

oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

Family Case Type

October 24, 2022

11:00 am to 12:00 pm

Attendees

Justice Partner Attendees: Rana Alexander (Standpoint), Beth Assell (Standpoint), Tami Baker-Olson (Guardian ad Litem), Elizabeth Beltaos (Hennepin County Attorney – Child Support Division), Debra Bulluck (Standpoint), Susan Gallagher (Minnesota Association for Justice), Kent Kodalen (Association of Family and Conciliation Courts), Kristine Lizdas (Battered Women’s Justice Project), Kristy Mara (Academy of Matrimonial Lawyers), Mark Metz (Minnesota County Attorneys Association), Scott Miller (Domestic Abuse Intervention Project), Monica Player (Battered Women’s Justice Project), Shaina Praska (Hennepin Bar Association – Family Law Section), Tract Shoberg (Battered Women’s Justice Project), Robert Small (Minnesota County Attorneys Association), DeAna Smith (Domestic Abuse Service Center), Lisa Spencer (Academy of Matrimonial Lawyers), Nicole Tabbut (Minnesota State Bar Association), Mary Vangerud (Hennepin County Child Support Officers)

MJB Attendees: Beau Berentson, Abby Hager, Heather Kendall, Aaron Lauer, Kirsten Maiko, Kate Malmon, Suzanne Mateffy, Judge Kathryn Messerich, Jenifer O’Leary, Heather Scheurman, 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 a cross 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

Justice partners agreed that the hearing data showing non-criminal hearings being held predominately remotely was reflective of their experiences. One justice partner believed that over 85% of the hearings she participated in were remote. Another said that she had only been in the courtroom twice since 2020 and is happy to continue to attend court remotely. A partner stated that almost all non-criminal hearings are held remotely, but recently in Scott County she received a request for an in-person Initial Case Management Conference hearing. A second justice partner had a similar experience in Scott County and has found they try to have many types of hearing in person. Another meeting participant said that many hearings in Hennepin County are held remotely, except for evidentiary hearings. One partner experienced a variety of settings for harassment and order for protection, and evidentiary hearings across the state.

A partner was surprised that there are not more hybrid family court hearings. They had seen a lot of success and efficiency with hybrid criminal hearings and thought it could work for family hearings too. One of the benefits of hybrid hearings is that victims can appear remotely even when everyone else is in the courtroom. Kirsten Maiko clarified that the Branch classifies hearings as remote based on where the parties appear from not the judicial officer, justice partners, or other hearing participants.

Benefits of Remote Hearings

One justice partner stated that attorneys and court customers in Greater Minnesota appreciate remote hearings. When attorneys are not practicing in the county their office is in remote hearings are a more efficient use of their time and more cost-efficient for their clients because of reducing travel time. Attorneys are far more productive without the time wasted in the car. It allows attorneys to settle cases faster because they are always in the office and more available after hearings. Another partner similarly believed that hearings are more efficient remotely. They also appreciated how patient judicial officers and court staff have been when hearing participants are dealing with technical issues. A meeting participant found that remote hearings have been helpful in family hearings to decrease attorney costs to their clients, increase safety for victims, and make it easier for customers and attorneys to attend a hearing.

Challenges of Remote Hearings

A justice partner found that during remote hearings the judicial officers loses valuable information of the demeanor of hearing participants. They experienced a client putting Post-It Notes over a participant picture on the screen to avoid their attempts at intimidation through Zoom. They have also seen victims being intimidated through text messaging during remote hearings by the other party. Further, there is not a face-to-face opportunity to prepare their client for what they are going to walk into during the hearing. Another partner agreed that it was important for a judicial officer to see the demeanor of hearing participants. They had seen lawyers intentionally trying to hide the demeanor of their clients but sitting next to them during the remote hearing and controlling the mute button when their client makes outbursts.

One partner shared that her staff brought up concerns about better support for clients with limited English proficiency. Judge Messerich responded that the Branch is working to provide supports for court customers with limited English proficiency. If the court is aware a translator is needed before a hearing it is typically not a problem to have a translator available for the hearing. The increased use of simultaneous interpretation by the court will also help address this issue. Additionally, the Branch's remote hearing framework allows judicial officers flexibility to change the setting of a hearing to in person if it is needed to assist with interpretation. Heather Kendall mentioned that OHI is working to have hearing documentation translated into Spanish, Hmong, Somali, and Karen. It is also trying to find ways to make interpretation work better with remote hearing technology.

Challenges with Sharing Evidence and MNDES

A partner heard from court staff that there were problems with the implementation and use of MNDES. For example, information entered into the system can only be accessed and modified by whoever submitted it. So other attorneys or staff assisting on a case cannot enter information on behalf of an attorney. Another justice partner shared that when she recently talked with an advocate in Pine County, they had never heard of MNDES. They questioned how much MNDES was being used. They also heard that judges were refusing to hear evidence that came through MNDES. There is a general lack of information to justice partners about how to use the system.

One justice partner stated that traditionally, during in-person hearings attorneys share evidence at the beginning of the hearing. Courts are requiring evidence to be shared 7-14 days in advance. That deadline is very hard to meet for some types of hearings, like Order for Protection hearings. There is also a lack of consistency between courts on how evidence is submitted. Another meeting participant agreed stating that there is an inconsistency with evidentiary hearings and a lack of instructions from courts. This puts self-represented litigants at a huge disadvantage over those who are represented. A partner shared concerns about service of discovery and the belief that this is not the responsibility of law enforcement. They provided an example where law enforcement delivered a hand-written note for service of discovery, and it came off as intimidation from the person receiving it.

Jeff Shorba responded by sharing that the MNDES pilot is currently being implemented across the state. Early feedback has been positive from MNDES users. Throughout that implementation the Branch is looking for feedback so that it can improve the system for users. Minnesota is on the cutting edge of court operations with its electronic evidence system. Sometimes this means that the Branch needs to address new challenges that nobody across the country has solved before.

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.