

## **Kentucky Equal Justice Center Board Meeting**

**December 8, 2016**

### **Addendum to Minutes**

#### **Summary of Staff and Partner Reports**

The following reports were delivered for information and discussion during the December 8, 2016, board meeting. Since no Board action was necessary in response to the reports, they are summarized here separately from the minutes of the business portion of the meeting.

#### **Staff Report: Maxwell Street Legal Clinic**

**Maxwell Street Program Director Attorney Guion Johnstone** said she would take the opportunity to “unabashedly brag” about Maxwell Street staff and volunteers. She said “everyone pitches in” on outreach and grants. Guion said new Legal Assistant Sofia Calleja had hit the ground running. Guion said Sofia would be late to the meeting because she was appearing on Lexington Community Radio that morning to tell her personal immigration story. Guion said Maxwell Street received 700-800 calls a month, with Sofia answering or returning many of them during her 16 hours a week.

Guion said the phone had rung off the hook the day after the Presidential election. She said CLINIC Immigration Fellow Nathalie Dietrich had taken the lead to organize a community education event the following Sunday. Guion said the event was very well received. She handed around copies of Lexington Herald-Leader news coverage, which included a group picture of Nathalie, Sofia, Guion and founding volunteer Marilyn Daniel.

Guion said that after the election Maxwell Street saw lots of attorneys offer to volunteer their services. She said the challenging environment also created a fundraising opportunity. She noted that Lexington firm Sturgill Turner Barker and Moloney had made a donation to Maxwell Street in lieu of sending Christmas cards, in honor of firm founder and long-time Maxwell Street supporter Gardner Turner. Before the election, Maxwell Street Presbyterian Church held a fundraising musical event for Maxwell Street, featuring ECU student acapella group EKOS.

Commenting on the high client fee figure that director Rich Seckel had mentioned in the budget report, Guion said the figure was driven by volume and that the fees themselves were low by comparison with the private bar and other nonprofits. Her handout set out specifics: client fees as of November 30 were over \$32,000, well beyond the budgeted goal of \$21,800. Her handout also had case figures: 288 handled since the last board meeting on September 22 and 763 in the last year.

Guion said there was a lot of fear in the immigrant community, including worry among DACA youth whether changes in immigration policy or enforcement would affect their school or work. She said Maxwell Street had sought advice from national organizations on how to advise DACA

recipients. Guion noted that national resource center CLINIC had Ford Foundation money to support work in the new environment.

Guion said that Maxwell Street had been encouraged by Kentucky Justice Cabinet officials to apply for Victim of Crime Act (VOCA) funds to support immigration law services to immigrant victims of crime. Josh Crabtree requested coordination with his program so there could be an agreed upon division of labor.

**CLINIC Immigration Fellow Nathalie Dietrich** said that immigrant families and the agencies that served them were under a lot of pressure. She said that the Lexington-area Migrant Network Coalition (MNC) had created materials to help families create emergency plans in the event that a family member was detained. She said MNC members had held meetings to assess community needs and had helped publicize the community meeting Guion had described.

Nathalie described the community meeting in more detail. She said that Marilyn Daniel had made a presentation, with interpretation by Nathalie and Sofia. She said KEJC Outreach Coordinator Miranda Brown had gotten the word out on Lexington Community Radio. She said the Facebook event announcing the meeting had reached 3,000 hits. To help respond to the demand for community information, Nathalie said, she and Marilyn had made a video on “what you can do to be ready.”

Nathalie said that Maxwell Street had stopped intake of new cases, focusing instead on helping past DACA clients renew their DACA status before policies changed. Nathalie noted that DACA had been created by executive order and so could be changed at “the stroke of a pen.” John Rosenberg asked whether Kentucky Refugee Ministry (KRM) had additional resources. Guion said they had one attorney and a full-time legal assistant in Lexington, with the attorney “booked out to February.” John asked whether Guion consulted with the KRM attorney. She said she did.

### **Staff Reports: Health Outreach, Advocacy and Enrollment**

**Health Law Fellow Cara Stewart** led off for the health team. She passed around a newsletter-style handout on her project. Under “Litigation,” the handout described a victory in a fair hearing in a Pike County case. Cara said her argument in the case had been that system error did not protect the state from the duty to afford a hearing on Exceptional Special Enrollment Period denial.

Turning to outreach, Cara said she had made about 80 presentations in the past year on Medicaid expansion, the Kentucky HEALTH waiver proposal and more. She said she testified multiple times as the General Assembly considered bills to lock in kynect and Medicaid expansion. (The bills did not pass.) Cara said she had filed written comments on a number of regs, plans and proposals.

A section of Cara’s handout said that the big story on health care for the few last months had been Governor Bevin’s proposed 1115 Medicaid waiver. She said practically everybody at KEJC had filed comments with CMS, the federal agency, after the wavier was submitted. Cara

said that Kentucky advocates had “pointed to the fence” on the comment process, vowing that Kentucky advocates and consumers would file more comments than ever had been filed on a waiver.

A table on Cara’s handout showed that 1,743 comments had been filed by the federal deadline, one for every 2,539 people in Kentucky. The number was far higher than in Arizona, Ohio and Pennsylvania, other states with recent comment periods. Cara noted that consultant Seema Verma had been a key architect of the Governor’s waiver plan and was rumored to be a likely choice for a position in the new Trump administration.

**Health Outreach Coordinator Miranda Brown** said she maintained a recurring presence at Lexington’s Village Branch Library and New Life Day Center. Village Branch served a largely Latino neighborhood, while New Life was a drop in day center, mostly for homeless people. Miranda’s regular presence at the sites helped her see how her enrollees fared after enrollment and enabled her to help with glitches and problems in coverage.

Miranda said she had spoken and answered questions on air at Spanish-language radio station Radio Vida. Her handout said the station broadcast from Paris to a wide area stretching as far as Shelbyville, Berea and Cincinnati. Miranda said that despite widespread uncertainty about the fate of kynect and the Affordable Care Act “open enrollment is still happening.”

Miranda commented that that the “one stop shop” of kynect had been replaced by a two-door system: benefind for Medicaid and healthcare.gov for Qualified Health Plans. Miranda said kynect had been simpler for her to use than healthcare.gov. She said she had done six applications on the federal platform and each took 3 to 5 meetings with the client. She said kynect usually had required just one or two sessions. Miranda said that benefind wasn’t perfect yet, but she had only sent two cases to the DCBS Rapid Response team in the last several months.

Miranda’s handout included descriptions of audio Story Bank samples. As part of her work, she had used her interview and audio editing skills to capture a number of consumers’ stories on how health coverage had made a difference in their lives.

Rounding out the health team, **Health Outreach Communications Coordinator Marcie Timmerman** passed around a handout with statistics on KEJC’s social media reach. She said “we’re rockin’ it.” Driven in part by social media, KEJC had placed first among “large” nonprofits (over \$600,000 in budget) in the number of unique donors and sixth in total donations in the online holiday season Good Giving Challenge.

In the last year, Marcie said, KEJC had seen Facebook followers grown 76.7% and Twitter followers more than double at 167.3% growth. She said the social media audience would keep growing. Marcie said the two most popular recent Facebook posts were:

- KEJC’s Labor Day thank you to labor unions, with 180 shares and 34,000 views
- A video of Dr. Eli Pendleton at a joint KEJC and Kentucky Voices for Health press conference on the 1115 waiver, with 56 shares and 32,000 views

## **Staff Reports: Employment Law**

Employment Law Attorney McKenzie Cantrell passed around a handout summarizing recent activity in each element of her project: community education, networking and coalition building, policy advocacy and litigation. A section on “Miscellaneous” noted changes to her project in light of her election to the Kentucky House. Her handout also thanked Guion for three years of collaboration between Maxwell Street Legal Clinic and the worker’s rights project.

McKenzie said she had traveled to wage claim clinics at Maxwell Street and, with Miranda, to Richmond in November for a presentation at St. Marks Church. She said she coordinated with Marcie regularly on social media posts.

McKenzie said that she hadn’t scheduled the next Workers’ Rights Task Force meeting but during the General Assembly the Tuesdays at 2:00 gatherings of labor and nonprofit advocates hosted by Kentucky Center for Economic Policy would help groups know the status of issues and support each other.

Turning to policy, McKenzie said “labor and other groups are scrambling” in light of the new majority in the Kentucky House. Of a recent National Employment Law Project convening, she said “It was really great to be there.” She pointed out that “a lot of states that went red saw minimum wage increases,” sometimes by ballot initiative (a process of enacting laws by public vote that Kentucky doesn’t have). All told, on policy, McKenzie said, “We’ll be looking at a lot of defensive strategies.”

Turning to litigation, McKenzie said that the criminal case of the trafficker of several wage claim clients had not yet gone to trial. The judge in the civil proceeding for wage theft had held the case in abeyance until the criminal matter concluded. Otherwise, McKenzie said, she was co-counsel in three wage theft cases involving H-2A workers. Southern Migrant Legal Services also represented the workers. The proceeding was in federal court.

McKenzie said she had met with Ben Long of the Attorney General’s office, who spoke highly of collaborative work with Anne Marie. (Ben had worked at AppalRed several years earlier.)

John Rosenberg brought up a topic that he said fell under both workers’ rights and the Affordable Care Act: a helpful ACA provision creating a presumption that after 15 years’ work in mines a worker’s black lung was a work-related disability. He said the provision should be protected in any “repeal and replace” plan for the Affordable Care Act. John said that funding for UMW retiree health benefit guarantees also should be addressed.

## **Staff Reports: Impact Advocacy**

McKenzie reported briefly for Senior Staff Attorney Anne Marie Regan. Anne Marie was at a Center on Budget and Policy Priorities conference on SNAP (formerly food stamps) but had provided a handout for the meeting with details of her work on public benefits, consumer and other advocacy. Among the highlights, Anne Marie had:

- **Rapid Response:** referred 64 benefit-related cases to the DCBS Rapid Response Team since May, with 37 resolved and 27 remaining. Topics included Medicaid Long Term Care, KTAP, SNAP, Medicaid, Medicaid Long Term Care and Medicaid community-based waivers.
- **Administrative hearing:** taken one benefits case to an administrative hearing. The client had cared for a nephew and three nieces for several years with assistance from the Kinship Care program. The case arose when she was threatened with termination from the program for not responding to a letter she did not receive.
- **Consumer Financial Protection Bureau:** signed KEJC on to a national letter in support of the CBPP predatory lending rule (but recommending provisions to strengthen it) and solicited 25 Kentucky groups to sign comments she prepared on the rule.

Anne Marie also had helped Kentucky payday lending legislative champions Senator Alice Kerr and Rep. Darryl Owens draft comments on the CFPB rule. As well, Anne Marie submitted her own comments on Governor Bevin's 1115 Medicaid waiver proposal.

#### **Partner Reports: Children's Law Center**

**Children's Law Center (CLC) Attorney Amanda Bear** passed around a job announcement for director of CLC. She said that long-time director Kim Tandy was stepping down in June. Amanda said that the same day as the board meeting CLC would release a report on the use of restraint and seclusion in Kentucky schools. She said the report would be presented to the Kentucky Juvenile Justice Oversight Council in Frankfort. Amanda's handout included data on restraint from the Kentucky Department of Education. It said that school children were restrained 5,985 times during the 2014-2015 school year.

#### **Partner Reports: Access to Justice Foundation**

**Access to Justice Foundation Director Nan Hanley** said that AJF would restart its training programs for civil legal services staff. She said the first event would be held a few days after the board meeting, a December 13 event on housing. Later, Nan said, she would host "Legal Aid University" training in partnership with the Young Lawyers' Division of the Kentucky Bar Association, starting in Lexington in March with the potential for other locations later. Nan said, "We're going to have Statewide Conference again." A statewide conference of the legal aid programs represented on the KEJC board had not been held for several years.

#### **Reported by:**

Richard J. Seckel  
Director

April 20, 2017