

**Juvenile Access Pilot Program Advisory Board
December 1, 2009 Meeting**

Present: Judge Quinn, Sarah Eagan, Judge Keller, Christina Ghio, Chris Rapillo, Nancy Porter, Cynthia Cunningham, David Marantz, Justine Rakich-Kelly, Colin Poitras, Bryan Morris, Susan Pearlman, Anne Louise Blanchard, Deborah Fuller, Claude Albert
The meeting was convened at approximately 2:10 p.m.

1. Approval of Minutes

The minutes of the 10/13/09 meeting were approved.

The order of the agenda was changed to accommodate the conference call, which was scheduled for 2:30.

2. Item # 5 on the Agenda – Updates from Subcommittees – was taken up.

Subcommittee on Evaluation/Assessment of the Pilot Program

Sarah Eagan gave an update on the work of the Evaluation/Assessment Subcommittee, which met on November 23, 2009. The subcommittee had made a decision to use the services of Christine Kraus, the former associate director of UCONN's Center for Survey Research & Analysis, who had been contacted by Colin Poitras and agreed to review the subcommittee's survey instruments. Attorney Eagan spoke to Ms. Kraus and e-mailed her the draft survey; Ms. Kraus will be able to accommodate the Advisory Board's timeframe. Ms. Kraus provided some preliminary comments on the draft questionnaire, but will also conduct a more thorough review. Attorney Eagan will invite her to attend the next Evaluation/Assessment Subcommittee meeting, which is scheduled for December 17, 2009. In addition, Marilou Giovannucci from the Judicial Branch should also attend.

Attorney Eagan conveyed the following comments from Ms. Krause:

- The Board should be careful about asking some stakeholders do a survey every time they participate in a proceeding, because that can open up the survey to a bias. Repeat players should do a look back survey and everyone filling out a survey should be asked if they have filled out a survey before.
- The Board should consider how it will assure confidentiality of those responding to the survey
- The Board will need to get parental permission for under-18 year-olds to fill out the surveys.
- The use of Survey Monkey is a good idea.
- The invitation/introduction to the survey needs to have particular language regarding confidentiality, the use of data, etc.
- The Board should give stakeholders a heads-up that the survey is coming, as well as 3 reminders, every 10 days, after the survey has been distributed.

The following points were made during a discussion of the survey: the low literacy level of many of the parents involved in child protection proceedings must be taken into account; the survey should be available in Spanish; the issue of whether surveys should be filled out completely by persons who participate in an open proceeding where no members of the public attended must be resolved; the issue of parental permission may be a bit different in this context, considering the adversarial nature of the proceedings. In addition, Christina Ghio pointed out that it may be useful to give Ms. Kraus a one-page summary of Prof. Patton's concerns about the Minnesota survey, and volunteered to draft the summary.

3. Item # 2 on the Agenda -- Conference call with Peter Passidomo, Chief Clerk of the New York City Family Court, regarding New York's experience with opening juvenile court

(Note: The New York rule applies to all family court proceedings, which includes not only child protection cases, but also cases regarding child support, dissolution of marriage, custody, etc.)

The conversation consisted of the following questions and answers:

1. Are you collecting data on the numbers of people who are actually attending child protection proceedings?

A. No, data has not been and is not being collected.

2. Do you know how often the public attends proceedings?

A. Not very often, but the press the most often, particularly in high profile cases. We don't allow them to use names and don't give them names. Other frequent attendees are advocacy groups. Another category that attends with some frequency are family members unrelated to the case who want to support their family members/relatives. They can always stay unless someone becomes disruptive.

The rules for all who attend are that they can't have recording devices, can't speak, and must maintain decorum.

3. How do you keep the press from publishing names?

A. There are no gag orders because of constitutional issues, but they are asked to use a pseudonym or an abbreviated name.

4. Have there been any problems with the media?

A. No. We have a media liaison who speaks to them and lets them know the rules. They know that if they violate the judge's rules they will be excluded from the next proceeding they wish to attend.

5. Has there been much media coverage?
A. Not a lot, but a somewhat steady flow. The media focuses more on celebrity cases.
6. Are they talking about each case or the system as a whole?
A. Generally about specific cases.
7. Have there been many motions to close?
A. None of it has gotten to the point where it was appealed. Generally people are allowed in. Doesn't know the appellate procedure. Can't recall it happening.
8. Since courts have been open have there been efforts to re-close.
A. No, people are comfortable with it. It was done through a court rule about 15 years ago. Although there was a lot of trepidation initially, people have gotten used to it.
9. Have there been concerns raised about harm to children?
A. Hasn't heard anything about that. There was a lot of pressure from the press to open the family courts, for more openness and accountability. The Rule gives judges a lot of discretion to protect the best interests of the child – either close the court or give clear direction on the disclosure of information gleaned from the proceeding. It does put the judge on the hot seat, but there has been no real problem with that.
10. Do you have a sense of how often courtrooms are being closed?
A. Doesn't think it's being done very often, but doesn't really know. Will try to collect more information on this.
11. Is the standard for closing the court the best interests of the child?
A. Yes
12. Does the judge order, direct or ask the participants not to disclose information?
A. He will look, but he believes that the Rule gives the judge a lot of discretion. But, even if not in the rule, it would be within the judge's inherent authority.
13. How does it work?
A. If the press wants to come in, they have to talk to the press person, and he will let them know the guidelines/parameters. They have a right to come in unless excluded, but they are vetted first. Even if show up, must tell the clerk and court officer (similar to judicial marshals), who will contact press person and the judge. Here, they have a court officer (marshal) at

the door checking people in. No one comes into the courtroom without checking in.

14. Are the judge's restrictions on disclosure directed to everyone or just the press?
- A. A judge would be a little suspicious of someone just walking off the street – it just doesn't happen. People who are waiting outside do not just come in – there is no room. The court officer checks everyone in and knows who they all are, so someone could not just go into the courtroom. The court officer would approach them and ask them what they are doing. People don't just walk up to the court and go into the courtroom – they all check in, unless they are court staff or attorneys.

Most courtrooms have only a few seats available, and there are also security concerns. They could not have everyone waiting for their case to be called to be in the courtroom, because there is no room. These people do not ask to come in – culturally it just doesn't happen. The purpose of the rule is for the press and advocacy groups. They are given the rules and abide by them.

15. Do you ever have kids in the courtroom?
- A. Yes we do, in about 10% of the cases. We have a new effort to try to get more kids involved.
16. Are there age guidelines? Could a 5th-grade class come in on a field trip?
- A. We haven't had these types of requests but would probably grant them. The court rule did not change the culture, or the fact that if you are waiting for your case, you wait outside. A request like this would probably be denied – if we let one person in, we would have to let them all in, and space and security concerns override these interests.
17. Are cases called by name or by number?
- A. By name.
18. Has the procedure slowed down the pace of the cases?
- A. No, because requests are made so infrequently. If there needs to be a hearing on whether the press should be allowed in, that would occur before the proceeding. If it is a late request, the judge might say they aren't allowed in today but will be tomorrow.
19. How often have media requests to cover a case been denied?
- A. Not often, but most commonly in cases of sexual abuse. Under the rule you could exclude the press or a member of the public from a part of a proceedings.

20. How do they know a case is scheduled? In CT our dockets are confidential.
A. They are also confidential in NY; doesn't know how the press knows when a case is scheduled.
21. Has there been any feedback on whether this has benefitted children?
A. No feedback on this; we do now it has been a benefit to the press.
22. Has there been any feedback on harm to children?
A. Not really. The most common reason to exclude someone is that they are likely to cause disruption in the proceeding.
23. How is confidential information protected?
A. The public would be excluded from the portion of the proceeding where that information came out.

The conversation concluded with Mr. Passidomo stating that he will take a poll of the child protection judges to see how often the public has requested to be in.

4. Item # 3 on the Agenda -- Discussion of Best Practices in New York's open juvenile proceedings:

The group discussed that fact that in New York, everyone who is in the courtroom has identified themselves and how they relate to the case, and has been granted entry by the Judge. Attorney Ghio stated that this shows that Connecticut is not about to go down a path that has been blazed and shown to be okay, as we thought. This gives her concern. We should have a rule that gives the judge broad latitude to close the courtroom in order to protect the best interests of the child, and should take another look at the revised draft proposed rule.

5. Item # 4 on the Agenda -- Discussion and Approval of Proposed Revision to the Draft Practice Book Rule

A discussion of the revised proposed changes to the draft practice book occurred. Judge Keller advocated for the language in the original proposed rule. Chris Rapillo stated that the language elevates the public's right to know over all other interests. Judge Quinn opined that the language is broad enough to protect children. Other members suggested that the language was not so important at this point, because the Pilot Program can be implemented with a standing order, and the language in the Rule should be informed by the experience of the Pilot Program and adopted later. That is the purpose of the pilot program. Attorney Eagan stated that the concerns expressed should be looked at during the pilot program; that the Board did not need to figure out everything now, but should err on the side of allowing people in and monitor what happens.

The discussion turned to the issue of how cases would be noticed. Sue Pearlman expressed her concern that the cases would be posted by name. Judge Quinn responded that the group agreed only to post notices of cases in which a motion to close has been filed, not all cases.

Anne-Louise Blanchard stated that she has some concerns with the rule as written, particularly that the burden is on the person being protected to show that there is an overriding interest that will be harmed. She pointed out that New York does not require this. Attorney Marantz stated that, for those who represent children, the reason for the pilot program is improving the system, not to ensure that the press has increased access, as seems to be the purpose in New York

Attorney Ghio pointed out that the public act that created the pilot program required only increased public access, not the degree of openness mandated by the revised proposed rule. The standard for limiting access to a proceeding that is specified in the public act is good cause shown. Sue Pearlman suggested using the statutory “for good cause shown”.

Judge Quinn pointed out that at this point the Board did not have consensus on how the proposed Rule should be revised.

6. Item # 6 on the Agenda: Discussion of next meeting.

It was determined that the details of the next meeting should be determined by the Chairs at a later date.

7. The meeting adjourned at approximately 4:15.