

MINUTES
Family Court Advisory Committee
NC Judicial Center
February 29, 2008

The Family Court Advisory Committee (FCAC) met on Friday, February 29th at the NC Judicial Center in Raleigh. The Honorable A. Elizabeth Keever called the meeting to order at 10:10 a.m.

The following FCAC members were in attendance:

Judge A. Elizabeth Keever, Chair
Kathy Arnette
Jeff Barger
Sydney Batch
Suann Bechtal
Judge Robert M. Brady
Judge J. Stanley Carmical
Elisa Chinn-Gary

Judge William C. Farris
Nancy Grace
Judge Martha Geer
Cheryl Howell
Justice Robin Hudson
Marilyn Stevens
Eric Zogry

The following guests and staff also attended:

Judge David A. Leech, District 3A
Judge Bill Neely, District 19B
Nancy Butler, FCA, District 19B
AJ Coutu, FCA, District 25
Sherry Honeycutt-Everett, UNC Law student
Mona Williams, FCA, District 3A

Nina Cohen, AOC
Keisha Crawford, AOC
Lana Dial, AOC
Sandy Pearce, AOC
Alisa Huffman, AOC
Lori Cole, AOC Staff to FCAC
DeShield Smith, AOC Staff to FCAC

Welcome & Introductions

Judge Keever welcomed everyone to the meeting and began by introducing Sherry Honeycutt-Everett, a 3rd year UNC law student working on an Independent Study of Family Court. Everyone in attendance introduced themselves.

Expansion Districts Update

DeShield Smith reported that the Family Court staff in District 3A (Pitt) has drastically reduced the number of pending cases over one year old from 641 cases to 114 cases. The Pitt Family Court Opening Ceremony will be held Monday, March 3rd at 8:30am at the Pitt County Courthouse. Judge Leech added that he was looking forward to having Justice Hudson speak at the ceremony. FCA Mona Williams shared that the whole experience has been very good. Attorneys are already on board with Family Court and she saw a positive shift in the attorneys' attitude toward Family Court at the last calendar call.

Alisa Huffman reported that District 19B (Randolph/Moore/Montgomery) is making good progress. FCA Nancy Butler is doing a great job keeping stakeholders advised of the progress and all case coordinators have been hired. Nancy shared that her staff has moved into their space in Randolph and hopes to be settled in Moore soon. They have formed a local FCAC and invited everyone to participate, not just a select few. Meetings are held on a rotating basis in each county and they are more than halfway through completing the domestic rules. She is maintaining an email update list where progress notes are distributed and comments on the development of the rules are invited. There has been strong participation electronically. To date

her staff has closed over 250 cases that are over one year old by administrative orders signed by the judges and they are scheduling clean-up calendar days. The 19B staff visited District 25 (in Newton) last week and is headed to District 26 (in Charlotte) next week. Their opening date is scheduled for April 30th and will involve 3 separate ceremonies, one in each county, throughout the day.

District Presentation

Judge Keever explained that District 14 (Durham) was scheduled to present; however, the FCA resigned recently and so their report is postponed.

Family Court Administrator AJ Coutu from District 25 (Caldwell/Burke/Catawba) gave a comprehensive PowerPoint presentation (See Handout), which detailed the three areas identified by Judge Keever.

1. Describe how the district is set up administratively: how many judges are in Family Court and what they do, what cases are managed, and what the FCA is primarily responsible for.
 - This three county district is managed by one administrator, one juvenile case coordinator, 3 domestic case coordinators, one 10 hour judicial support staff and occasional interns from the community college. They are fortunate that all of the Family Court employees and Custody Mediation staff have been stable.
 - Seven of the 9 district court judges preside in Family Court (3 Juvenile & Domestic; 1 Juvenile only; 3 Domestic only). Four judges hold combined criminal & civil Domestic Violence (DV) court and hospital hearings. All 9 judges may hold IV-D Child Support and Truancy Court off site. The rotation system is sometimes referred to as a “tilt-a-whirl” because so many of the staff and judges are constantly moving to different courthouses around the district.
 - Both domestic and juvenile abuse, neglect and dependency (AND) cases are managed.
 - The FCA is primarily responsible for: case tracking, which includes audits and evaluations and case tracking policies; evaluation of the allotment of court time and calendar adjustments; personnel evaluations, policies, crises, delegation of responsibilities/special projects, liaison with community college for paralegal interns; meetings involving agency collaboration, court space, pandemic, staff and Legal Aid; drafting administrative orders; and coordinating with judicial staff.
2. Describe current programs: what is being done in the court, in the community and with the Bar.
 - Current domestic efforts include: Family Court CLE Seminars (Child Custody & Visitation Issues and Dynamics, Marital Asset and Retirement Valuations); increasing Absolute Divorce Clinics, Parent Coordinator Program Development; increasing Collaborative Law support; reducing cases over 1 year old; combining criminal/civil domestic violence court; and optimizing use of CaseWise data and reports.
 - Current Juvenile efforts include: addressing ASFA concerns; reinstating the local Family Court Advisory Committee; incorporating contracted juvenile attorneys; instituting additional court time; improving J Wise case tracking & data input efforts to comply with the Rules of Recordkeeping; train dedicated judicial staff; and conduct Spring Juvenile Court Training.
3. Describe plans and dreams for the future and limits on what they can do.
 - Future plans include: a Family Drug Treatment Court; development of the 25th Judicial District Court website; implement pro se custody clinic to include attorney assistance for custody claims; separate court floors, wings or buildings

in each county for criminal and civil; and the judicial specialization of high asset/high conflict cases.

- Dreams include: a district wide court system vision, plan and training independent of specific individuals; judicial specialization and leadership for criminal civil and family courts; self-help centers staffed by at least one licensed attorney; supervised visitation and exchange program; access & visitation program; greater public knowledge about court system progress and challenges; and inclusive accounting of motions in the cause and show cause (post-disposition) cases.

DISCUSSION: Judge Carmical asked if judges that conduct the pro se clinics are also hearing those types of cases. Judge Brady stated that he does not have any judges that are currently on the bench teaching the pro se clinics, although a retired judge has taught it. Cheryl Howell asked how cases are identified for the combined domestic violence court. Judge Brady stated that the District Attorney's office usually identifies the cases. The 50B case is heard first and all issues turn up in court within a month. Usually service of the 50B paperwork and warrant are coordinated.

Site Visit Report

District 25: DeShield Smith reviewed the Site Visit Summary from her visit to District 25 last Spring (See Handout).

The clearance rate in Catawba County is excellent and the pending median case age in the district is consistent with the Family Court average. The Custody Mediators and the Family Court staff have a great working relationship. They communicate well, participate in Family Court staff meetings and the lead custody mediator participates in policy development with the FCA.

The clearance rates in both Burke and Caldwell need to increase to at least 100% in order to prevent a backlog from developing. Twenty-percent of the pending cases in the district are over one year old. This percentage needs to decrease to no more than 15% in order to be consistent with the Family Court Best Practices. It was also recommended that the continuance policy be enforced with more uniformity and the local Family Court Advisory Committee should be reactivated. There is no formal structure currently in place to identify cross-over cases, which may allow for these cases to enter Family Court without staff's knowledge. It was recommended that staff perform a search by name in J Wise and Case Wise when a petition or complaint is filed to identify these cases.

DeShield pointed out that the multi-county district has worked diligently in the past year on the challenges identified in the report and have increased their clearance rate so that the percent of pending cases over one year old is now in line with the Best Practices recommendation of less than 15%. The community involvement of staff and judges is a great strength and the relationship between the Family Court staff, custody mediators and clerks result in a very cooperative working environment.

New Family Court Judges & Staff Training Update

Lori Cole reported that this year's Family Court Orientation was held Wednesday, February 6th through Friday, February 8th. It was the first Family Court program hosted at the new Judicial Center, the first training organized by the Court Programs Family Court team and the first orientation that included the clerks in new Family Court districts.

The knowledge and skills introduced during this orientation to Family Court were designed to familiarize participants with the history and purpose of Family Court as well as to help each Family Court team member better understand and appreciate the duties of their co-workers in different roles. Staff was introduced to the basics of the Court System as well as Domestic and

Juvenile Abuse, Neglect and Dependency Procedures. On the days when both staff and judges were present, the topics were Legal Advice & Ex Parte Communication, Cultural Competency and Customer Service, Best Practices for Facilitating Meetings, the Seven Fundamentals of Caseflow Management and Best Practices in Effective Case Management.

A total of 46 people attended the training. That number includes 14 judges, 2 Clerks of Superior Court, 5 Family Court Administrators, 4 Juvenile Case Coordinators, 5 Domestic Case Coordinators, 4 Judicial Assistants, 9 Assistant and Deputy Clerks, 1 Supervised Visitation Case Manager and a Supervised Visitation Case Coordinator. Five AOC staff members were also present during the training.

Forty-one people submitted evaluation forms. In the compiled results, the total number of responses received for each question varies (from 27 to 41) because not all respondents answered each question. Overall, the vast majority indicated that the training topics were both important and useful (See Handout).

DISCUSSION: Judge Keever noted that some people couldn't make it because new judges were appointed in late January but they would attend the next training. FCA Mona Williams thought it was beneficial to have the clerks in the new Family Court districts participate. Overall, the clerk feedback was positive because the clerks did not fully understand what was involved in a Family Court prior to the training. Marilyn Stevens asked if the Guardians ad Litem (GALs) had ever been considered for this type of training. Lana Dial stated that the August conference will include more training for all stakeholders in the Abuse, Neglect and Dependency process (AND). FCA AJ Coutu suggested that separate Juvenile AND and Domestic training sessions may be beneficial. Alisa Huffman pointed out that introduction to Family Court was offered in several counties in District 19B and those trainings did include representatives from all disciplines. AOC is recognizing that on-site training to help reach everyone inside a district can be more effective than bringing all stakeholders to Raleigh.

Custody Mediation Advisory Committee (CMAC) Recommendations Subcommittee Report

At the November meeting of the FCAC, Judge Keever appointed a subcommittee comprised of Cheryl Howell, Judge Bill Farris and Nancy Grace to make recommendations for a response to the to the Custody Mediation Advisory Committee recommendations regarding the relationship between Family Court and the Custody Mediation Program. Cheryl Howell reported that the subcommittee talked a number of times and contacted Judge Cash about the CMAC's recommendations. The subcommittee feels that this is a good opportunity to acknowledge the relationship of the custody mediators and emphasize the importance of mediators to clarify the need for the Custody Mediation Program so that the General Assembly will continue to support it. They reviewed their proposed response (See Handout) and the committee then discussed their proposal.

DISCUSSION: Nina Cohen reminded the FCAC that the programs exist statutorily as two separate programs. Cheryl said the subcommittee feels it is important to stress the collaborative nature of the two programs. Kathy Arnette suggested that clinical supervision and administrative supervision should be separate. Cheryl stated that the subcommittee doesn't know enough about what the breakdown of supervision to make that type of decision therefore she would be more comfortable for the chief district court judges and Nina to clarify that area. Nancy Grace summarized that the subcommittee wanted to make sure that instead of being territorial; the two need to work together. Instead of creating strict boundaries, they want a cooperative and supportive atmosphere. Nina clarified that AOC is responsible for professional training, mentoring and professional support. She likes the statement of working together – that will never change – but designating custody mediators as Family Court staff could be problematic.

Judge Carmical, who represents a non-Family Court district, shared his perspective that custody mediators are part of the district court staff. The chief district court judge has supervisory responsibility for all district court staff and he wouldn't consider mediation a resource but rather part of his staff.

Cheryl said the subcommittee didn't feel they could tell the chief district court judges not to delegate supervision to Family Court administrators. Justice Hudson asked if there was a downside to the FCAC making these recommendations to the CMAC. Cheryl explained that there is no downside. Judge Cash mentioned that the FCAC did not have to respond but the subcommittee felt it best for the FCAC to take this opportunity to support the custody mediators. An amendment was made to reflect that the custody mediators are an integral part of the success of district court (previously written as family court). An amendment was also made that the custody mediator should be able to communicate directly with the chief district court judge even when supervision has been delegated to family court administrators (previously written as family court staff). A motion was made and passed to present the amended response to the CMAC. Judge Keever thanked the subcommittee for its work on this issue.

Workload Study Update

Sandy Pearce stated that the contract for the workload study of Family Court staff is still being negotiated with the National Center for State Courts. The original estimate was very expensive and there are several different components to the study so the negotiation has been somewhat complicated. She will provide additional updates as soon as she knows of further developments.

JWise Update

JWise is the automated official index to juvenile cases in NC. It is unique in that it also has separate modules for the Guardian ad Litem Program, Family Court and Family Drug Treatment Court to manage their cases.

Sandy Pearce asked the FCAC for their support in piloting the process to record Juvenile Abuse, Neglect and Dependency court information in JWise, by sending a letter to the Chief District Court Judges in the Family Court districts. Sandy asked that this letter request that the Family Court judges lead the state in this endeavor, which is in accordance with the Rules of Record Keeping, effective 11/15/07. Court Programs is developing a Bench tool ("cheat sheet") for both the Judges and Clerks to use when recording court events, types and outcomes. The Bench tool will be available to all one hundred counties. The goal is for the process to be tested by Family Court districts in April, May and June with feedback to be collected before the June Judges' conference.

Judge Walker will present this information at the June Judges' Conference and ask that the practice be implemented statewide, effective 7/1/08. AOC Court Services Division (CSD) will be offering training classes every week and has requested that two clerks be sent to the training from each county. Elisa Chinn-Gary asked if attendance at the training is voluntary. Sandy responded that Judge Walker would be at the Clerks Conference next week and he would personally be asking each clerk to send two representatives to the training. In addition, Court Programs staff will be available to go on site to ensure everyone has received training.

The FCAC agreed that they support this initiative and would like Judge Keever to send a letter to the Chief District Court Judges in the Family Court districts, on behalf of the FCAC, to request their participation.

Strategic Training Plan

Sandy Pearce emailed a summary sheet of the Strategic Training Plan for Family Court to all Family Court judges and staff. Training opportunities and needs were considered in detail and

different stages of training have been clarified for judges and staff. The Strategic Training Plan for Family Court has been finalized and is being implemented.

Parent Coordinators (PCs)

Judge Keever introduced Dr. Helen Brantley who was present to give the FCAC an informative overview of the Parenting Coordinator Program. Dr. Brantley is Co-Director of the Forensic Psychiatry Service and professor in the Department of Psychiatry at the University of North Carolina-Chapel Hill. She also maintains a general psychotherapy private practice. She is a member of the Psychology and Law Committee of the North Carolina Psychological Association and belongs to the American Psychological Association and the Association of Family and Conciliation Courts. She is a board member of the Center for Cooperative Parenting in Chapel Hill.

Dr. Brantley gave a brief history of the establishment of parent coordinators, hereafter referred to as PCs, in North Carolina and walked the FCAC through N.C.G.S. §50-90 through §50-100, the legislation that authorizes the appointment of PCs. The appointment order shall specify the issues to be decided by a PC and that a PC can order outside mental health evaluation to resolve issues and adjust vacation or pick-up times in minor areas. Basically, the PC has limited power even though it may seem broad. Parties pay for the services of the PC as ordered by the court, usually on a 50/50 basis. This means that PCs are not commonly used in low income cases even though low income families may also be high conflict. All PCs are asked to conduct their first case on a Pro Bono or reduced fee basis. However, it is not unusual for the PC to never get paid; therefore the PCs who do this hard work stay with it for the children they help. Nancy Grace suggested that a grant application be made to the Family Law section of the Bar Endowment Foundation to help with the disparity.

The court selects a PC from a list maintained by the District Court (usually kept by Family Court in Family Court districts). A list of the PCs and resumes are usually kept on file in the office. Lists typically include names, profession, phone number and fees. It is helpful if the court contacts the PC prior to appointment to make sure the PC will be available for the type of commitment required by the case. The PC's role is purely educational, not therapeutic, on the issue of teaching parents about parenting. The Psychology Licensing Board has deemed parent coordinating to be a non-psychology activity.

Dr. Brantley discussed the appointment of PCs. Appointment can be made at anytime during the proceeding. The best results are in post-custody cases. However, parents must buy into the process and agree to cooperate with the PC or they tend to sabotage the process and it won't work. If a parent refuses to cooperate with the PC's decision, the PC must take the issue back to court because the PC has no punitive powers. The PC may prepare their own motion but will often ask one of the attorneys to prepare and file the motion for review. The PC cannot address financial issues and cannot make major changes to custody arrangements. She referred to the recent NC Court of Appeals decision in Wake County 05 CVD 9264 Hall v. Hall, filed 5 February 2008. That case finds that PCs may only be appointed for high conflict cases. Due to the high conflict nature of the parties, safety is a risk for the PC. PC's take these at their own risk and often single practitioners will ask the attorneys if they should be afraid. If the answer is yes, they will decline the appointment. There are PCs who take dangerous cases although those PCs are usually in larger practices and therefore have safety mechanisms built into their office structure.

A copy of the Local Rules governing Custody Mediation and the Appointment of Guardians ad Litem (GALs) and Parent Coordinators (PCs) as well as the Grievance Protocol for Judicial District 15B (Orange and Chatham Counties) was distributed. It was noted that GALs used in these domestic cases are trained separately for the PC project and are not supervised by the AOC GAL program. A sample blank 'Order Appointing Parenting Coordinator' and one with proposed revisions were reviewed by the group.

To qualify for training as a PC, an individual must possess a post-baccalaureate degree with professional credentials such as JD, MSW, MD, PhD (although exceptions can be made); have at least 5 years of related post degree experience; and hold a current license in their area of practice. Training is typically at least 24 hours across 3 days. The next training is in Charlotte this September. Training requirements and resources are available at the website for the Association for Family and Conciliation Courts (www.afccnet.org). The Center for Cooperative Parenting in Chapel Hill also offers specialized training in this area specific to North Carolina. PCs meet monthly for peer review and usually one person in each district is responsible for tracking peer review participation and caseload. Peer reviews are bound by confidentiality and do not use names so that the privacy of their clients is maintained. Judges generally remind PCs of the peer review requirement once a year by letter.

Judge Keever and Dr. Brantley discussed the issues raised in reference to PCs. They are the availability of the program to high conflict cases that involve low income parties and the lack of any specific provisions for oversight of training and the lack of any agency to provide an overview of the training. The Dispute Resolution Commission is responsible for certifying mediators but there is no similar organization for PCs. Dr. Brantley indicated there were currently ongoing discussions in both areas by individuals involved in the program and by the Family Law Bar.

AOC Court Programs Update

Custody Mediation

Nina Cohen reported that, as of January 2008, only 4 districts were without Custody Mediation. District 24 has written their rules and hired a Custody Mediator who will start 3/10/08. District 2 has written their rules, interviewed candidates and expects to hire in the next two weeks. District 1 has written their rules, posted the Custody Mediator position and is currently receiving applications. District 3B has been approached by AOC to develop a program. Next week all 40 mediators will be attending their annual Spring training at Atlantic Beach. The three day training will be interactive and involve case consultation. The guest speaker is Robert Emery, Ph.D., a Professor of Psychology and Director of the Center for Children, Families, and the Law at the University of Virginia.

Permanency Mediation

Nina reported that Wake (District 10) started holding Permanency Mediations in January 2008. Cumberland (District 12) has written their rules. Concord has also asked her to attend a meeting about the program. Permanency mediation has already been established in Mecklenburg (District 26), Gaston (District 27A) and Buncombe (District 28).

Court Improvement Project

Lana Dial introduced the new Court Programs & Management Specialist for the Court Improvement Project, Kiesha Crawford. Kiesha started in December 2007 and has been focusing on giving more intensive one-on-one assistance to the CIP districts as well as working on the CIP website. On Monday, March 3rd the 8 CIP directors will be coming to the NCJC to continue facilitator training with Andy Sachs from the Dispute Settlement Center in Orange County.

There are funds available from the North Carolina Court Improvement Project for Children and Families (NC-CIP), administered by the Administrative Office of the Courts (AOC), for district training grants. District Court Judges may apply for funding. The Department of Social Services, Guardian ad Litem Programs or other agencies involved in child welfare cases may be collaborative and/or joint grant applicants. The purpose of these mini-grants will be to provide funding for multidisciplinary seminars, workshops and training projects that foster agency and court collaboration and improve the timeliness of court proceedings in Juvenile Abuse, Neglect

and Dependency and TPR cases. The mini-grants are available in amounts up to \$5,000. The deadlines for the 2008 applications are March 31st, June 30th, September 30th and December 31st. It is the responsibility of the applicant to submit an application at least six (6) weeks prior to any proposed training activity to ensure receipt of the funds. Applicants may apply more than once.

August 11-15 is the anticipated date for the training conference for Family Drug Treatment Court, Court Improvement Project and Family Court. Specific dates for CIP are August 13th & 14th. Districts will be asked to bring their stakeholder team.

General Announcements

Training Opportunity

Judge Keever announced that the April 2008 Child Abuse Conference in Cumberland County will focus on the topic of child on child sexual abuse. Dr. Robert Aiello will be speaking on the first day of the conference (4/2) and the topic of child witnesses will be covered on the second day (4/3). Judge Keever will email the conference brochure to AOC for distribution.

New Family Drug Treatment Court

Judge Carmical was happy to announce that the first session of FDTC in District 16B will be in two weeks. It has been tough to do new things without staff but they are looking forward to having FDTC for their district.

Adjournment

Having no further business to discuss, the meeting adjourned at 3:00 p.m. The next meeting will begin at 10:00 AM on Friday, June 13, 2008 at the NC Judicial Center.

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*Submitted by Lori Cole*