

MINUTES

CHILD PROTECTION COMMITTEE MEETING

*March 15-16, 2012
Riverside Hotel – Boise, Idaho*

Thursday, March 15, 2012

ATTENDANCE:

Judges Bryan Murray, John Melanson, Ryan Boyer, Barbara Buchanan, Gregory Kalbfleisch, Gregory Frates, and Michael Dennard, Barry Black, Shirley Alexander, Mary Jo Beig, Elizabeth Brandt, Andrew Ellis, Chuck Halligan, Julie Kane, Karlene Behringer, Adam Kimball, Scott Davis, and Stacy McAlevy. Administrative Office of the Court Staff: Nanci Thaemert, Kim Halbig-Sparks, Taunya Jones, Julie Cottrell, Debra Alsaker-Burke, and Janice Beller.

Agenda Items:

1. Welcome and Introductions
2. Minutes of October 2011 Meeting, Child Protection Committee
Motion to approve: Judge Buchanan
Second: Judge Frates
Vote: Unanimously approved.
3. Announcements and events
Magistrate Judges Institute: April 18-20
Children and Families Institute: July 26 and 27 in Boise
Indian Child Welfare Conference: July 31 and August 1 in Boise
National Conference on Juvenile and Family Law: March 21-24 in Las Vegas
National Conference on Child Abuse and Neglect: April 16-20 in Wash, DC
4. FY2013 GAL Budget
While final budget numbers for the GAL program allocation are not yet available, the formula was reviewed. The formula is used to allocate funds from the legislature to support the state's seven Guardian ad Litem programs: 60% of each program's allocation is based on the number of children served; 30% on the number of volunteers; and 10% on independent fundraising.
Motion to approve formula and the FY2013 allocation using this formula: Judge Kalbfleisch
Second: Barry Black
Vote: Unanimously approved.

ACTION ITEM: Nanci will send proposed FY2013 allocations (developed using this formula) for committee members to review and comment. 2013 allocation

based on formula is approved unless objections are raised when distributed at a later date.

5. CAP Award

Nominations were reviewed and a discussion was held regarding whether or not to bestow the CAP award this year.

Motion to award MIKE STARNES the CAP Award for 2012: Julie Kane

Second: Karlene Behringer

Vote: Unanimously approved.

ACTION ITEM: Janice to notify recipient.

6. Statutes and Rules Subcommittee

- a. Nanci Thaemert presented proposed amendment to IJR 35 & 36 to clarify that GAL duty of confidentiality (information and file) survives case closure. The CP Committee previously approved amendment to the CPA to address this issue. The AOC requested that the issue be addressed by amendment to court rule instead of statute.

Motion to approved proposed amendments to IJR 35 & 36: Judge Buchanan.

Second: Judge Frates

Vote: Unanimously approved. See Attachment A.

ACTION ITEM: Kim to add proposed amendment to IJR 35 & 36 to agenda for April's Administrative Conference.

- b. Aggravated Circumstances.

Andrew Ellis presented the proposed amendments to I.C. 16-1620, IJR 41 and IJR 51 to clarify that aggravated circumstances can be alleged at any time during the child protection case, not only at adjudicatory hearings. There was discussion regarding the need for the last sentence in I.C. 16-1620(5): *The order may include interim and final deadlines for implementing the permanency plan and finalizing the permanency goal.*"

Motion to strike last sentence of proposed amendments to 16-1620(5): Judge Frates

Second: Not seconded.

Motion to approve proposed amendment to IJR 41 and IJR 51 as set forth in the meeting materials: Judge Frates.

Second: Judge Buchanan

Vote: Unanimous approval. See Attachment B.

The Committee will further consider the proposed amendment to IC16-1620(5) tomorrow.

c. Time Standards and Benchmarks.

Judge Dennard started the discussion by noting that some judges had expressed concerns about who – specifically whether the public – had access to the reports and raw data that are currently sent to judges who hear child protection cases. Judge Dennard further noted that interpretation of the data can be confusing. He shared with the committee members the AOC’s decision that this information is not discoverable under ICAR 32. It is an internal working document that the public should not have access to.

DAB presented the recommended time standards and bench marks (pg. 38-41 of the meeting material). The proposed time standards are part of the ongoing goal of finding timely permanency for children in foster care. In 1998, ASFA set forth the permanency time lines and significantly increased the court’s role in terms of oversight of timely permanency. In addition, the Court Improvement Grant (CIP) has just started a new five-year grant cycle. The new Program Instructions for the CIP grants require significantly more reporting on permanency data and is more focused on evidence based practice. Beginning in the summer of 2012, Idaho will be required to report data or have a plan to report data annually on:

- Median time to first and subsequent permanency hearings.
- Median time to permanent placement (reunification, guardianship, adoption).
- Median time to filing the TPR petition.
- Median time to finalizing the termination of parental rights.

Finally, the proposed time standards and bench marks are in response to the Advancing Justice Initiative from the Administrative Office of the Courts (AOC) and was requested by Judge Wood and Taunya Jones at the October 2011 CP Committee meeting. The current timeline on approval of time standards and bench marks as part of the Advancing Justice Initiative is final approval by the August 2012 meeting.

Julie Cottrell noted that we will have the reports for the new permanency measures soon and will begin to test them over the summer in Bannock, Twin, and Kootenai Counties. We will be able to provide data in August but it will not be validated data.

Judge Frates expressed a concern that any time standards approved by the committee will be put into the “class” reports. In addition, he expressed a concern that if these time standards are put into the class reports, they will be available to the public, which does not know how to interpret the data.

DAB noted that the time standards review by the Rules Subcommittee disclosed that there is currently very little guidance for courts and other stakeholders on time standards from initial permanency hearing through permanency. It was noted that the use of the term “time standards” causes discomfort for judges because that is the term used in the class reports.

Judge Frates noted that there appears to be three reasons for the time standards and bench marks:

1. Grant reporting
2. Identify system problems
3. Case management for judges.

Only those measures that are with a judge's control should be included in accountability reports for judges.

PROPOSED TIME STANDARDS: AGGRAVATED CIRCUMSTANCES PRESENT, NO REASONABLE EFFORTS REQUIRED

(Meeting material pg. 38-39)

Milestone	Proposed Time Standard	Approved Time Standard	Disposition
Finalize guardianship	6 months from removal	5 months Motion to change time standards to finalize guardianship to 5 months from the finding of aggravated circumstances: Julie Kane Second: Liz Brandt	Unanimous approval.
Permanent placement w/ a relative (but not a guardianship)	5 months from removal	No decision Consensus by the Committee that placement with a relative that is not a guardianship is not a regular practice in Idaho but it might occur infrequently. The Committee questioned the need for a time standard for this type of permanency.	DAB to email federal project officer to determine the nature of this type of placement and whether we need to have a time standard for it.
TPR Petition filed	30 days from permanency order	30 days Motion to approve recommendation that TPR petition should be filed no later than 30 days from permanency order: Julie Kane Second: Liz Brandt	Unanimous approval.
TPR finalized	6 months from permanency order	6 month Motion to approve recommendation that TPR be finalized within 6 months of permanency order by Judge Kalbfleisch. Second: Judge Frates	Unanimous approval.
Adoption finalized	12 months from permanency order	12 months Motion to approve recommendation that adoption be finalized within 12 months of the permanency order by Judge Buchanan. Second: Julie Kane	Unanimous approval.

PROPOSED TIME STANDARDS: NO AGGRAVATED CIRCUMSTANCES PRESENT, REASONABLE EFFORTS REQUIRED

(Meeting material pg. 40-41)

Milestone	Proposed Time Standard	Approved Time Standard	Disposition
Reunification	12 months from removal	12 months Motion to approve time standard for finalizing reunification by 12 months from removal by Julie Kane. Second: Judge Buchanan	Unanimously approved.
Finalize guardianship	12 months from removal	13 months Motion to approve time standard for finalization of guardianship by 13 months from date of removal by Liz Brandt. Second: Judge Kalbfleisch	Approved with 1 no vote by Adam Kimball**
Permanent placement w/ a relative (but not a guardianship)	12 months from removal	No decision See Committee's comments above.	DAB to contact federal project officer on need for a time standard on permanent placements with a relative (but not a guardianship).
TPR Petition filed	30 days from permanency order	30 days Motion to approve recommended time standard for filing TPR petition within 30 days of permanency order by Judge Buchanan. Second: Andrew Ellis	Approved with 1 no vote by Scott Davis.
TPR finalized	18 months from removal	18 months Motion to approve recommended time standard for finalizing TPR within 18 months from date of removal by Judge Buchanan. Second: Shirley Alexander	Approved with 1 no vote by Scott Davis.**
Adoption finalized	24 months from removal	24 months Motion to approve time standard for finalizing adoption by 24 months from removal by Judge Buchanan. Second by Shirley Alexander	Unanimously approved.

*Concern was expressed that meeting this time standard will be very hard for parents. IDHW is required to finalize guardianship within 12 months of removal so court time standard is not congruent with IDHW time requirements. Committee recommends extensive training for all key child protection stakeholders on new time standards and implication(s) for practice.

**Concern was expressed that by measuring from removal date instead of permanency order, if a permanency hearing/order is “out of whack”, there is no incentive to move it back on track.

Note: ASFA clock stops when the child is on an extended home visit. Need to take this into account on data reporting.

7. Report from Mike Scholl on Casey Family Programs:

Casey is working with IDHW to do permanency round tables in each region. Permanency round tables are a multidisciplinary review of cases to determine why permanency stalled and if there are new ways to find permanency for a child. Court version of a permanency round table is a “cold case review”, as seen in Georgia. Casey’s goal is to reduce the number of children in foster care by 50% in 2020.

A suggestion was made that we simultaneously pilot permanency round tables and cold case reviews to find common system issues. Common barriers to finding permanency for child seem to be:

- # of caseworkers on the case
- Attitude of the caseworkers

8. ISTARS Checklist

Julie Cottrell, ISTARS Coordinator, reported on ongoing training for clerks who enter data in the ISTARS Child Protection Module. Clerks have expressed concern that they do not always have necessary findings in court. As a result they are unable to enter required data into ISTARS. Julie requests that the CP Committee recommend that the Court sign an order requiring judges to complete a check list for key findings at each child protection hearing. Concern was expressed about requiring judges to use a checklist. Alternative suggestions included:

- More training for clerks and judges
- “Educational packet” for specific judges
- Order that only applies to judges in rural counties

Request to approve time reporting breakdown for new ISTARS reports on median time to permanency (0-6 months, 7-12 months, 13-18 months, 19-24 months, over 24 months) from DAB. No objection from Committee.

9. Problem Solving Courts:

Judge Varin acknowledged the CP Committee’s new responsibility for the dependency drug courts and reviewed with members of the CP Committee the federal grant for the dependency drug courts in Twin Falls, Pocatello, and Lewiston. The grant is near completion and it is time for the Committee to develop a sustainability plan for the dependency drug courts. Norma Jaeger shared evaluations from last year on the efficacy of dependency drug courts. Norma also discussed different levels of judicial involvement in a child protection case:

- Level of involvement provided by the CPA
- Enhanced engagement of court by less than drug court
- Dependency drug court

Discussion of successful problem solving court principles that might be useful in all child protection cases:

- Team approach
- Increased interaction between judge and family
- Engage broader support and services for the family

Judge Varin's challenge to the Child Protection Committee is to re-conceptualize the child protection system with a continuum for team work, court interaction, and enhanced services and to develop a plan to sustain the existing dependency drug courts.

Adjourn for the Day.

Friday, March 16, 2012

1. Continuation of topics related to amendments to rules and statutes, from Thursday.

Liz reviewed Judge Krogh's memo on proposed amendments to the Child Protection Act and Idaho Juvenile Rules (at pg. 30 of meeting material) and the committee discussed rationale behind proposed amendments to both. Further discussion followed regarding proposed amendment to 16-1620 – Aggravated Circumstances/Permanency Plan. There were concerns expressed regarding section (3)(f); however IDHW is OK with language as proposed.

Motion to approve IC 16-1620 as drafted (pg. 27 of meeting materials) by Judge Buchanan.

Second: Julie Kane

Vote: Approved as drafted, Judge Frates abstained.

Idaho Juvenile Rule 44

- (a)(2) change time to finalize guardianship to thirteen (13) months.
- (b)(1) delete 6 months, add 5 months from determination of agg. circumstances.

Motion to table discussion of Rules and Statutes by Judge Frates
Motion did not have a second.

Motion to approve changes to IJR 44 by Judge Buchanan

Second: Elizabeth Brandt

Motion withdrawn by Judge Buchanan.

Discussion of proposed amendments to IJR 45 (meeting materials pg. 42), Rule 46 (meeting materials pg. 43), and I.C. 16-1621 (meeting materials pg. 44) as drafted including use of “concurrent” as used in 16-1621.

Committee approves: 16-1621(5); change last sentence to delete “the” in front of reunification and put “the” in front of “concurrent permanency plan”.

10. Immigration and Child Protection Law

Presentation by Ricardo Pineda, Consul of Mexico, Victor Esponda Rodriguez, Protection Department, Rob Mather, District Director, U.S. Citizenship and Immigration Service, Monica Shurtman, Associate Professor of the University of Idaho College of Law, and Nikki Smith, University of Idaho Law Extern.

11. Return to Rules and Statute proposed amendments:

- a. Complete review of proposed amendments to I.C. 16-1620 with a revised format including strikeouts and additions to current statutes.

Discussion:

16-1620(5) – Discussion about discretionary language: “The order may include interim and final deadlines for implementing the case plan and finalizing the permanency goal.” Some concern that it may create an issue on appeal if judge does not set deadlines. Some concern that it may limit judges’ options and that without a clear statement of authority, judges are unclear about what authority they have.

- b. Review 16-1622 and its proposed amendments.

Discussion:

(b)(3) Question about accuracy of this statement: “It is not a defense to a petition for termination of parental rights pursuant to Title 16, Chapter 20, Idaho Code.”

Motion to delete the above sentence by Andrew Ellis.

Second: Bill Lasley

Vote: Unanimous approval.

(a)(4) Suggestion was made to delete last sentence “If the department or authorized agency...the motion shall include a copy of the guardianship and or decree of adoption.”

(b)(7) Discussion of whether we should keep this paragraph in new language; already in current 16-1622(7) and IJR 41(j).

Consensus of the CP Committee was yes.

ACTION ITEM: Mary Jo to research and address duty of reasonable efforts on primary and concurrent issue.

- c. Review of proposed amendments to 16-1624.

Reorganized and broken into paragraphs (see meeting materials on pg. 46-47).

(3) change time to file petition from 60 to 30 days in alignment with approved time standards approved by CP Committee.

- d. Review of proposed amendments to 16-1629(9).

Proposed amendment to delete reference to 15/22 months and rebuttable presumption to file TPR if child has been in care of the department for 15/22.

- e. Review of proposed amendments to 16-2002.

(3)(b) Delete reference to reunification that has not been accomplished within time standards set forth in I.C. 16-1629(9).

Motion by Andrew Ellis to allow Committee members three weeks to review all proposed changes and comment or raise concerns. Concerns should be emailed to Debbie and issues can be resolved by either a vote, conference call, or meeting depending on the issue(s).

No objections.

ACTION ITEM: DAB to send out clean copy with amendments as agreed upon today.

12. ICWA Review with Julie Kane.

Julie discussed the disproportionality/representation of Indian/Alaskan Native Children in foster care in Idaho. Discussion of new non-Idaho ICWA cases.

13. Blue Ribbon Panel Report

Shirley Alexander and Liz Brandt review recommendations in Blue Ribbon Panel. Review of IDHW but not court records in Manwill death.

CP Committee requested to assist with recommendation that legislation providing for limited investigative and monitoring authority over “contact” children and provide authority for the court in CPA cases to realign custody orders governing “contact” children.

The recommendation for the Department to convene a panel of experts to review cases like the Manwill case was also discussed.

ACTION ITEM: Judge Dennard to request that AOC convene a task force of appropriate experts to address these issues.

14. Project Reports

- a. IDHW – Shirley reported on centralized intake system. Implementation in the Summer of 2012. Purpose is to standardize intake process and prioritization of

referrals around the state. Particularly standardize what is screened in/out.
Housed in Boise. Ability to refer now 24/7.

ACTION ITEM: Put remaining IDHW topics in agenda for August meeting.

15. Strategic Planning

Primary focus areas for grant cycle between 2011 and 2016. What are our long-term goals?

Strong and Effective Legal Representation

- Training on Law and Process to Targeted Groups
 - GAL Attorneys
 - Public Defenders
 - Prosecutors
- Conduct assessment of current system of legal representation in child protection cases. Identify system needs and training needs. Explore use of online training modules. Develop curriculum. Follow through on 16-1614.
- On CQI:
Make sure all materials (Bench cards, manual, etc.) are continuously refreshed
- NEW ITEM: Ensure children aging out have more/better independent living skills. The committee felt this was more important than even educational skills.

Adjourn.

Next meeting set for Thursday, August 16th and Friday, August 17th.

Details and agenda to follow.

ATTACHMENT A:

IJR 35: Guardian ad litem programs (C.P.A.)

(j) The GAL program shall maintain all information regarding a case confidential and shall not disclose the same except to the court or to other parties to the case. This duty of confidentiality is not extinguished by the dismissal of the case. Each GAL program shall follow written policies and procedures regarding access to, use of, and release of information about the children it serves to ensure that children's confidentiality is maintained at all times.

IJR 36: Guardian ad litem (C.P.A.)

- (a) As soon as practicable after filing of the petition, the court shall appoint a guardian ad litem for the child as provided in I.C. §16-1614.
- (b) Upon resignation or removal of a guardian ad litem, the court shall appoint a successor guardian ad litem for the child or children in accordance with I.C. §16-1614.
- (c) Subject to the direction of the court, the guardian ad litem shall maintain all information regarding the case confidential and shall not disclose the same except to the court or to other parties to the case. This duty of confidentiality is not extinguished by the resignation of the guardian ad litem; the removal of the guardian ad litem, or the dismissal of the case.

ATTACHMENT B:

IJR 41:

(a) The purpose of the adjudicatory hearing is to determine: (1) whether the child is within the jurisdiction of the court under the Child Protective Act as set forth in I.C. 16-1603; and (2) if jurisdiction is found, to determine the disposition of the child. The court may also determine whether the parent subjected the child to aggravated circumstances, if aggravated circumstances were alleged in the petition or raised by written motion with notice to the parents prior to the adjudicatory hearing. The court may determine aggravated circumstances at any time after the adjudicatory hearing if aggravated circumstances is raised by written motion with notice to the parents prior to the hearing.

Remove 41(j) – it has been broken out and redistributed to 16-1620, 16-1622, and 16-1624.

~~(j) The court may authorize the department to suspend further efforts to reunify the child with the child's parent, pending further order of the court:~~

~~— (1) When a petition to terminate parental rights has been filed with regard to the child; or~~

~~— (2) When a petition or other motion is filed in a child protection proceeding seeking a determination of the court that the parent subjected the child to aggravated circumstances; or~~

~~— (3) When a permanency plan is approved by the court pursuant to section 16-1622(4), setting forth a permanency plan for the child that does not include reunification.~~

IJR 51:

(b) The Idaho Rules of Evidence shall apply in C.P.A proceedings only to the portion of the adjudicatory hearing where jurisdiction is being determined, or to the portion of any hearing where ~~and/or~~ aggravated circumstances is being determined.