

MINUTES
Custody Mediation Advisory Committee
July 12, 2019

The Custody Mediation Advisory Committee (CMAC) met on Friday, July 12, 2019. The Honorable J. Corpening called the meeting to order at 10:15 a.m.

CMAC Members:

Judge J. Corpening, Committee Chair
Sheila Eley
Mike Haswell
Cheryl Howell
Sherry Honeycutt Everett
Rick Igou

NCAOC Staff:

Stephanie C. Smith
Lori Cole
Kari Marvin
Tara Minter
Stephanie Satkowiak
Tarsila Machado
Emily Mehta

Welcome & Approval of Draft Minutes from March

Judge Corpening welcomed everyone to the meeting and introduced Tara Minter, the NCAOC Court Management Specialist focused on Human Trafficking; Emily Mehta, with the NCAOC office of Policy and Planning; and Tarsila Machado, an intern working with Stephanie Satkowiak. The minutes from the March 15, 2019 CMAC meeting were approved without changes on a motion from Rick Igou, second by Mike Haswell.

Custody Mediation Program Update

The program is currently fully staffed. Fall 2019 training is being planned to coincide with Conflict Resolution Week and is being hosted in conjunction with Tara Kozlowski, Executive Director of the Dispute Resolution Commission. Chief Justice Beasley and AOC Director Wooten will attend. Walter Johnson, an expert on compassion fatigue from Children's Home Society of NC, has been scheduled to present on the second day.

Permanency Mediation Update

Stephanie discussed how permanency mediations have declined in the past few years with the exception of Mecklenburg. Stephanie has surveyed court partners in NC and beyond to help understand this trend. She reminded the committee that N.C.G.S. 7B-905.1 was modified to give judges the option of utilizing custody mediation for specific juvenile cases to resolve visitation issues. This change, along with the successful implementation of Child Planning Conferences* (CPCs), and the adoption of in-house mediation by the Dept. of Social Services, has most likely contributed to the declining use of permanency mediations. Other states report similar reasons for the shift in permanency mediation. Stephanie continues to examine ways to modify the program to fit changing needs.

Eighty percent of the permanency mediation budget is spent on mediations in Mecklenburg County, where the program is used to mediate terms of the petition, among other things, and where CPCs are not in use. Stephanie and Lori Cole traveled to Charlotte last year to share how CPCs are successfully conducted by family court staff in other districts and how permanency mediation can then compliment CPCs during the year

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to permanence. Since that meeting, Mecklenburg County has hired a permanency mediation coordinator with extensive mediation experience as they prepare to adjust their use of permanency mediation.

Referrals to permanency mediation are often dependent on one or two local staff members who see the benefit of the program. Rick Igou shared that as a contract permanency mediator, he saw the most success in Cumberland when there was enthusiastic support for permanency mediation from Department of Social Services (DSS) staff.

Judge Corpening suggested connecting with Kiesha Crawford about offering CPC training during statewide training for DSS staff sponsored by the Court Improvement Project (CIP).

* CPCs are scheduled within one week of a petition being filed. Benefits include early connections with services for families, adherence to timelines, and efficient use of staff resources. Lori also mentioned that the CPCs and non-secure custody hearings are often held the same day. Non-secure hearings tend to be short because of the details discussed and previously agreed upon during the CPC.

Civil Restraining Orders/Rule 65

Copies of a civil consent restraining order from Pitt County were distributed to committee members for review. The case started as a 50B filing, which was voluntarily dismissed when the civil consent restraining order was granted. The case exemplifies the challenges of identifying custody cases in which there are current restraining orders between the parties. Cheryl pointed out the Rule 65 consent order was probably void after the 50B was dismissed and was concerned that it was misleading to the parties. Sherry Honeycutt Everett agreed with Cheryl's concerns, but said in practice attorneys use it because courts allow it.

DV/Custody Mediation Research

Kari Marvin presented the results of two descriptive research projects focused on custody cases with domestic violence issues. In the first project, custody cases identified by the domestic violence screeners from Fiscal Year 2017-18 were analyzed for further details. Interesting results include:

- In 75% of the cases, domestic violence was filed before custody
- 35% of the custody cases were filed between the initial DV filing and the permanent DV hearing
- 15% of the cases were resolved with a parenting agreement
- 49% of the cases were not mediated
- 58% of the cases also had criminal charges/convictions

In the second project, cases that resolved with a parenting agreement in Fiscal Year 2011-12 from Districts 3A, 14, and 26 were identified and reviewed for pre- and post-mediation violence. Interesting results include:

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- 20% of the cases had pre-mediation threshold markers and/or red flags
- 13% of the cases had post-mediation threshold markers and/or red flags
- Criminal charges (pending, convictions within the last 18 months, and convictions older than 18 months) were strong indicators of post-mediation violence

Subcommittee Report – DV Protocol/Uniform Rules

Stephanie reported that the pilot DV screening project in Durham is underway. Stephanie and Sherry met with the Durham Bar on June 25 to explain the DV screening protocol. Stephanie and Sherry have also formulated a plan to connect *Pro Se* victims who wish to opt-in to custody mediation with legal services at the North Carolina Coalition Against Domestic Violence. Stephanie is planning to reach out to professionals or graduate level students who may wish to partner in research opportunities with the data collected from the pilot project.

Nikki Smith, the Durham Family Court Administrator, is screening custody cases at the time of filing on the civil database (CaseWise) for civil filings related to DV and Stephanie is screening on the criminal database (CIPRS) for criminal charges related to DV. Stephanie shared the excel sheet where she and Nikki are collecting data, and reported they are gaining good knowledge and experience from the pilot. Stephanie is also conducting interviews for parties who report domestic violence on the orientation intake sheet, and she has made referrals to DV support agencies.

Domestic Violence Update

Stephanie Satkowiak reported that E-filing launched June 10th in Brunswick County. Because Brunswick is part of a three-county judicial district, E-filing will help when a judge is needed for a Brunswick DV *Ex-Parte* hearing but they are located in another county. Chief District Court Judge (CDCJ) Scott Ussery would like Bladen and Columbus to have E-filing capabilities to complete the district. Mecklenburg plans to go live with E-filing September 16th. Stephanie reports once Mecklenburg is utilizing E-filing, 50% of the state's population will be served. Pender and Davie counties have expressed interest in obtaining E-filing. Stephanie is preparing a no-cost extension application.

North Carolina is the only state that files DV *Ex Partes* electronically and the National Center for State Courts is supportive of North Carolina's unique approach. Federal staff from the Department of Justice and the Office on Violence Against Women are planning to visit North Carolina to see how the E-filing program operates.

Stephanie is providing compassion fatigue training for several Clerk's offices and for the Guardian ad Litem office in Wake County. She is also part of law enforcement training in Wilmington at Cape Fear Community College. This day and a half training will provide law enforcement with extensive domestic violence, stalking, strangulation and investigative procedure training and counts towards BLET credit. The AOC is a co-host of the training provided by the National Sheriff's Association, Department of Public Safety and Cape Fear Community College.

Family Court Update

The Family Court Advisory Committee is reviewing ways to expand and increase funding for family court. Both Chief Justice Beasley and AOC Director Wooten support family court. Lori reports NCAOC staff plan to review the job titles and pay structure for all court staff. There is currently a family court vacancy in District 25, and the salary does not match the required skills. Districts 16A and 19D are multi-county districts but only have one case coordinator; currently there is no funding to increase staff. There are new FCAs in Districts 3A and 10.

Lori is exploring ways to offer mental health first aid (MHFA) training for judicial branch personnel. Judge Corpening shared how the training was promoted by the New Hanover County Public Health Board and New Hanover County Commissioners for use in the local schools. Judge Corpening suggested it could benefit School Justice Partnerships. Lori has discussed the issue with Kiesha Crawford and CIP funds may be available to help with training booklets for youth MHFA (there are both youth and adult curriculums).

Chairman's Report

Judge Corpening spoke with Director Wooten about the CMAC's concerns regarding the recent hire of a mediator with a Juris Doctorate and no counseling/social work advanced degree. Director Wooten is committed to following the long-held interpretation of the advanced counseling/social work degree statutory qualifications. Judge Corpening shared the updated Uniform Rules during the CDCJs meeting at the Judges' Conference.

Conclusion

Judge Corpening concluded the meeting at Noon. The next meeting will be held Friday, November 8th.