

oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

Probate/Mental Health

November 7, 2022

11:00 am to 12:00 pm

Attendees

Justice Partner Attendees: Colt Blunt (Minnesota Department of Human Services), Eric Jonsgaard (Minnesota Association of Guardianship & Conservatorship), Patrick Hest (Ramsey County Attorney's Office), Sarah Knoph (Minnesota Department of Corrections), Kelli Lassig (Minnesota Department of Human Services), Brenda Mahoney (Minnesota Association of County Social Services Administrators), Doug McGuire (Hennepin County Commitment Court), Robert McLeod (Minnesota Association of Guardianship & Conservatorship), Anita Raymon (Working Interdisciplinary Networks of Guardianship Stakeholders Minnesota), Robert Small (Minnesota County Attorneys Association)

MJB Attendees: Beau Berentson, Lisa Haas, Abby Hager, Heather Kendall, Aaron Lauer, Kirsten Maiko, Kate Malmon, Suzanne Mateffy, Judge Kathryn Messerich, Jennifer O'Leary, 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.

Civil Commitments (Wally Wallestad)

One of the issues that OHI has been exploring is around remote hearing challenges during civil commitments. Under Policy 525, civil commitments are presumptive remote, so it should not come as a surprise that civil commitment hearings are overwhelming being conducted remotely; however, earlier this year there was a report that some facilities were finding it increasingly difficult to accommodate remote appearances and a concern was raised that participants were less likely to understand or view the court proceeding the same as if they were appearing in-person.

Input from Justice Partners

Data Collection and Evaluation

The justice partners agreed that the non-criminal hearing setting data was consistent with their experiences of nearly all hearings being held remotely.

Presumptive Hearing Settings

One justice partner believed that it is beneficial to have probate and mental health hearings presumptively remote. Many patients are not feeling well at the time of their hearing and traveling to a

courthouse is often not in their best interest. However, there should be an opportunity to hold hearings in-person if the circumstances of the hearing are better handled in person. Another partner said that remote hearings have worked well. Initially there were some technical issues, but courts have addressed them. Attorneys in Hennepin County have been satisfied with their remote hearing experiences. A meeting participant said that remote hearings in Ramsey County have worked well too. Providing both video and audio options to attend a hearing allows hearings to move forward without having to reschedule.

One justice partner said that he heard that hospitals are having a difficult time maintaining staff. They would prefer litigants to be transported so that hospital staff does not have to supervise them during their hearing. However, the rest of the hearing participants and justice partners have been pleased with remote hearings. It may also be worth talking directly with Sheriff's Departments to better understand their needs. The Ramsey County Sheriff's Department will no longer support remote hearings for family court starting January 1, 2023. A justice partner shared that in Greater Minnesota they are getting push back from jails and sheriff's departments about holding remote evaluations. Sometimes this means that people from his office must drive several hours to perform an evaluation.

A meeting participant has found that although there may be some small subset of litigants that might find in person hearings better, in most cases the long waits from mass calendars in a non-hospital setting outweighs that benefit. Most litigants can participate remotely without any problems. Remote hearings allow more people to participate, who might otherwise not be able to travel to an in-person hearing. Another partner agreed saying that most litigants who are hospitalized prefer not to be transported. Bringing them to the Hennepin County courthouse waiting area can be especially difficult because of its jail like setting. While awaiting their hearing, litigants are locked in with other people in the holding area. They have seen some hearing participants breakdown because of delays and anxiety from being in the holding area. They found that it is rare that a client wants to come to court.

Addressing Remote Hearing Decorum

One justice partner stated that often judges go right into the case without any preliminary remarks. It would be helpful if judges at the start of a hearing could briefly state their decorum expectations and that breakout rooms are available for attorneys and clients to meet. If clients know they can talk with their attorney, they are less likely to interrupt a hearing.

A partner believed that when courts mute disruptive participants it helps manage decorum and allows the hearing to move forward.

Hearing Scheduling

Justice partners said that remote hearings and time certain calendars are helpful for court customers and attorneys. Pre-pandemic courts would hold mass calendars for probate and mental health hearings. This practice would result in people having to wait around for their hearing, sometimes hours. The long waits in a non-hospital setting were hard for some litigants.

Hearing Management

A justice partner said providing attorneys with breakout rooms to meet with their clients is a benefit of the Zoom platform. Courts have figured out how to manage moving people in and out of breakout rooms well. Breakouts work especially well with time certain calendars. When using mass calendars, breakout rooms can be more chaotic, but courts still manage it well.

Another partner misses being able to meet with the opposing counsel and judge before a hearing to work through hearing matters. The judge's influence is often helpful in coming to a quick and effective resolution. With remote hearings, attorneys are often not reaching out before the hearing to resolve it. Jeff Shorba responded that the Minnesota Judicial Branch is looking at new technologies that will help attorneys connect with their peers and clients before hearings. But some of the current lack of communication between attorneys is a cultural issue that attorneys will adjust to as remote hearings become normalized over time. A justice partner replied that in Ramsey County attorneys are often admitted to a remote hearing first and this allows pre-hearing conversations to continue to happen.

A meeting participant expressed frustration that there has been a breakdown in examiners being notified when they are needed for a hearing. They are often receiving hearing announcements and when the examiner shows up for the hearing, they are told they are not needed. Alternatively, there are times after a hearing is completed examiners are being told they were needed for the hearing. Another partner thought that this was likely an issue with the attorneys and not the court. If attorneys are intending to call a witness, they should be issuing subpoenas or at least communicating with their witnesses prior to the hearing.

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.