

MINUTES
Family Court Advisory Committee
NC Judicial Center
November 30, 2007

The Family Court Advisory Committee (FCAC) met on November 30 at the NC Judicial Center in Raleigh. The Honorable A. Elizabeth Keever, chair of the FCAC, called the meeting to order at 10:00 a.m.

The following FCAC members were in attendance:

Judge A. Elizabeth Keever, Chair	Judge William C. Farris
Kathy Arnette	Nancy Grace
Jeff Barger	Cheryl Howell
Sydney Batch	Justice Robin Hudson
Suann Bechtal	Tim Jordan
Judge Robert M. Brady	John Narron
Judge J. Stanley Carmical	Rebecca Spragins
Elisa Chinn-Gary	Marilyn Stevens
Dennis Cotten for Kathy Dudley	Eric Zogry

The following guests and staff also attended:

Judge David A. Leech, District 3A	Lana Dial, AOC
Judge Bill Neely, District 19B	Trish Oglesbee, AOC
Nancy Butler, FCA, District 19B	Denise Shell, AOC
Martha Sue Hall, FCA, District 20B	Sandy Pearce, AOC
Susan Horrell, FC, District 6A	Alisa Huffman, AOC
Mona Williams, FCA, District 3A	Lori Cole, Staff to FCAC
Nina Cohen, AOC	DeShield Smith, Staff to FCAC

Welcome and Introductions

Judge Keever welcomed everyone to the meeting and began by introducing new FCAC members, Jeff Barger, Rowan County Clerk of Superior Court, and Becky Spragins, Halifax County Clerk of Superior Court. Clerk Barger and Clerk Spragins represent a non-Family Court and Family Court district, respectively. The Chief District Court Judges and the FCAs from the two expansion districts, Districts 3A and 19B, were also in attendance. Judge David Leech and Mona Williams from District 3A and Judge Bill Neely and Nancy Butler from District 19B will be attending the FCAC meetings for the next year.

Expansion District Updates

Alisa Huffman began by providing an update on the Family Court in District 19B. Alisa and Judge Neely have attended three local bar meetings in the counties in 19B. Alisa recognized Nancy Butler, the new FCA in District 19B, who formally worked as the managing attorney for the SC Centers for Equal Justice (Legal Services) prior to moving to Asheboro with her husband. Judge Neely has also hired Sherry Allred as the first of three case coordinators. Sherry has 22 years of experience working with children and families as a social worker and most recently as the DJJDP court counselor supervisor in 19B. Nancy has been busy reviewing applications and interviewing for the remaining case coordinator positions. She hopes to get staff on board soon and begin working on the backlog and data in CaseWise and JWis. Nancy has also visited District 20B's Family Court (Union County) where she was able to observe a court session, the office operations and a local rule revision committee meeting. Family court staff will be located

adjacent to the district court judges' offices and the custody mediator will be relocated to a suite on another floor. They are working to identify space in the other two county courthouses. Judge Neely added that the process is going smoothly and he is excited to have family court.

DeShield Smith provided the update on District 3A. She announced that Judge Leech has hired Mona Williams as the FCA. Mona was the FCA in District 8 so she brings a wealth of knowledge to the district and has been instrumental in the planning process. Kay Brown, a former DSS paralegal, and Megan Hartzog, the Judicial Assistant for District 3A, have been hired for the two case coordinator positions. Casewise, JWisdom and other pertinent computer trainings have been scheduled for the new coordinators. DeShield and Alisa have provided a Family Court Orientation and Best Practices on-site training to the Case Coordinators, four Clerks and the Custody Mediator. The Case Coordinators have been to District 8 to work with the more seasoned Case Coordinators in that district. Physical office space has been designated, and the office equipment has been ordered and/or installed. The local bar met on November 7th to discuss the implementation of Family Court, and the local rules committee has been meeting every Tuesday during lunch for a couple of weeks. Mona added that she and the Case Coordinators have been working on eliminating the backlog and the case closings are going well. Judge Leech stated that they are "in good shape."

Workload Study

Sandy Pearce provided an update on the workload study that was discussed at the last FCAC meeting. A proposal has been submitted to the National Center for State Courts (NCSC) that will look at the staffing of family court case coordinators and other positions. The study will not begin until January at the earliest but should be completed by April or May. This date of completion will allow AOC to present the results to the legislature to justify requests for more resources. The study will begin with the convening of focus groups that will be appointed by Judge Walker. The study will look at workload and the type of work that is performed. From this data, the NCSC will develop a formula for staffing. This formula will be used to determine staffing needs in new Family Court districts and review staffing needs for case coordinators in existing Family Courts.

When Family Court first started, Judge Keever noted that there was no formula for determining the number of staff in a district, but that the rule of thumb was to provide one case coordinator for every two family court judges. This approach to staffing did not adequately take into consideration the varying needs of single- county, multi-county and high volume districts that were identified after Family Courts became operational. As the legislature continues to provide funding for new Family Courts, Judge Keever stressed the importance of evaluating and funding the existing family courts so that they are adequately staffed. AOC can use the results of the workload study to substantiate requests for staff and resources. The study may also make recommendations regarding the inquiry from the chief district court judges in family court districts as to the amount of time that family court judges should serve in the family court rotation.

District Presentations

Two Family Court districts will each make a 30 minute presentation on their Family Court district per meeting. Judge Keever asked the family court administrators to:

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;
2. Describe current programs: what is being done in the court, in the community and with the Bar; and
3. Describe plans and dreams for the future and limits on what they can do.

Martha Sue Hall presented on the operation of the Union County Family Court, District 20B (See handout). District 20B manages all domestic and juvenile AND cases, including contempt and modification proceedings. There is an Access and Visitation Coordinator in the district that is shared with District 20A. The Access and Visitation Coordinator serves as an access to justice resource for the pro se population who have been ordered to pay child support, but are having difficulties visiting their children. Additionally, pro se packets are available on the web site. The district has a Family Drug Treatment Court which is experiencing growing pains in that they are struggling with the number of participants in the program. The Family Court also holds regular truancy courts. A multi-disciplinary program operates within the district which combines any criminal actions against parents for failure to comply with compulsory school attendance laws and any truancy related undisciplined petitions against students. Both types of hearings are conducted contemporaneously before the same judge. There is also a supervised visitation center in the district that is operating out of a church on Saturday mornings. It began in April 2006 and requires parents to pay \$20 per visit, which covers the cost of an off-duty police officer. There is no cost to the state for this program.

Family Court efforts are visible in the community through the various CLEs offered, the 2nd annual Christmas Open House Program and the start of a local cable access channel program. This program, entitled "This is Your Court," will feature Chief District Court Judge Chris Bragg. Judge Bragg will interview magistrates, the clerk of superior court and Family Court staff in order to inform the public about the court system. Among District 20B's list of future goals are a pro se clinic, supervised exchange center, permanency mediation and a state pay plan for Family Court and Custody Mediation personnel. In order to assist with operations, Martha Sue mentioned the need for an additional case coordinator, additional mediator hours and a judicial assistant.

Next, Susan Horrell discussed the Family Court in District 6A, Halifax County (See handout). Both domestic and juvenile AND cases are managed by the Court. Susan stated that they also manage modifications of custody which she pointed out are just as time consuming as new custody filings, but they do not receive "credit" for the management of these cases. The issue of tracking and reporting on post dispositional matters in family court has been discussed at the FCA meetings. There is an Access and Visitation Coordinator in the district and a Custody Mediator that is shared with District 6B, a non-Family Court district. In Halifax, parties that do not reach an agreement in child custody mediation are ordered into an advanced four hour parent education class, which requires a \$50 fee. A fee waiver system is in place such that the party requesting a fee waiver must provide the FCA with proof of income. Judge Brady asked if the timeline for resolution of custody cases is exceeded when the four hour class is required. Susan responded that they can usually meet the time standard unless the parties don't attend the class in which case an order to show cause is issued by the court and they are required to attend. Nina Cohen asked when the parties are informed that they must attend the four hour parent education class if they do not reach an agreement in mediation. Susan responded that they are told the policy in the one hour parent education class that is taught in conjunction with the custody mediation orientation.

The Family Drug Treatment Court is operating well and has the maximum number of participants enrolled. There are currently two truancy diversion programs in Halifax. The Family Court is currently working on revising the domestic and juvenile rules and forms as well as a revision of the family treatment court rules. They are redesigning the Family Court brochures and developing local permanency mediation rules. Future goals include a supervised visitation center, more clerical support, additional pro se forms/services and a state pay plan for Family Court and Custody Mediation personnel.

Family Court Site Visits

Judge Keever explained that the FCAC has oversight responsibility for the Family Courts and that the Court Management Specialists (CMS) conduct a site visit with each Family Court on an annual basis. At the last FCAC meeting, Sandy provided a copy of the site visit questionnaire that the CMS use when they perform Family Court site visits. DeShield informed the Committee that the questionnaire is based on the Family Court Best Practices document and is used to determine to what extent the court is using best practices. After the site visit, the CMS produces a written report that summarizes how the court operates and identifies strengths, challenges and recommendations for improvements. A copy of the report is sent to the Chief District Court Judge and the FCA (See handouts). Starting today, two site visit reports will be presented at each FCAC meeting for districts that have given their thirty minute district presentation. The site visit report will focus on the court's strengths, challenges and recommendations. DeShield Smith gave the site visit reports for two of her assigned districts, District 5, New Hanover and Pender Counties, and District 6A, Halifax County.

District 5:

The Family Court in District 5 and the local bar appear to be working well together, which is important since the support of the local bar is crucial to the success of family court. The Family Court staff and judges are involved in numerous community organizations, events and work to facilitate the family law pro se clinic. They are currently in the planning stages for a permanency mediation program. The Custody Mediator is considered an integral part of the Family Court team and model. The Custody Mediator can make an initial evaluation of the case and the parties to determine their attitudes, if there is a possibility of resolving the case without court appearances and if the parties have reasonable expectations for resolution of the case. There is a close working relationship between the judges and their respective case coordinators and each judge reviews their cases that are past the Family Court time standards every six weeks with their case coordinator.

Currently no juvenile AND cases are managed by Family Court staff except to schedule hearings for termination of parental rights. DeShield suggested that implementing child planning conferences may be an excellent way to initiate the management of these cases. 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 Casewise when a petition or complaint is filed to identify these cases. The clearance rate needs to be at least 100% so that current cases are being disposed as well as new filings. A review of the pending cases over 1 year old may identify any issues not related to case management that may be keeping a case open. Activating the local family court advisory committee was recommended in order to address problems within Family Court and issues that stakeholders may wish to discuss and resolve.

District 6:

The Family Court in District 6A reflects positive aging analysis statistics, including an excellent clearance rate, which is the highest of the Family Court districts. A formal method is in place to identify cross-over cases in the district that require attorneys to note on the judicial assignment form if there is another pending action involving the same parties or a previously filed action with the same parties. The relationship between DSS and the Family Court ensures that juvenile AND cases are continuously calendared. The use of child planning conferences facilitates the progression of the case to disposition in a timely manner.

Areas requiring improvement include reducing the continuance rate which is caused by case conflicts between courts in Halifax County and in other districts. The time standard for entry of orders needs to be met more often as well as the time standard in completing mediation in equitable distribution cases. It was suggested that District 6A also reactivate their local family court advisory committee.

Judge Carmical asked why there is concern over the continuance rate if the clearance rate is so high in Halifax. DeShield responded that it is a case management best practice to keep the continuance rate low because unnecessary continuances are costly and burdensome for parties who are made to come to court without something meaningful happening. Judge Brady feels that the FCAC should consider a methodology to manage cases that bottleneck the system. He suggested that a retired judge could be used to assist in disposing high conflict or complex ED cases. Elisa Chinn-Gary noted that Judge Brady's idea is just what they are beginning to pilot in Mecklenburg. They are starting a domestic conflict litigation tract in which one judge is assigned to dispose of high conflict/complex property value cases. Suann added that AOC has always allowed District 5 to use a retired judge for conflict cases in her district on average of once a month. It was agreed that a uniform procedure should be in place to manage complex and high conflict cases.

Mending Hearts Video Viewing

Judge Keever advised the Committee that she had been invited to the November meeting of the Custody Mediation Advisory Committee (CMAC) to discuss parent education and its relationship to custody mediation. Judge Keever referenced Session Law 1999-237 that mandates a parent education program in the Family Court districts to educate and sensitize separated or divorcing couples about the needs of their children during and after the separation and divorce process. The Committee viewed the Mending Hearts video which is shown as part of the parent education one-hour course (PE1) that is required after a filing for custody in all but one district. (Mecklenburg County requires everyone to attend a four hour course prior to custody mediation and therefore, they do not have a one hour course.) PE1 and custody mediation orientation are scheduled together but are intended to be presented by different people. The order in which parent education and custody mediation orientation are presented varies by district.

The Committee broke for lunch at 12:30pm and reconvened at 1:00pm.

Putting Children First Video Viewing

The FCAC viewed the Putting Children First video. Nina Cohen confirmed that this video is shown in all districts where there is Custody Mediation. This video is shown in conjunction with the custody mediation orientation session that is required prior to mediation. Nina stated that AOC is considering a revision of the Putting Children First video in 2008 since many of the statistics presented in the video are dated.

Parent Education Discussion

When Judge Keever visited the Custody Mediation Advisory Committee, there was concern expressed that the two videos are redundant and that they would like for the FCAC to comment on this concern. The consensus of the group was that the two videos complement one another and are not redundant. One member commented that the Mending Hearts video identifies the problems for children, and the Putting Children First provides a solution to the problem. John Narron asked if the video could be purchased for use by private practitioners, which staff will check on. Nancy Grace stated that parents should see the Mending Hearts video early in the process. For most family courts, the Mending Hearts video is shown to parties within 45 days of the filing of a custody lawsuit.

In a few districts, parties are required to attend a four hour parent education class (PE4) if they do not reach an agreement in custody mediation. A private provider from the community is an independent contractor for the court to provide PE4 at various times and usually, located outside of the courthouse. Family Court staff usually conducts PE1. Nina noted that the Custody Mediators are concerned that PE4 is viewed as a punitive measure if the parties "fail" mediation, and they would like to uncouple this association. Judge Brady asked if PE4 is held in a single

time period or at separate times to make up the 4 hour time period. Alisa responded that both models are used. It can even be provided on weekends. Elisa Chinn-Gary stated that Mecklenburg uses United Family Services as their PE4 provider, and there are a variety of schedules available and that the class is offered in Spanish. In districts besides Mecklenburg, parties are encouraged to return to custody mediation after PE4, but they are not required to.

The consensus of the FCAC was that the best practice for PE4 is for it to be offered early in the process and prior to custody mediation, where feasible. Judge Keever noted that the use of PE1 with custody mediation orientation is still helpful, and that the videos complement one another. When deciding whether to use PE1, PE4 or both, a district should consider the resources available in their district. Parties should not be advised that they have “failed” mediation. Judge Keever committed to talk to the chief district court judges to explain the different educational programs and stress that PE4 is not a punishment and should not be couched as a “failure” of custody mediation. Sydney Batch added that attorneys will inform their clients that the consequence of not reaching an agreement in mediation is that they must attend the PE4. Therefore, she suggested that the domestic bar is contacted to encourage them not to couch this practice as a failure but an opportunity that will enable them to return to custody mediation if they so desire.

CaseWise & JWisE Update

Trish Oglesbee provided an update on CaseWise. An enhancement is scheduled that will be released in December. With this enhancement, the information that comes from VCAP will be more accurate. The VCAP report will also continue to show what is being imported to CaseWise; however, the import will now be done automatically and will not need to be requested. The CaseWise/VCAP report enhancement may require training for users to advise what information will be imported. Trish has received several requests statewide for training on arbitration, mediated settlement conferences and CaseWise. Training is scheduled for the new Family Courts in Districts 3A and 19B. Faith Taylor is the JWisE trainer and has been providing training statewide to Family Court staff and clerks as well. Judge Keever clarified that CaseWise imports the information entered by the clerks in VCAP so that the entry of data is not duplicated. Trish stated that the updates will be time savers for the staff.

Denise Shell deferred the JWisE update to Sandy Pearce. Sandy is chairing a JWisE Committee comprised of representatives from each division at AOC (i.e. Court Services, Court Programs, Technology Services, GAL, etc.). The Committee was established by Gregg Stahl, AOC Deputy Director, in order to implement JWisE statewide and to focus on all users’ needs to achieve better outcomes for children. The JWisE Committee has discovered that little data is being entered in JWisE statewide. The Committee is currently working to create comprehensive outcome codes for AND court as well as delinquency court that will be part of the next JWisE enhancement expected in February 2008. The committee is also addressing the need for additional JWisE training to ensure its use in all counties. The goal is to have consistent and reliable statewide data to improve practice and advocate for any needed resources. The first change instituted by the JWisE Committee was to amend the Rules of Record Keeping. The amended rule makes it clear that JWisE is the official record and that clerks shall input data into JWisE pursuant to the JWisE User’s Manual. The new rule has been submitted to Judge Walker for approval. Lana Dial noted that GAL will begin using JWisE in December or January, which will reduce the duplication of data entry. Unlike Casewise, JWisE does not import data from another system but rather multiple users (e.g., clerks, GAL, Family Court) are able to enter data into JWisE for one electronic file for each juvenile.

Court Programs Update

CIP and PIP Update

Lana Dial gave an update on the Court Improvement Project (CIP). An assessment is being conducted on the role, responsibilities and effectiveness of the juvenile courts in NC in the

interstate placement of foster children. Requests for proposals have been accepted from the districts and are being reviewed. (See handout.)

Lana announced that Kiesha Crawford has been hired as a Court Management Specialist to assist her with the CIP. Kiesha previously worked as a juvenile case coordinator in Durham Family Court. She will be providing more intense support and technical assistance to the CIP Districts as well as working on case management and training for these districts. Kiesha will begin December 10th.

Judge Keever elaborated that the FCAC has developed pre-implementation strategies to assist districts in the transition to becoming a Family Court district, and the receipt of CIP funds is one of these strategies. This grant provides a juvenile case manager to manage AND cases so that a piece of family court will be in place when the legislature allocates funds for additional family courts. However, if a CIP district does not receive the resources to become a family court, the funds for the position expire and by extension the case manager position is lost, which creates a hardship within the district. Judge Walker and Gregg Stahl committed resources to sustain the case manager positions in Districts 17A and 23 after the CIP grant expired in both districts.

Custody Mediation

Nina Cohen informed the Committee that there are four districts without custody mediation. Districts 1, 2 and 24 are working toward implementation of the program and Nina is scheduled to meet with Judge Waddell in District 3B on December 7th to discuss implementation. Permanency mediation is implemented in District 26 (Mecklenburg), District 27A (Gaston) and District 28 (Buncombe). The 2008 expansion districts are 6A (Halifax), 10 (Wake) and 12 (Cumberland). Districts 8, 18 and 25 have expressed an interest in the program.

On November 2, the Custody Mediation Advisory Committee (CMAC), chaired by Judge Gary Cash, met and discussed the relationship between Family Court and Custody Mediators. The Custody Mediators are concerned that they are being called family court staff and at some point in the future, the Custody Mediation program will not be separate from Family Court. The Custody Mediators formed a subcommittee to review their role in relation to Family Court. Nina stated that the custody mediators need clarification as to their role and the boundaries between Family Court and Custody Mediation. Kathy Arnette explained that this issue has evolved due to the expansion of Family Courts and Custody Mediation and that it is important to recognize that while the programs are integral to one another, they are separate. Mona Williams stated that she did not think this issue was a problem statewide. It was suggested this should be dealt with on a district by district basis. Nina said it is a problem for the Custody Mediators not knowing where the line of authority lies. In the past year or so when the matter of equity raises came about, there arose a concern from the Custody Mediators that it was not appropriate for the Family Court Administrators (FCAs) to conduct their performance evaluations since they were not the hiring authority. It was acknowledged that the FCAs might have administrative supervision (e.g., sign time sheets) over the Custody Mediators in some districts, but even this type of administrative supervision was not favored by the Custody Mediators.

The CMAC has recommended that the FCAC acknowledge the following tenets (See handout for full recommendations):

1. The Custody Mediation program is an integral part of the success of Family Court districts and is a major resource for Family Court.
2. The relationship between Family Court and Custody Mediation is a collaborative partnership.
3. Custody Mediation is a specialized profession, a separate statutory program and therefore should not be considered Family Court staff.
4. Custody mediators should always have direct access to the Chief District Court Judge.

Committee members discussed the issue at length including the integral relationships between the Custody Mediation Program and the operation of Family Court in districts with Family Court. It became clear that the central issue is to whom the custody mediator is responsible, the chief district court judge or someone with delegated supervision responsibility.

Cheryl Howell suggested that the recommendations from the CMAC need to be more specific and that it would be helpful for the FCAC to review revised recommendations at the next meeting. Judge Keever appointed a subcommittee comprised of Judge Bill Farris, Nancy Grace and Cheryl Howell to make recommendations for revisions to the CMAC recommendations at the next FCAC meeting.

Future Meeting Dates

DeShield emailed the Committee a proposed schedule of meeting dates for 2008, as compiled by Judge Keever, which took into account the meeting dates of the Domestic and Juvenile Bars. Eric Zogry also serves on the Indigent Defense Services Commission and had a conflict with 3 of the 4 proposed meeting dates. After discussion among the Committee, it was decided that the FCAC would meet on the following dates in 2008: February 29; June 13; September 5; and December 5. The meetings will continue to be held at the NC Judicial Center and the time for these meetings will remain 10am-3pm.

Having no further business to discuss, the meeting adjourned at 3:10 p.m. The next meeting will be Friday, February 29, 2008 at the Judicial Center.

Submitted by DeShield Smith