

Court Improvement Project Committee

Minutes

February 20, 2015

1 p.m. to 3 p.m.

Seven Seas Hotel, Mandan, ND

Present

Judge Laurie Fontaine, Chair

Judge Todd Cresap

Scott Davis

Shari Doe

Karen Kringlie

Dale Rivard

Geraldine Teevens

Donna Wunderlich

Absent

Judge David Reich

Judge Jay Schmitz

Robin Huseby

Connie Portscheller

Guests

Shawn Peterson, Unit 1 Juvenile Director

Melanie Sage, UND Department of Social Work

Erin Shanley, Indian Affairs Commission Judicial Systems Administrator

Elizabeth Suda, Assistant Regional Representative of County Social Services Programs

Staff

Lee Ann Barnhardt

Scott Johnson

Catie Palsgraaf (scribe)

Heather Traynor

Welcome and Introductions

Judge Laurie Fontaine called the meeting to order. Judge Fontaine introduced herself and welcomed the committee. Committee members introduced themselves.

Approval of November 7, 2014 meeting minutes

Judge Fontaine asked if there were any comments or changes to the November 7, 2014 minutes.

After no comment, **a motion was made by Dale Rivard to approve the November 7, 2014 minutes. The motion was seconded by Donna Wunderlich, motion carried.**

Review ICWA Audit Final Report for CIP approval

Melanie Sage reported on the ICWA Audit Final Report. Judge Fontaine asked when compliance is measured for Qualified Expert Witness (QEW) testimony. If compliance measurement starts at the shelter care hearing, ninety-six hours is a quick time frame for QEW testimony. Melanie explained that conversations are ongoing about when QEW testimony is required. The decision was made on this audit to review only Termination of Parental Rights

(TPR) cases for QEW compliance because the requirement is more straightforward than in deprivation cases.

Dale asked what sources are included in the audit, specifically if notes of judges and referees are reviewed. Melanie explained that the review covers anything available in the Odyssey electronic files. Dale suggested that judges and referees need a hard card with the requirements of what needs to be asked during ICWA hearings, including asking about contacts with the tribe.

Scott Davis asked if a QEW training or certification session could be arranged. Judge Fontaine agreed with the suggestion. Scott will have discussion with tribal leadership about the possibility of expanding the QEW pool and training or certification needs.

A motion was made by Shari Doe that the Indian Affairs Commission work with the ICWA Sub-Committee to help develop a more robust QEW roster for the state. The motion was seconded by Dale Rivard, motion carried.

Erin Shanley asked about the rate of notice to tribes compared to tribal intervention and, based on the audit, why the rate of intervention is low. Melanie said from the national literature intervention rates are lower when tribal resources are limited or unavailable. Scott Davis agreed that overwhelmed tribes do not have the resources. Judge Fontaine confirmed that tribes have participated in her cases, rather than intervene, because they did not have the resources to take the child. Melanie clarified that a tribe can have intervenor status without taking jurisdiction of the case.

Scott Davis asked about liability for QEW's when performing their functions in court. Scott Johnson will ask a staff attorney. Judge Fontaine suggested a request for an opinion from the Attorney General.

A motion was made by Dale Rivard to accept the ICWA report. The motion was seconded by Karen Kringlie, motion carried.

Melanie presented an ICWA training intervention proposal. This ICWA compliance proposal would be funded by the Casey Foundation and build on the data collected from the CIP ICWA audit and UND Law School/Casey Foundation ICWA court monitoring project. The proposal is to offer ICWA training in Grand Forks County to Grand Forks County Attorneys (public defenders and states attorneys), Judges, County Child Welfare Social Workers, and Guardian Ad Litem. The training would focus on identification of American Indian children (who should ask and when) and understanding of placement preference. Each training would last approximately two hours. The proposal includes a pre-training and post-training review of Grand Forks County Social Services records and Grand Forks County court records as a means of measuring the effectiveness of the training intervention.

There was no objection from the committee to recommend the proposal contingent on both Grand Forks County Social Services and Grand Forks County District Court agreeing to the proposal.

Introduce QA Specialist

Scott introduced Heather Traynor, the new CIP Committee Quality Assurance Specialist. Heather began work in December 2014. Scott reviewed the history of the position and the evolution to this point.

Update on QA Project

Heather updated the committee on her work as QA Specialist thus far. Since starting the position in December 2014 she completed Odyssey training and used the Odyssey system to assist in completing the lay GAL portion of the self-assessment for FY 2014. She is also using Odyssey to track current TPR cases and to review TPR continuances in 2014.

Heather is in the process of meeting with the four Juvenile Directors and county social service agencies for feedback and suggestions related to Deprivation and TPR cases. Juvenile court macros have been installed on Heather's computer so she can review macros related to deprivation and TPR cases for consistent language.

Currently, Heather is determining the case load and time commitment needed to track open Deprivation and TPR cases. There has been discussion about creating a way for an automated listing for key time standards in the Odyssey system to help make tracking these open cases more efficient. The automated listing would assist in tracking deadlines to achieve timeliness of cases filed. It would also help to inform interested stakeholders of required reports and documents.

Heather created a Court Observation tool to assist in gathering more detailed information when she attends Deprivation and TPR hearings. The goal of court observation is to use the tool to find a baseline of current practice in each unit. The information gathered will be used to address any concerns identified with all parties involved.

Heather will attend the annual ICWA conference, the annual CIP National Conference, applicable juvenile court trainings, Healthcare Oversight Committee meetings and applicable Juvenile Policy Board meetings.

Discuss DHS Foster Care issues

Shari reported on HB 1210 – relating to time for beneficial transition of a child to or from temporary legal custody. The bill passed the House and was sent to the Senate. This bill was initiated by a foster parent who asked that judges consider a transition time when child placed back in the parental home and to compel parents to sign releases for treatment records. It amends subdivision d of subsection 1 of section 27-20-30. On the floor of the House, the bill was amended by a legislator to create a new subsection to 27-20-13 that the court must provide a reasonable amount of transition time before the child is removed, unless the child is in immediate danger. Shari explained that children are never removed using temporary legal custody unless there is immediate danger, so this amendment seems unnecessary. Shari reported that she is committed to try to kill the bill. Scott indicated that the court is neutral because of the limited impact, but the bill contains a lot of terms that will need to be interpreted. Judge Fontaine stated that she understands the foster parent's issues but these issues can be addressed under current law.

Shari reported that Children and Family Services (CFS) surveyed all North Dakota counties for info about termination of parental rights (TPR) cases. Specifically, the survey asked how many cases in each county, the stage of the proceedings and the length of time to the final order. CFS

is very interested in gaining a complete understanding of the TPR situation and addressing issues.

Shari reported on Public Law 113-183, the federal Preventing Sex Trafficking and Strengthening Families act. CFS is in the process of gaining a complete understanding of the requirements in the law and how to implement in North Dakota. A significant piece for the courts is that another planned permanent living arrangement (APPLA) is no longer a permanency option for children under sixteen years of age.

Shari updated the committee on issues when a private guardianship is filed in juvenile court. Juvenile court officers file a 960 report with social services because juvenile court personnel are mandated reporters. CFS sent a memo to all county social services directors about the impact of private guardianships and 960 reports on federal funding. In a nutshell, when a 960 report is sent to a county social services office as a result of a private guardianship, the county needs to assess like any other 960 report.

Donna asked if CFS is noticing any changes in finding foster homes due to licensing requirements. Shari responded that the lack of foster homes is not due to restrictions in licensing. The non-safety related requirements can be waived on a case by case basis.

Update on Capacity Building Centers

Catie Palsgraaf updated the committee on the Capacity Building Centers. The next step in the rollout for the capacity building centers will be a conference call with our Regional Children's Bureau Office, the ND Children and Family Services Division, the ND CIP team, and the liaisons from the Center for States and Center for Courts that will be assigned to work with ND. The purpose of the call will be to introduce the ND CIP team to our Center for Courts liaisons, review the new approach, answer any questions and set up times for initial meetings or calls to begin discussing our priorities with the Center for Courts liaisons. From there, if the ND CIP is interested in working to enhance or build certain CIP capacities or capacities in the field, the liaison will be our partner in putting a plan together to do so.

Shari Doe reported that the Children's Bureau is placing significant emphasis on CIP's and state child welfare agencies working together.

Review Self-Assessment and Data submitted for FY 2014

Catie reported that the CIP Self-Assessment and required data for FY 2014 was submitted at the end of December 2014. Copies of the self-assessment and data were circulated to the committee by email. Catie asked that any questions, comments or requests for additional data be directed to her.

Sub-Committee Reports:

GAL Sub-Committee – Shawn Peterson, Chair. Shawn Peterson reported that the next GAL Sub-Committee meeting is February 24, 2015. Most of the conversation will be about expectations for lay GALs in private guardianships. The Juvenile Policy Board weighed in on this issue and suggested the lay GALs follow the requirements of N.D.R.Juv.P. Rule 17 and the GAL appointment order.

Scott Johnson updated the committee on the lay GAL training manual. The manual itself has been an ongoing work product of Youthworks but by N.D.R.Juv.P. Rule 17(e) is under Court Administration. He wants the sub-committee to review the current manual and decide if it needs updating.

Scott Johnson updated the committee on the GAL Review Board. This is a requirement of N.D.R.Juv.P. Rule 17(d). The Review Board has been in place since April 2010, but has not been activated to date. Membership of the Review Board has been updated and is ready to act, if needed. The likely GAL Review Board is as follows:

For terms expiring December 2015:

- Jim Fish, Juvenile Court Officer III, Grand Forks Juvenile Court
- Marlyce Wilder, Williams County States Attorney
- Travis Finck, Attorney, Bismarck Public Defender Office

For terms expiring December 2016:

- John Grinsteiner, Judicial Referee, South Central Judicial District
- Brooke Kosiak, Director of Social Services, McIntosh County

For terms expiring December 2017:

- Judge Robin Schmidt (Chair), Northwest Judicial District
- Jamie Sickler, Lay GAL, Southwest Judicial District

ICWA Sub-Committee – Judge Todd Cresap & Connie Portscheller, Co-Chairs. Catie reported for Judge Reich and Connie Portscheller. The sub-committee reviewed the audit and recommended approval to the CIP Committee.

Department of Justice ICWA compliance initiative

Catie reported on the DOJ ICWA Compliance Initiative. The DOJ announced that they are launching a new initiative to promote compliance with the ICWA. The DOJ is working to actively identify state-court cases where the United States can file briefs opposing the unnecessary and illegal removal of Indian children from their families and their tribal communities. The DOJ is partnering with the Departments of the Interior and Health and Human Services to make sure that all the tools available to the federal government are used to promote compliance with ICWA. The DOJ will join with those departments, and with tribes and Indian child-welfare organizations across the country, to explore training for state judges and agencies; to promote tribes' authority to make placement decisions affecting tribal children; to gather information about where ICWA is being systematically violated; and to take appropriate, targeted action to ensure that the next generation of great tribal leaders can grow up in homes that are not only safe and loving, but also suffused with the proud traditions of Indian cultures.

Education Sub-Committee – Judge David Reich, Chair. Lee Ann Barnhardt reported for Judge Reich. The CIP Committee is meeting on the last day of the ICWA Conference. Lee Ann is working on the July 2015 Children and Family Services Conference with Pete Tunseth, Director of Children and Family Services Training Center. Referee quarterly training by webinar is occurring on schedule and is well received.

Data Collection Sub-Committee – Karen Kringlie, Chair. Karen reported that she recorded an audio training on when to use continued or reset in Odyssey. The training was recorded on January 2, 2015, is fourteen minutes long and was recently uploaded. The next step is to ask unit Court Administrators to require the schedulers to complete the audio training. Then, the link will be sent the Court Administrators to send to the schedulers or any other employees who schedule hearings. In six months, Catie and Karen will pull a report and feel more comfortable with the accuracy of the data.

Legislative Update

Scott Johnson provided a legislative update. House Bill 1002 is the court system budget. The court system was asked to cut the budget that was submitted. Cuts are requested from the increase that was submitted, not the base. A replacement for juvenile CMS system is likely to be cut, but a final decision has not yet been made.

Senate Bill 2063 is related to TPRs. The Department of Human Services asked that the court provide a copy of the TPR petition to DHS ten days prior to the TPR hearing. There is discussion about possibly handing this electronically via Odyssey.

Next 2015 meeting dates

May 8, 2015 from 10 a.m.-12 p.m. – Bismarck & Grand Forks IVN

August 21, 2015 from 10 a.m.-12 p.m. – Bismarck & Grand Forks IVN

November 20, 2015 from 10 a.m.-12 p.m. – Bismarck & Grand Forks IVN

A motion was made by Karen Kringlie to adjourn the meeting. The motion was seconded by Shari Doe, motion carried.