

oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

Civil Case Type

April 11, 2023

12:00 pm to 1:00 pm

Attendees

Justice Partner Attendees: Kenya Bodden (MSBA – District 2), Jeanette Boerner (Hennepin County Adult Representation Services), Rachel Cornelius (MSBA – District 5), Janel Dressen (Minnesota State Bar Association), Carla Ferrucci (Minnesota Association for Justice), Ryan Fullerton (MSBA – District 7), Portia Hampton-Flowers (Saint Paul City Attorney’s Office), Anthony Novak (Minnesota Defense Lawyers Association), Paige Orcutt (MSBA – District 11), Robert Small (Minnesota County Attorneys Association), Tom Walsh (Volunteer Lawyers Network)

MJB Attendees: Beau Berentson, Heather Kendall, Aaron Lauer, Kirsten Maiko, Suzanne Mateffy, Judge Kathryn Messerich, Jennifer O’Leary, Abby Peterson, Jeff Shorba, Dawn Torgerson

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 Fall Justice Partner Feedback

Flexible Courtroom Concept

Last December, OHI launched the Flexible Courtroom Concept in Becker and Ramsey counties. The pilot provides hearing participants the ability to choose to appear remotely or in-person for their hearing. In February, a select set of judicial officers and criminal and juvenile delinquency hearing types began holding these new flexible hearings. The Flexible Courtroom Concept is an attempt at increasing access and providing parties and attorneys the ability to choose to appear in person at the courthouse or remotely via Zoom. The pilot runs through December 2023.

Decorum Video and Written Materials

OHI developed a series of decorum resources last fall to set clear behavior expectations for hearing participants to improve hearing decorum and experiences. Districts have been using these resources in preparing hearing participants and the decorum video has already been viewed over 2,200 times. Translated versions of the written decorum guide were recently added to the Branch’s website in Hmong, Karen, Somali, and Spanish.

Feedback from our justice partner meetings also suggested that an attorney decorum guide was needed as well to provide reminders about decorum expectations and resources for attorneys and their clients. OHI partnered

with the Minnesota State Bar Association in developing that document and it is now available on the Branch's website.

Improving Hearing Management

OHI is working to understand the effect of hearing-related practices and resources to increase hearing access, timeliness, and effectiveness. This work is taking place through two related projects: the Remote Hearing Facilitation Report and the Resources and Practices Study.

The Remote Hearing Facilitation Report provides information and training resources to equip those facilitating remote hearings in fulfilling the essential duties related to remote hearing facilitation. It also shares information about innovative hearing support models developed by local courts to better share information across the state and spark new ideas.

The Resources and Practices Study hopes to identify and promote those hearing practices that lead to better outcomes around access, timeliness, and effectiveness. The study will examine the time used for remote and in-person hearing practices in different settings. This information will be analyzed alongside hearing outcome data to identify and promote effective hearing practices across a variety of hearing settings and types.

Legal Kiosk Project Promotion

OHI worked with the Legal Kiosk Project to develop a new promotional flyer and bookmarks to distribute at local courthouses. These materials have been sent to courts across the state. OHI will also showcasing the Legal Kiosk Project at Branch conferences this spring for court staff.

Review of Recent and Proposed Changes to Policy 525

Based on internal and external stakeholder feedback and hearing data, the following changes to Policy 525 took effect in January.

- The presumption of Family Pretrials, Civil Pretrials, Civil Settlement Conferences, Civil Temporary Restraining Orders hearings from remote to in person.
- Additionally, Guardianship/Conservatorship Order to Show Cause hearings changed from in person to remote
- The largest change was Juvenile Delinquency hearings no longer using a statewide framework and instead being held based on local district and county hearing plans. The local plans are available on the Branch's website.

Later this spring, OHI will recommend that contempt be removed from the chart and a footnote be added to clarify that ExPro includes matters in Support, Paternity, Family-Other, and Dissolution with Child case types as well as contempt matters.

Hearing Participant Survey – Halfway Point Update

OHI's Hearing Participant Survey was launched last December. It will run through the end of June 2023. The survey gathers input from litigants, attorneys, justice partners, media, and other hearing participants on their

most recent remote or in-person hearing. As of March 8, OHI had received over 1,500 responses to the Hearing Participant Survey, regarding hearings in 87 of Minnesota's 89 counties.

Some of the preliminary findings of the survey include:

- Most Hearing Participants would prefer to attend a future hearing remotely.
- Most hearing participants said it was not difficult to attend their hearing.

Justice Partners were encouraged to complete the survey themselves if they have recently participated in a hearing, and to encourage others to complete the survey. The survey can be accessed on the public website home page, in your browser following a remote hearing, and soon will be available by poster and bookmarks within courthouses statewide. Justice partners can access the survey at: <https://tinyurl.com/hearings-feedback>.

Input from Justice Partners

Hearing Participant Survey

A justice partner was not surprised that hearing participants prefer remote hearings. They wondered if participants are continuing to have technical challenges when appearing remotely and if any improvements have occurred to solve those issues. Kirsten Maiko responded that the survey results reflect those participants who were able to successfully take part in their hearing. This could mean that the survey is missing people who were unable to connect to their remote hearing. Heather Kendall said that judicial officers just want people to appear for their hearing whether that is in-person, over the phone, or through Zoom. Courts are willing to work with people to resolve technical issues that occur.

Policy 525 Changes

Another partner believed that moving pretrial hearings to an in-person setting was a big win. The pretrial hearing is typically when cases get settled and being in person helps those discussions. Judge Messerich said there might be an opportunity to create a distinction between disposition and non-dispositive hearings. There is a benefit to remote hearing for many civil cases because you can easily and inexpensively bring parties together to discuss an issue without traveling. She wondered if the justice partners had suggestions on which civil hearing types to make in-person or remote. A partner suggested that discovery motions and preliminary conferences, and other simple one-off issues are better remote. Any dispositive motions are better in person. When you have a long summary motion it is much easier to hold it in person and connect with the opposing counsel about what is important and learn what the judge is concerned about. In general, it would be better if judicial officers had more discretion around the hearing setting based on the circumstances of the hearing. Other partners agreed.

Long-term OHI Considerations

A stakeholder said that judges should have more flexibility in making a hearing setting determination based on the circumstances of the hearing rather than being bound by a presumption. Agreement between the parties should be enough to deviate from the presumption, assuming the judicial officer agrees. It is best to get opposing parties and counsel together as often as possible to foster a resolution sooner. Clients want their day in court and to feel like they are heard. Heather responded that we are streamlining the Policy 525 deviation process to make it easier for judicial officers to communicate a deviation order. We are also reminding them

that they have the discretion to deviate from the presumption if the circumstances warrant it. Judge Messerich stressed that case complexity and party needs are reasons to deviate from the presumption.

One justice partner raised the issue of young lawyers not getting enough in-person hearing experience. The remote experience is not the same experience. Because of the pandemic some young attorneys have never appeared in person for a hearing. Janel agreed.

A partner suggested that housing-related hearings would be better in person or based on a local plan. Holding hearings in person has allowed Hennepin to move through its backlog more quickly with less defaults. In Hennepin County, all tenants under a particular income threshold receive legal representation. The best plan generally is providing flexibility and discretion to judicial officers. However, remote hearings do provide better access for some court customers. Jeff Shorba suggested that OHI may want to think about what hearing types should be part of the statewide plan versus a local plan. Maybe there could be some temporary flexibility around addressing the backlog. Heather wondered if the preference for in person housing-related hearings was a strain of the backlog. A justice partner said that Hennepin and Ramsey Counties have experienced a surge of evictions that are projected to continue. With limited resources and attorneys, the in-person hearings help service providers connect with clients and stretch resources. Implementing a flexible courtroom concept would be very exciting for housing-related hearings. OHI's focus should be on providing hearing access and flexibility. Jeff mentioned that the Branch is exploring technology opportunities to create a better remote hearing experience.

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.