

## oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

### Civil Legal Services

November 1, 2022

2:00 pm to 3:00 pm

#### Attendees

**Justice Partner Attendees:** Karen Fairbairn Nath (Legal Assistance of Olmsted County), Luke Grundman (Mid-Minnesota Legal Aid), Anne Hoefgen (Legal Services of Northwest Minnesota), Sharon Jones (Legal Assistance of Dakota County), Dori Rapaport (Legal Aid Service of Northeastern Minnesota), Danielle Shelton Walczak (Mid-Minnesota Legal Aid), Heidi Uecker (Legal Services of Northwest Minnesota), Tom Walsh (Volunteer Lawyers Network)

**MJB Attendees:** Beau Berentson, Bridget Gernander, Abby Hager, Heather Kendall, Aaron Lauer, Kirsten Maiko, Kate Malmon, Suzanne Mateffy, Judge Kathryn Messerich, 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.

## **Input from Justice Partners**

### Data Collection and Evaluation

Justice partners agreed that the hearing setting data presented was consistent with that they experienced in court.

### Orders for Exceptional Circumstances

Justice partners shared that their requests for exceptional circumstances have been granted regularly. However, one justice partner said that given they are often brought in on a case the same day or the day before a hearing it is difficult to make a request before the hearing starts. Another partner found that hearings which require a quick response or are an emergency it is difficult to make a request to change the setting.

### Hearing Setting Presumptions

A meeting participant suggested that for Order for Protection hearings, it would be better if they were presumed remotely. Holding this type of hearing in person creates safety issues between the parties. Another partner agreed that Order for Protection and Restraining Order hearings would be better remotely to provide greater safety for survivors. When participating in a hearing remotely survivors are empowered and do not have to worry about encountering their abuser in a parking lot or courthouse.

A justice partner shared that there is confusion in the legal aid community around how criminal expungement hearings are held across the state. Although legal aid provides representation during this type of hearing, they are considered criminal hearings and subject to local plans. If the hearings were held remotely, it would allow legal aid to assist more people by making legal aid services more efficient and accessible.

One justice partner stated that some courts are treating immediate tenant remedy as a major civil case rather than a minor civil case. As a result these hearings are being held in person. It would be better for court customer and civil legal service organizations if they were remote.

A participant said that eviction cases have been excellent as remote hearings. However, tenant remedy cases, which require people to receive immediate assistance, are in person. It is difficult for legal aid to be there in person to help.

### Effective, Timely, and Accessible Hearing Practices

A justice partner stated that remote hearings have made a huge difference in court customers being able to attend housing court and eviction clinics. They can attend without having to pay for parking, travel, and daycare. One participant found the remote hearings have made housing court more efficient and increased attorneys' ability to appear in more hearings.

A partner shared that remote hearings have helped with staff retention at civil legal service organizations. For instance, two attorneys had spouses that took jobs outside of the county. They were able to continue to work and appear in court because of remote hearings and work. Remote hearings have provided a tremendous advantage for organizations retaining valuable staff attorneys.

### Improving Remote Hearings

A meeting participant suggested that court staff could make more use of muting/unmuting or turning on the camera of participants who don't know how to use Zoom themselves.

One justice partner said that it would be helpful to provide a guide to self-represented litigants on how to file exhibits. It could be included with the notice.

Another partner stated that like in-person court, remote hearings sometimes start late. It is important to make sure that users logging into the remote hearing receive a message that they are placed in a "waiting room" and court will start as soon as possible. They had clients message them while waiting for the remote hearing to start, and they are concerned they are not in the right place, or the court will not let them in. Possibly adding a message to the Notice of Hearing to alert attendees of these delays may be helpful.

A justice partner found interpreters to be helpful during remote hearings. They recognized that interpreters are a costly service for the court to provide. However, courts should be more welcoming to court customers that need interpreters. Some customers may not know how to request an interpreter until they get to their hearing and courts should appear less frustrated when providing the service.

## Promoting Use of Legal Kiosks

One justice partner appreciated the Branch's promotion of legal kiosks for court customers participating in remote hearings and receiving legal assistance. The more court customers know about legal kiosks the better. Heather Kendall suggested that OHI would like to work with the civil legal services community to put together a flyer to promote legal kiosks.

## Addressing Remote Hearing Decorum

A meeting participant believes that the decorum issues that courts are experiencing are part of a societal trend of greater informality since the start of the pandemic. Another partner stated that how people are dressed is not particularly important. The focus should be on addressing bad behavior like smoking or swearing.

One justice partner has experienced attorneys treating self-represented litigants poorly. They appreciated the court stepping in to remind everyone to be respectful. Sometimes because of how casual remote hearings feel, attorneys and even judges slip up and do and allow behavior in a remote hearing that they would not allow in the courtroom. Another partner agreed that judges need to be more accountable for maintaining the decorum of their virtual courtrooms. A lot of lawyers have been disrespectful in court and the lack of response by some members of the bench has been disappointing.

## 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.