

**MINUTES
SFLAC MEETING
MULTNOMAH COUNTY JUVENILE JUSTICE CENTER
PORTLAND, OREGON
August 3, 2001
(1:30 p.m. - 4:00 p.m.)**

The meeting was called to order by Hon. Dale Koch, Chair, at 1:30 p.m.

Present: James L. Adams; Stephen Adams; Kate Barkley; Bob David; Ramona Foley; William J. Howe, III; Sharon James; Hon. Terry Leggett; Ernest J. Mazorol, III; Hugh McIsaac; Maureen McKnight; Sandra Purnell; Linda Scher; Lorah Sebastian.

Absent: Hon. Robert Selander; Hon. Paula Brownhill

Guests present for all or part of the meeting: Dr. Herman Frankel; Meg Goldberg; Dave Hakansen; Martha Strawn Morris; Lauren MacNeill; Karen Olsen; Chris O'Neill; Hon. Ron Pahl; Jennifer Priest; Grafton Sterling; Judith Swinney.

State Court Administrator (SCA) Staff: Alice Phalan; BeaLisa Sydlik; Hillary Berk.

Consent Calendar:

Minutes: Minutes of the June 1, 2001 meeting were read and approved.

SUBCOMMITTEE REPORTS:

Annual Family Law Conference Subcommittee: BeaLisa Sydlik reported that Kingsley Click will be signing the contract for the selected conference location, the Hood River Inn. She anticipates the contract will be signed within the next week. Dates for the first subcommittee meeting are currently being coordinated for September. It was suggested that Judge Admire of King County Superior Court be considered as a keynote speaker for the conference. He was very well received at a previous event.

Legislative Subcommittee: Judge Leggett reported that there were cuts in administrative "COS" positions in the department. Certain limited duration positions, including the family court and drug court facilitators, and family court coordinators, will be funded as permanent positions. No new family court positions were allocated in the budget. It may be up to the counties to work on their local budgets. Six new judges were added to the 2003 budget. House Bill 2339 was passed which expands the use of mediation and conciliation fees, to include custody evaluations, parent coordinators, and parent education. She will be sending an email to the LFLAC chairs informing that they should speak with their presiding judges on use of the fees. The CCJSD staff will produce a final legislative update of all the bills the division tracked after August 17, 2001 (the final day for

the Governor's veto). This will be distributed to the numerous email lists. There will be a LFLAC Bulletin this fall highlighting family law legislation.

Domestic Violence Subcommittee/Curriculum Subcommittee: Maureen McKnight reported that two regional Domestic Violence Judicial/Court Staff education programs were held in Redmond, Oregon on June 29, 2001 and in Baker City, Oregon on July 13, 2001. The Redmond agenda was modified to have a judges dialogue session in the morning, and court staff training in the afternoon. In Baker, a judges dialogue occurred in the morning, concurrent with a separate morning staff training. The court staff training continued in the afternoon until 3:30 p.m. The subcommittee is planning to approach the Portland and Medford regional events using the Baker format.

The subcommittee is working on other projects as well. CCJSD is still waiting to hear from the State VAWA Advisory Board whether its grant application for VAWA funding for future DV judicial education programs was approved. They expect to hear from the Board soon. Beginning in October, the subcommittee will explore a long-term solution to confidentiality of information through development of a "P.O. Box" program much like that used in Washington and California. Additionally, the subcommittee is considering a coordinated effort with the Parenting Plan Work Group to develop a Safety-Focused Parenting Guide.

Parenting Plan Work Group (PPWG):

Much of the meeting was devoted to review of the Parenting Plan Guide, Version #5. Sharon James, Sandra Purnell, Linda Scher, BeaLisa Sydlik, and Dave Hakanson each presented a different key issue and explained how the PPWG went about making decisions regarding those issues. The PPWG has met nearly every month to work on the Guide since June, 2000.

Sharon James provided an introduction on how the PPWG's work involved balancing of divergent points of view. The goal was to develop the best possible tool for parents who need to negotiate and craft a parenting plan within the legal system, often without legal counsel. The PPWG worked to create a tool that: accurately explains complicated legal issues in clear, simple language; provides an opportunity for people to work on their own without an attorney, while encouraging seeking legal advice; provides information, guidance and examples; uses language and suggests action that is more respectful and supportive to families; warns and advises where appropriate; details issues as needed; flags potential safety issues; and encourages uniform statewide use as determined appropriate by local counties. The PPWG acknowledged the Guide is a work in process that will be monitored in the "field" and revised as needed.

Linda Scher explained that the Guide provides notes, cross-references and flags for safety concerns in order to properly route individual users to appropriate resources for mental illness, drug abuse, child abuse, and domestic violence. The PPWG will be teaming with members of the DV subcommittee in the fall to create a "safety-focused" Guide.

Sandra Purnell reviewed the issue of how much and in what way the Guide should encourage parents to consult with attorneys. There are two text boxes in the Guide which encourage parents to consult with attorneys, and offer resources for obtaining legal and mediation services. It also refers to family

court facilitators. While the group was wary of encouraging litigious solutions, it also wanted to inform that certain decisions have important legal consequences for which an attorney's advice might be warranted. The Guide also provides flags for some issues that could have important consequences that require consideration prior to decision-making. The group strived to synchronize a holistic approach to parenting, understanding that some parts of the legal and administrative system are still catching up and progressing.

Lorah Sebastian wanted the Committee to recognize just how challenging a task the Work Group took on, given the huge number and diversity of people likely to use the Guide. The Group strived to come as close as possible to creating a great product that would serve the broadest number of people. The upcoming Safety-Focused Guide will be the net that catches those for whom the current Guide is too general.

Dave Hakanson described the Work Group's thinking on parenting time decisions versus custody. The group discussed at length concerns regarding use of "custody" language. It was a priority for the group to create a progressive document from a healing perspective, appropriately reframed in the context of the current family law system. The group's focus was on detailing particular and crucial information when necessary, without relying on labels. The group opted to have parenting time come first in the plan, followed by the issue of "custody" or decision-making. This order allows parents to understand what they are selecting and tries to avoid immediate arguments about "rights" over the children when using "custody" labels. It allows families to first decide how they want to function, and then label it afterwards. Feedback from the committee was supportive of the Work Group's choice.

Discussion was had regarding the Sample Parenting Plan's section on the number of overnights each parent has with the children. The Work Group decided to add this provision since it acknowledged that all families, at some point in the process, will have to respond to this question. Some felt that it need not be addressed until necessary. However, based on the possibility that eligibility for public assistance may be compromised without having the number of overnights laid out in the plan, the group erred on the side of caution, framing the provision in a way that was more positive and basic than calculating percentages for child support purposes. From a practical standpoint, parents should understand from the beginning the choices they are making and not avoid the issue of overnights.

In support of the PPWG's decision, judges remarked that the parents to whom this plan will make a difference will be counting overnights anyway, so it should be "put on the table" and discussed. While dissatisfaction with the child welfare system was discussed, from a practical standpoint the group could not change that system with this Guide, and felt it must be cautious until the impact of the Guide is tested with public use. Thus, the PPWG focused on whether the plan meets the best interests of children, understanding the child welfare system's realities. It took the need for establishing a "primary residence" and reframed it in a way that was more positive and unlabeled.

Guests attending the SFLAC meeting were invited to provide comments on the Guide. Feedback was recorded and will be compiled by Hillary and BeaLisa for consideration by the PPWG.

The issue of whether the statutory local rule's parenting plans might require updating and/or redrafting was discussed. It was suggested this issue be raised at a presiding judge's meeting to

determine if it is appropriate to make changes to the SLR's again, or whether the Guide's Sample Plan might be an optional replacement for individual county plans, with local tailoring as needed. The committee agreed to revisit the SLR issue after the Guide has been used by the public for a few months, and feedback will be available from judges and local FLACs on their experience with its use so far. It was also agreed that the SLR issue should be tabled until the safety-focused Guide has been drafted and released to the public.

The committee agreed to defer to the PPWG regarding its final decisions, understanding that the Guide is a work-in-process that will be revised as needed, and knowing it has been reviewed by many in three rounds of feedback. The PPWG will consider the final round of feedback and will finalize the document for submission to Kingsley Click and the Chief Justice, for their approval and subsequent release to the public.

HANDOUTS: Draft Version #5 Parenting Plan Guide
Supplement: Changes to Version #5

Future's Subcommittee: Bill Howe and Alice Phalan reported that the subcommittee had a conference call in July. Strategies on how to use and promote the report were discussed. These include: linking the report to the OJD Family Law website; developing a Powerpoint presentation for LFLAC meetings; developing a user-friendly brochure that condenses the 14-page report; submitting press releases to the OSB bulletin and various national newsletters; and submission of the report to a professional journal for publication, such as the Association of Family Courts Review. The subcommittee intends for most of the publicity to occur within the State. SFLAC members suggested publication and/or promotion of the report in the Family Law section of the Bar newsletter and the Quarterly Journal of Juvenile and Family Court Judges.

Kingsley Click had not yet had an opportunity to review the report. The subcommittee expects that Kingsley Click and the Chief Justice will review and approve the report in advance of the next SFLAC meeting. The group discussed whether the subcommittee had permission to proceed with publication of the report if it is approved without substantive changes, and if so, who the "author" of the report should be. The group agreed by consensus that: 1) publication will reflect the report was authored by SFLAC, explaining the SFLAC members are appointed by the Chief Justice, as well as who the subcommittee members are; 2) if any substantive changes are made by Kingsley Click or the Chief Justice, the subcommittee will return to the SFLAC for consideration of the changes prior to publication; and 3) if the subcommittee is satisfied with minor changes made by Kingsley Click or the Chief Justice, they have permission from the SFLAC to proceed with publication.

Court/Agency Child Support Coordination Subcommittee: Bob David reported that each of the three work groups met at least once since the last SFLAC meeting. Two members have left the subcommittee, including Diane Pietrzak, chair of the Records Management work group. Judge Leggett drafted a proposal for the Oregon Law Commission regarding the preclusive effect of agency versus court-issued child support orders. The proposal will be reviewed by the subcommittee, and brought to the next SFLAC meeting for consideration. Regarding the Division of Child Support Web Site Calculator, the split and shared custody calculators are now available and on-line for use by the public.

Ramona Foley briefed the members on the Department of Human Services reorganization. Changes will include creation of a single field structure, rather than separate divisions and offices, to increase accessibility to clients. The agency will have three main “policy areas,” including the policy area Ramona will direct, “Children, Adults and Families.” There will be sixteen service delivery areas, each having a manager who supervises approximately fifty employees in each area. It was suggested that the agency reorganization be a topic for the April 2002 SFLAC conference.

NEW BUSINESS

Bill Howe was approached by representative Lowe to find out if anyone was interested in proposing a bill allowing the court to order joint custody where it finds the objection by either side to be unreasonable. Discussion was had on the topic, including comment that the Parenting Plan Guide might weed out the need for such change in the law, and studies which show that ordering of joint custody may not be effective in practice. Future comments should be forwarded to Bill Howe.

The meeting was adjourned at 4:05 p.m.

The next meeting is scheduled for October 5, 2001, at the Multnomah County Juvenile Justice Center.

Respectfully submitted,
Hillary Berk

List of Attachments and Handouts for August 3, 2001 Meeting:

- Draft Version #5 Parenting Plan Guide
- Supplement: Changes to Version #5 Parenting Plan Guide

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