

## **Eighth Judicial Circuit Family Law Advisory Group (FLAG) Minutes of May 19, 2008**

The FLAG met on Monday, May 19, 2008 at the Alachua County Family and Civil Justice Center. Present were: Margaret Anderson, Ruth Angaran, Nancy Baldwin, Glen Boecher, Kathrin Brantley, Iris Burke, Mary-Ellen Cross, Russell Clifton, Randi Dincher, Bill Farley, Judge Stan Griffis, Arlene Huszar, Gary Moody, Myrna Neims, Leon Plympton, Cynthia Swanson, Jean Westin, Bev White, and several Family Court externs.

The minutes of the April 28, 2008 meeting were approved.

### **Old Business**

At the last meeting, there was discussion of convening a Nominating Committee to search for a chair to succeed Myrna Neims this fall. A review of the FLAG's procedures, however, showed that the new chair does not take office until January so the nominating process has been postponed.

Myrna Neims announced that the Association of Family & Conciliation Courts (AFCC) is having its annual conference in Vancouver on May 28 - 31, 2008. She encouraged FLAG members to attend and explained that AFCC members include attorneys, mental health professionals, mediators, parenting coordinators, and anyone else who deals with families and the legal system. Myrna also announced that the Florida chapter of AFCC will hold its next conference in Tampa on February 27- 28, 2009.

### **New Business**

The Florida chapter of AFCC has formed a Parenting Plan Committee. Ruth Angaran discussed the parenting plan bill that passed during the last legislative session. She provided us with a handout entitled "What is a Parenting Plan" which outlined the statutory definition and requirements. A "parenting plan recommendation" is the equivalent of a custody evaluation except that it can now be done only by a psychologist licensed under Chapter 490, Florida Statutes. There was discussion regarding the new terminology of "parenting plan" and "time-sharing" in SB 2532. There was disagreement as to whether the changes were a matter of semantics or if they were substantive. The bill has not yet been signed by the Governor and there has been continued lobbying for it to be revised.

### **Program**

Our speakers were Dr. Russell Clifton, Dr. Myrna Neims, and Ruth Angaran, CSW. They discussed how mental health professionals function in relation to clients.

Dr. Clifton provided handouts explaining the difference between the role of a therapist and that of an evaluator. Copies of the handouts will be available on the FLAG webpage. One distinction in the roles that he noted is that therapy is focused on the individual. The purpose of arriving at a diagnosis is to provide appropriate treatment. There is no diagnosis made in custody evaluations. In forensic evaluations, the mental health professional is more influenced by legal requirements. Therapy is voluntary and the client has more autonomy whereas evaluations are more coercive. In therapy, the

client and the therapist can work together and the client can be honest with the therapist without fear of consequences. In a forensic evaluation, there may be conscious distortion or an intent to look more positive. There are now courses available to teach people how to take the tests used in evaluations. Evaluators are required to obtain information from collateral sources whereas a therapist would not do this.

A mental health professional cannot have multiple relationships with a client. Once a professional has been either a therapist or an evaluator, that person cannot later take on the other role.

The difference among custody evaluations, child protection evaluations, and parent competency evaluations was explained. Of the three, custody evaluations cover the most information. Child protection evaluations are narrower and deal with harm to the child. Parent competency evaluations are also narrow in scope and generally focus only on one parent.

Most insurance companies, i.e., Blue Cross, will not pay for court-ordered evaluations or therapy unless the person has a diagnosis. They also will not pay for intelligence testing or learning disability testing for children because schools are responsible for that by federal law. If a condition is agreed to by the parties, insurance will probably pay. For example, if an order says "the parties agree that the husband shall continue in therapy", they will pay. If an order says "the husband is ordered to continue in therapy", they will not pay.

Cynthia Swanson asked the speakers if it was better to have a list of requirements in an order appointing a mental health professional or to have a general appointment. They agreed that they all know what to do when appointed so the requirements are not necessary but it would be good to have the order contain language about releasing information to the evaluator.

Gary Moody asked why psychologists will not put custody recommendations into their reports. The speakers replied that they are taught not to do so because it is the judge's role to make a determination. If a judge asks for a recommendation at a hearing, evaluators will respond but attorneys want to know in advance. It is not unethical to state an opinion but there is a conflict among mental health professionals as to whether or not they should put their recommendations in a written report.

There was discussion about who does evaluations. Currently, mental health professionals that are trained can perform custody evaluations. Under legislation passed recently (still awaiting the Governor's signature), only psychologists licensed under Chapter 490, Florida Statutes, will be able to do them.

Gary Moody asked if it was permissible to send a client to a psychologist not affiliated with the one who was going to do an evaluation to get information about the process. He was advised that there is no problem with doing that but it should be disclosed to the person doing the evaluation.

The next meeting of the FLAG will be Monday, **June 23**, at 4:00 PM.