

Draft Minutes
Juvenile Access Pilot Program Advisory Board
Subcommittee on Overview of Other States Efforts and Best Practices
September 28, 2009 Meeting

Present: Judge Quinn, co-chair, Sarah Eagan, co-chair, Judge Keller, Bryan Morris, Chris Rapillo, Justine Rakich-Kelly, Colin Poitras, Susan Pearlman, Mary Louise Blanchard, Stacey Gerber, Fran Carino, Nancy Porter, Deborah Fuller

I. Outline of Judicial Branch's Preliminary Implementation Plans

A. Child Protection Session in Middletown – First Pilot Location

Judge Quinn outlined the Branch's plans to implement the Pilot Program, specifically the recommendation to start the Pilot Program at the Child Protection Session in Middletown (CPS). J. Quinn explained that the dual concerns of lack of funding for the Advisory Board and the need for adequate staffing made CPS the most logical location. J. Quinn explained that CPS has adequate staff to conduct the necessary file review and the legislatively mandated evaluations of the Pilot by both the Board and Judicial. J. Quinn stated that the nature of the proceedings heard at CPS allows adequate time for the media and other members of the public to meaningfully participate. J. Quinn also highlighted the short time frame by which the Pilot must begin (January 1, 2010) and the ability of Judges and staff at CPS to start the Pilot in a timely manner.

B. Practice Book Rule

J. Quinn explained that a subcommittee of the Rules Committee is working on a rule to establish the Pilot. She stated that Justice Zarella would forward a draft rule to the Advisory Board within the next week and that the Rules Committee is seeking comments from the members of the Board on the proposed rule.

C. Discussion of Implementation Plans

Judge Quinn asked the members of the subcommittee to comment on the choice of location.

Judge Keller listed the following additional factors in favor of CPS as the first Pilot location: serves a broad range of individuals; has three very experienced judges and an experienced staff; minimizes the likelihood of comingling kids in delinquency cases with kids in child protection cases/ it is more difficult to protect the delinquents in other courts; centrally located; and large enough courtroom. Judge Keller also noted that the trial management conferences at CPS provide enough time for the press to request to be heard if the courtroom is ordered closed.

Colin Poitras expressed concern that the cases heard at CPS are not a representative cross section of the child protection matters addressed throughout the state. He questioned whether if the caseload is not representative of other court locations it limits the Board's ability to satisfy the overarching goal of open access to the juvenile matters courts.

Sarah Eagan stated the in addition to those already mentioned, the following factors make CPS an optimal location to start the Pilot: the proceedings are dignified and the parties and attorneys have more privacy and a chance to meet than in other court locations. She also expressed concern about the possibility of delinquency and child protection kids mingling in other locations. On the other hand, she acknowledged and affirmed the comments that part of the Board's charge is to understand how dependency proceedings are conducted in Connecticut. She stated that the picture is very different at CPS, than, for example, in Hartford. Sarah stated that there would not be as much "sunshine" on the process if CPS is the Pilot location. On the other hand, if the Pilot location became Hartford, the issues raised would have to be addressed.

Judge Keller stated that at CPS the press can observe a whole trial and, thereby, get a sense of the progress of a case from the beginning. If the press attended short calendar in Hartford, a judge may need an entire morning to address motions to close the proceedings.

Susan Pearlman did not think that the press would sit in on a three day termination trial. She also did not think that CPS is the best place to start the Pilot and that the matters heard in Hartford would be of greater interest to the press. In response, J. Quinn stated that high profile cases could be sent to CPS. Susan stated that the Attorney General's office is neutral as to the selection of the Pilot location.

Chris Rapillo expressed concern about the comingling of juveniles if another location is selected instead of CPS.

Sarah Eagan suggested that the Report should acknowledge the pros and cons of the location that is ultimately selected, including a discussion of the types of cases that are heard in the Pilot location as opposed to other locations.

Mary Louise Blanchard stated that if the Board's primary concern is "sunshine" on the process, other issues, including the quality of facilities and the effects of the proceedings on children should also be discussed.

Fran Carino suggested that if there is a case of particular interest in another location, it could be sent to CPS, to be part of the Pilot.

Judge Keller closed the discussion and reiterated that a subcommittee of the Rules Committee has a draft rule to address the Pilot and that the subcommittee members could discuss it at the next meeting.

II. Overview of Other States' Efforts

Before the meeting, the subcommittee members received a summary prepared by J. Keller of the Minnesota Open Court/Records Pilot and Practices (Attached) and a Survey of Professionals in Selected States Where Child Protection Proceedings are Not Completely Closed.

A. Minnesota as a Model

Judge Keller gave a PowerPoint presentation to the subcommittee entitled "Minnesota's Experience" (Attached). In Minnesota, child protection hearings and court files are open. J. Keller noted that many states also open delinquency proceedings. Although she expressed

concerns, she would like to learn which states open these proceedings and why. Members of the subcommittee commented on the Minnesota model during and after the presentation.

Judge Keller noted that open hearings may have an effect upon what participants say in court and may cause some individuals to be reticent. She also explained that when the courts opened in Minnesota the increase in court attendance was comprised primarily of: foster parents, relatives and service providers, not the media. J. Keller stated that when evaluating the effect of opening the courts, Minnesota did a sampling of cases that were ordered closed. She said it was not clear from the sampling why certain cases were closed, noting that there is an exceptional circumstances standard in Minnesota. Finally, J. Keller explained that the courts were initially opened pursuant to rule; subsequently the Minnesota legislature passed legislation that paralleled the rules.

Susan Pearlman and Sarah Eagan noted that in Minnesota court files/records are also open, as opposed to in Connecticut. Section 5(c) of the Public Act specifically provides that Gen. Stat. Sec. 46b-124 is not affected by the Pilot Program. The members further discussed issues concerning confidentiality and appeals.

III. General Discussion

The members had a general discussion of issues related to the Pilot Program. The following are among the issues that the members raised: the standard that should be used to close a proceeding – either exceptional circumstances or best interests; the type of survey that should be used to evaluate the Pilot; and whether OTCs should be part of the Pilot.

Sarah Eagan noted that the Governor's Commission on Judicial Reform recommended that the New York rule opening the courts would be a useful model for Connecticut. She volunteered to distribute materials from New York before the next subcommittee meeting. In addition she offered to speak with someone from New York to address questions that the members may have concerning that state's process, specifically with regard to notice and appeals issues.

Fran Carino raised issues associated with how a motion to close might be heard without disclosing the information that such closure seeks to protect.

Susan Pearlman noted that under our Constitution our courts are presumptively open, and, therefore, there is no need to study whether the effect of opening courts has a good result. Instead, she stated that the evaluation should focus on whether there are adverse effects as a result of opening courts pursuant to the Pilot.

IV. Establishment of Agenda for Next Meeting and Adjournment:

The members discussed the agenda for the next meeting of the subcommittee which is scheduled for Tuesday, October 13 at 1:00 at a location to be determined. The meeting was adjourned at approximately 4:15.