

oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

CHIPS Case Type

October 31, 2022

11:00 am to 12:00 pm

Attendees

Justice Partner Attendees: Matt Freeman (Minnesota Association of County Social Service Administrators), Cresston Gackle (Minnesota State Bar Association), Anne Gueinzius (Children's Law Center of Minnesota), Erin Johnson (Minnesota County Attorneys Association), Janet Reiter (Minnesota County Attorneys Association), Robert Small (Minnesota County Attorneys Association), Jamie Sorenson (Children's Justice Initiative), Rachelle Stratton (Hennepin County Adult Representation Services), Judge Sally Tarnowski (Tribal Court State Court Forum), William Ward (Minnesota Board of Public Defense)

MJB Attendees: Beau Berentson, Abby Hager, Heather Kendall, Aaron Lauer, Kirsten Maiko, Kate Malmon, Suzanne Mateffy, Judge Kathryn Messerich, Jenifer O'Leary, Haley Schroeder, Jeff Shorba, Wally Wallestad-Dax

Welcome and Introductions

Jeff Shorba, State Court Administrator, welcomed the justice partners and thanked them for attending the meeting focused on the oneCourtMN Hearings Initiative. The initiative provides strategic direction and helps implement the Minnesota Judicial Branch's strategy related to remote and in-person hearings. It also assists district courts to resolve issues that might arise during implementation. This effort continues the Branch's commitment to innovation and increasing access to justice for all Minnesotans.

OHI's Response to Spring Justice Partner Feedback

Judge Kathryn Messerich, OHI co-chair, said that the OHI Steering Committee is committed to making the initiative an open and transparent process. OHI has worked to engage those affected by its work to understand their experiences, needs, and ideas. Since receiving feedback from justice partners last May and June, OHI has worked to address many of the issues that were shared.

Justice partners shared that they desired to continue to be engaged with OHI as it progresses with its work. In addition to continuing our OHI justice partner meetings, OHI has presented across the state at several partner conferences this summer about OHI and the future of remote hearings. Part of our evaluation framework will also include opportunities for justice partners and court customers to share their experiences and ideas about remote and in-person hearings with us.

Additionally, partners encouraged OHI to continue using remote hearings for some types of hearings because of the accessibility it provides to partners and court customers. The Branch's new hearings framework has resulted in 60% of hearings being held remotely, including over 80% of non-criminal

hearings. We have tried to provide clarity around how hearings are being held and flexibility in hearing settings to accommodate the needs of the parties.

OHI has also addressed remote hearing decorum in response to partner feedback. It created a video and written remote hearing decorum guides found on the Branch's website. These resources help litigants understand how to prepare themselves for court and the decorum expectations during their hearing.

Policy 525 Implementation

Judge Messerich mentioned that last June Judicial Council Policy 525 established a uniform statewide non-criminal hearing framework and a series of district criminal hearing plans tailored to meet the needs of districts as they tackle the criminal case backlog. It is important to note that the initial criminal and non-criminal hearing frameworks are not permanent and will continue to evolve. A critical part of our evaluation process will look at how the non-criminal hearing framework and district criminal hearing plans are being implemented across the state. We will assess what effects they are having and whether any adjustments are necessary to improve hearings in the long term.

OHI: Data Collection Framework

Heather Kendall, OHI co-chair, said that throughout the summer, OHI has worked to establish a data collection framework to understand the impact of its work and gather stakeholder feedback. Evaluation data will be used to inform OHI's efforts and recommendations to Judicial Council.

The oneCourtMN Hearings Initiative is working to build public trust and accountability in our judicial system. To accomplish this important goal requires a statewide high functioning hearing process that is effective, timely, and accessible. During our evaluation phase, we will investigate if these things are happening and why. We will use a range of methods to answer each of these questions, including analysis of existing data. The currently planned methods include surveys of court users and a Resources and Practices study investigating the connection between our hearing practices and resources and outcomes.

Statewide Hearing Data

Heather Kendall stated that critical to our decision-making is the collection and use of data from remote and in-person hearings, as well as feedback from internal and external stakeholders. Data helps us understand the impacts of the hearing framework and changes to court operations brought about by OHI's work.

One example of this outreach is our upcoming survey of court customers, particularly focused on litigants in remote hearings. It will gather court customer perspective on access, timeliness, and effectiveness related to their recent hearing. This survey will also investigate barriers to hearing attendance and court customer preference for appearing remotely or in-person for a hearing.

Kirsten Maiko, OHI Evaluation and Organization Learning Team Lead, walked justice partners through a series of data on non-criminal hearings are being conducted since the implementation of Policy 525.

Since the policy went into effect 62% of criminal hearings and 85% of non-criminal hearings have been held remotely (On the record hearings held from June 6 to September 16, 2022).

Non-criminal hearings must be held according to Policy 525's statewide hearings framework. Statewide non-criminal hearings have been held about 85% remotely since the policy went into effect in early June. Juvenile Protection and Delinquency are the non-criminal hearings that most often occur in an in person or hybrid setting. Over 1,800 orders granting remote or in person appearance case events have occurred. The most frequently occurring reasons are for important/complex cases and travel. Parties can request a change in a presumed hearing setting using forms found on the Branch's website under the [Get Forms section](#). The request form is found in the Other Court Forms Category.

Remote Hearing Decorum Video and Written Guide

Suzanne Mateffy, OHI Training and Support Team Lead, shared information on OHI's efforts to address remote hearing decorum. OHI explored challenges with online courtroom decorum and sought to identify strategies for ensuring virtual hearings have the same level of decorum as hearings in a courthouse. Its initial set of decorum strategies focuses on education and training materials. To help set decorum expectations, OHI created a new video and companion written guide. These resources are posted on the public website's [Going to Court](#) and [Remote Hearings](#) webpages. Both resources provide information on how hearing participants can prepare for their hearing by familiarizing themselves with their case and testing their technology before their hearing. They also include helpful tips to minimize background distractions, take advantage of community legal kiosks for a private setting, choose appropriate clothing as well as learn how to communicate during their hearing. First published in English, the video and written guide will be available soon in Hmong, Spanish, Somali, and Karen.

Remote Hearing Challenges for People in Custody

Wally Wallestad, OHI Hearing Reengineering Team Lead, stated that one of the issues that OHI has been exploring is remote hearing challenges for people in custody. OHI is investigating how jails are working with courts across the state to provide access to remote and in-person hearings.

Earlier this summer a county jail announced it would be returning to pre-pandemic processes. In that jurisdiction, it will now require a writ to transport the person to either the courthouse, or another facility, to attend their hearing. Additionally, it will no longer provide incarcerated persons the ability to appear remotely for their hearing from the jail due to resource constraints. Since that announcement, OHI learned there are several other county jails either prioritizing remote appearances from within their own jurisdiction or requiring a writ. However, there are others who have fully embraced remote appearances and accommodate as best they can.

Input from Justice Partners

Data Collection and Evaluation

A justice partner said that most CHIPS hearings are remote. They were surprised that 10-15% of non-criminal hearings were in person or hybrid. Another participant speculated that some of those in person

hearings may be adoption hearings which are more likely to be held in person. One partner was surprised by the amount of hybrid hearings. Based on her experience in Washington County, hybrid hearings are rarely used.

Effective, Timely, and Accessible Hearing Practices

A justice partner stated that remote hearings have greatly improved access to court appointed counsel for court customers. Remote hearings have enabled attorneys to provide legal representation in underserved areas. Parents and foster parents are more likely to attend a remote hearing because they are more convenient, and they do not have to travel or find childcare. Another justice partner agreed that foster parents are more likely to attend remote hearings. Having foster parents' insights is important because it provides a lens into how a child is doing. Courts have been very helpful in working through technical issues and providing flexibility when issues arise.

One participant noticed an increase in tribal representatives participating in Indiana Child Welfare Act (ICWA) remote hearings. Tribal representatives often have cases in multiple counties each day, which makes it hard to be in person. They have also seen better participation from outside the metro area and out of state. Recently, a father participated in a CHIPS hearing from Texas, which would not have happened had it been in person. Similarly, remote hearings have made it easier for people in custody either within Minnesota or out of state to participate in hearings because you do not have to transport them. However, some sheriff's offices, jails, and prisons are much more cooperative in providing remote hearings than others. Some facilities only have one or two computers which can make it difficult for people in custody to participate. Overall facilities continue to get better at supporting remote hearings.

A justice partner has found that jurisdictions hold CHIPS hearings similarly. The differences really lie in how they manage the remote hearing technology. Some courts still use mass calendars rather than time certain hearings. Courts also use a variety of ways to manage hearings. Some courts put hearing participants in breakout rooms and others leave everyone in the waiting room until it is time for the hearing. Having time in a breakout room is helpful to talk with clients before their hearing.

Improving Remote Hearings

One partner shared that due to the sensitive nature of CHIPS cases in person interactions between parents and counsel are crucial in building trust and understanding. In-person hearings also allow hearing participants to take advantage of services from guardian ad litem and social workers. Cases go more slowly online, and parents are less cooperative.

A meeting participant agreed stating that during in-person hearings we were able to connect court customers more easily with support services. It is important the courts have the flexibility to meet the needs of each family.

A justice partner shared that scheduling can be improved in some courts. In complex cases it is difficult to talk with your client through Zoom. During an in-person hearing the attorney could whisper to their client, but remotely they need to ask the court for a breakout room which can delay the hearing. Given how closely they are scheduled, once a CHIPS calendar is delayed it can often make the rest of the hearings that day delayed as well. They found Hennepin County's CHIPS scheduling practice to be the

best. Each hearing is set for an hour. This builds in time for pre- and post-hearing discussion with clients and gives plenty of time for the hearing itself. Most counties set their hearings for 15 minutes and it makes for a tight hearing schedule.

One partner found that having time certain hearings are much better for court customers. It allows people to count on when their hearing is so that they can step away from their work or whatever else they are doing. Another participant agreed and said that it also reduces the time that children must miss school. It also helps justice partners by enabling them to be more productive, work with families, and better plan their own schedules. Regardless of in-person or remote hearings, time certain hearings are better for court customers and justice partners.

A justice partner believed that the most significant issue with remote hearings is managing interpreters. Simultaneous interpretation is difficult to explain during a remote hearing, especially when a litigant has limited English proficiency. It works well in person, but it is hard remotely.

Orders for Exceptional Circumstances

A partner has found that judges are generally cooperative in allow exceptions around hearing settings. Another meeting participant said that how accommodating the judge is varies greatly across the state. They thought that it was important for the Branch to reemphasize with judges that the purpose of Orders for Exceptional Circumstances is so that the Branch can learn what hearing setting works best for a particular hearing type. It is not to limit judicial discretion but to understand why they are making a change.

One justice partner stated that they mostly manages ICWA hearings that are almost all remote. Recently, several tribes have been meeting on a regular basis to figure out the best way to hold hearings. Currently, cases are scheduled in block by tribe which makes it difficult logistically to add flexibility to hearing settings. Hopefully the tribes can agree on a calendar that allows flexibility or assigns time for hybrid and in-person hearings.

Next Steps

Jeff Shorba thanked the justice partners for sharing their time and expertise during the meeting. Following the meeting OHI will be sharing a meeting summary which can help spark discussions with your organization and constituents. Justice Partners will also receive a short survey to provide additional feedback. The Branch hopes that justice partners will join us for future OHI justice partner meetings to discuss OHI work efforts and lessons learned from the remote and in-person hearing plans.