There is a slight possibility that there may be a table at the Judicial Conference that would show the on-line CLE they are developing regarding the new legislation.

Judge McKnight stated that Bob David, who is on the subcommittee and is also involved in a national committee, is working nationally with a group similar to this subcommittee, which focuses on courts working with child support agencies. He shared some reports and statistics. The subcommittee is working to align their work with the technology priority of the OJD, i.e. electronic interface and transferring of child support orders from one agency to the other; sharing webinar training from the child support programs with lawyers and judges; working on an electronic child support bench book for judges; and working together to exchange information about availability of grants.

Self-Represented Legal Services Subcommittee: Judge McKnight acknowledged and thanked all subcommittee members and staff for their hard work on the self-representation report. She asked for direction from the SFLAC with regard to next steps for the Self-Represented Legal Services Subcommittee. She suggested the subcommittee draft a one page list of tasks that would be do-able, that doesn't require paid staff, that enhance steps already underway, and that are not labor intensive. She would bring this list back to the SFLAC in December. The committee agreed with this suggestion.

Subcommittee on Subcommittees: Stephen moved that because this subcommittee is not currently looking at issues, this subcommittee be removed from the list of subcommittees. Bill Howe seconded the motion. Motion passed.

Legislative Issues: Laws were passed this last legislative session that introduce new concepts into the family law arena, i.e. domestic partnerships. Once BeaLisa completes initial work, she would like to convene a committee or workgroup and receive the SFLAC's input.

Meeting adjourned at 4:30 p.m.

FUTURE MEETING DATES:

Friday, Dec. 7, 2007	12:30 p.m. - 4:30 p.m.	Multnomah County Juvenile Justice Center

Friday, March 7, 2008	12:30 p.m. - 4:30 p.m.	TBA
Friday, June 6, 2008	12:30 p.m. - 4:30 p.m.	TBA
Friday, Sept. 12, 2008	12:30 p.m. - 4:30 p.m.	TBA
Friday, December 5, 2008	12:30 p.m. - 4:30 p.m.	TBA

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