

Kentucky Equal Justice Center Board Meeting

December 11, 2014

Addendum to Minutes

Summary of Staff Reports

The following reports were delivered for information and discussion during the December 11, 2014, meeting. Since no Board action was necessary in response to the reports, they are described here separately from the business portion of the meeting.

Staff Report: Maxwell Street Legal Clinic

Program Director Guion Johnstone passed around a handout “Maxwell Street Legal Clinic: December 11, 2014, Board Meeting Report.” The handout offered highlights, caseload data and details on outreach, development and the Citizenship Project.

Guion began her report by thanking John and Jean Rosenberg for donating toys for the Maxwell Street waiting area. She said the toys were a big hit.

Turning to caseload figures, Guion said that in 2014 so far the Clinic had handled 422 immigration and 118 citizenship cases, a total of 560 cases, including 112 since the last report. Guion said Maxwell Street received hundreds of calls every month.

Guion said the big news in immigration law was President Obama’s executive action to expand Deferred Action for Childhood Arrivals (DACA) and offer a new deferred action program for adults. Guion said it was the most significant potential change in immigration law in 30 years. She said the program could affect an estimated 32,000 undocumented immigrants in Kentucky.

Guion said Maxwell Street was seen as a trusted source of information and already had received lots of calls, but she noted that the program hadn’t been implemented yet. “There’s nothing to apply for now,” Guion said, adding that vigilance was in order about “shady” offers of help to apply.

Guion said that she had attended a conference in Washington, DC, on capacity-building to handle cases and that Maxwell Street was joining with Migrant Network Coalition to host an information session December 14 at Village Branch Library.

Guion also said that she, Marilyn Daniel and Rich had met with United We Dream students at KCTCS to consider plans for community information and application assistance through large scale workshops. She said that about five attorneys appeared ready to volunteer to help. Under current plans, she said, expanded DACA would roll out in March and DAPA, the new program for adults, in May.

Guion next addressed a positive change in local policy on ICE holds. She said that Fayette County Corrections would no longer honor 48-hour ICE holds and would instead release immigrants under the same procedures as others, making Fayette the first county in Kentucky to do so. Guion gave credit to board member Dianet Valencia and ACLU Kentucky for their advocacy on the issue.

Turning to outreach, Guion said that she, Dan and Jonathan went to the ICE detention center in Northern Kentucky to meet, screen and share information with inmates. She said the visits were organized by University of Louisville law professor Enid Trucio Haynes.

Guion said that Maxwell Street founder Marilyn Daniel had appeared on KET's public affairs discussion show "Kentucky Tonight" to talk about immigration policy. The show had been scheduled in the wake of the President's policy announcement.

Guion said that Maxwell Street had become a popular internship setting, with nine law students applying for two positions for the coming semester, and six students applying for one social work slot. She said Maxwell Street was busy and "will get busier."

Staff Report: Impact Advocacy

Senior Staff Attorney Anne Marie Regan passed around her "Litigation Project Report: December 2014." The report was organized by substantive area, with main sections on Health and Public Benefits and Consumer Advocacy. Anne Marie offered highlights as follows:

Payday loans: Anne Marie said that the Kentucky Coalition for Responsible Lending had become very active again, with faith-based groups highly engaged. She said the coalition had found a sponsor for a bill to cap payday loan interest rates at 36 percent, Senator Alice Forgy Kerr of Lexington. She said coalition members planned to meet in January with Senate Banking and Insurance Chair Tom Buford of Nicholasville.

Consumer Financial Protection Bureau (CFPB): Anne Marie said that she was working with the national Center for Responsible Lending and state partner Kentucky Youth Advocates on activities to show support for CFPB, particularly as its policy initiative on payday loans came closer to launch. Anne Marie said the activities were funded under an MOA for services, with KEJC to receive \$2,500 for her work. Anne Marie said that thirty Kentucky groups had signed a letter to the state's Congressional Delegation urging their support of CFPB and its action on payday loans. She had done much of the outreach.

DCBS and SNAP: Anne Marie said that she had filed comments on regulations and exchanged messages with DCBS officials about several program changes in the food stamp program (now SNAP), including plans to:

- shorten the SNAP certification period from 12 to 6 months
- spread issuance over a larger number of days each month
- ramp up enforcement around trafficking of SNAP benefits

Anne Marie said that she had consulted with national expert David Super on the issuance schedule change. She said David thought there was a potential litigation challenge.

Anne Marie also described a meeting earlier in the week with key DCBS staffers. Anne Marie, Rich and task force chairs Brian Dufresne and Stephanie Langguth had attended, along with consumer advocate Anne Joseph. Although DCBS did not offer to abandon the issuance schedule change, staff appeared willing to extend it over more than one month, so that the extra wait for benefits in any given month would be shorter. As well, they acknowledged the need for good notice, including information about food programs.

Anne Marie said that members from the DCBS hearing branch had joined in the DCBS meeting. She said that almost all of the hearing decision backlog identified earlier through Open Records requests now had been eliminated. As well, in the meeting, the hearing branch staff agreed with the advocates that access to caseworkers for problem resolution was important and useful.

Children’s Mental Health: Anne Marie said that the ACA and SAMSA had given the Cabinet new resources and impetus to rework community-based services for children with mental health needs. She said the agency had decided to expand the Impact Plus program, making it the default model for services and ending it as a separate program. Anne Marie said she had reviewed and commented on multiple regulations implementing the changes. “It feels like monitoring a settlement,” she said.

Turning to the year ahead, Anne Marie said that continued vigilance on SNAP and mental health service redesign would be in order. She said the payday loan campaign would be a focus in the General Assembly. She said she also wished to pursue bills to expand personal exemptions in debt collection, to better protect consumers’ bank accounts.

Turning to in-house administration, Anne Marie said she and McKenzie had completed a move to a new, larger joint office in the Starks Building with Robert “Bullet” Smith and other attorneys. Now that the move was over, she said, she hoped to clear time for affirmative litigation.

In discussion, Josh Crabtree said he had read about tribal payday lenders. He asked whether Anne Marie had seen them in Kentucky. Anne Marie said there were none. Dick Cullison commented that online lending was a problem. John Rosenberg agreed and said that the Kentucky Department for Financial Institutions did not monitor online lending unless they got a complaint.

Anne Marie said that Attorneys General in other states had investigated and challenged online lenders but that regulators here had not stepped up.

John asked about the long term care topic on Anne Marie's handout. She replied that CMS had issued a new regulation raising the bar for what could be considered community-based care in "waiver" programs. The purpose was to ensure that waiver settings were truly integrated and community-based.

Anne Marie said that the new waiver rules required every state to evaluate their current services and programs and create transition plans to meet the new standards. Her handout said that she had attended a public hearing and submitted comments on Kentucky's plan.

Staff Reports: Health Law Fellow

Health Law Fellow Cara Stewart had joined the meeting by phone. She said that she had sent along a handout with details on her project by functional area: community education, networking and coalition building, policy advocacy and individual case assistance.

Cara said that she would address items that weren't already addressed in the handout, as follows:

Open Enrollment II: Cara said that enrollment was underway, with (a) numerous improvements in kynect based on input from advocates and (b) new outreach priorities to reach at risk groups like the re-entry population.

SIAC: Cara said she had joined with Anne Marie in monitoring agency activity on children's access to community-based mental health services by participating in the newly revived State Inter-Agency Council (SIAC) and a subcommittee.

Smoke free: Cara said a tremendous effort was being made by advocates to get the General Assembly to enact a statewide smoke free law.

Looking back at highlights of the year, Cara said Kentucky was "winning the day" on health care enrollment, with 521,000 Kentuckians newly enrolled.

Staff Report: CHIPRA

Health Outreach Coordinator Miranda Brown said her "Health Outreach Staff Report" featured brief summaries of activities on the front and outcome numbers on the back. As well, the handout featured consumer stories that the outreach team had gathered under an MOA with Kentucky Voices for Health.

Miranda noted that outreach tended to branch out: the team was getting to know more people and finding unexpected partners. Example: the Bluegrass Indo-American Civic Society (BIACS) Health Fair, where the team had screened low-income community participants for health coverage and networked with doctors and advocates. Miranda said

she also had attended the Bluegrass Farms Charities Christmas event for families of farmworkers.

Turning to stories, Miranda highlighted one about an immigrant mother and her child, Junior. Miranda said that Junior qualified for Medicaid now that Kentucky had eliminated the “five-year bar” for Lawful Permanent Resident children. She said that she had signed Junior up. She said that he had already had a physical and a dental exam which discovered a cavity.

Miranda said that enrollment for immigrants often required extra problem-solving with kynect or DCBS, even if in theory their status should present no barriers. She said she had worked on problem-solving as needed with Cara and Anne Marie.

Miranda said that, all things considered, the outreach activity that had worked best was the team’s regular presence at Village Branch Library (and now also Northside) in Lexington.

Jeff Been asked whether the bulk of enrollment at Village Branch Library came from participants attending ESL classes. Miranda said that ESL helped, but that (a) much happened simply through word of mouth and that (b) people even had been referred by doctors and hospitals.

Guion said that Village Branch Library functioned as a community center, much like the Americana Center in Louisville. Miranda said, “It’s full of kids.”

Josh Crabtree asked whether the team also reached out through schools, and whether it coordinated the school outreach with the Legal Aid of the Bluegrass team. Miranda said yes on both counts.

Board member Dianet Valencia described the recent history of city-supported community centers for immigrant and Latino families in Lexington. She said that former Mayor Pam Miller had established the Cardinal Valley Center for families. She said the center later was moved outside the Cardinal Valley neighborhood to a building on Versailles Road that now only housed a health clinic. She said the center had been closed for several years.

Dianet said community advocates had pressed the city to establish a new International Center in Lexington. She said the plan was moving ahead. She said the center would have space in the Versailles Road building. She said that it could become an umbrella for activities like KEJC’s wage claim clinic and United We Dream events.

Jeff Been suggested that KEJC look into Community Develop Block Grant funding for health and workers’ rights outreach. He said that under federal rules a certain percent of CDBG funds had to go for community-based activities. Josh Crabtree echoed the idea.

Staff Reports: Employment Law

KEJC Employment Law Attorney McKenzie Cantrell passed around her “Employment Law Project Update.” Like Cara’s report, it was organized by functional elements of the project.

Turning to community education, McKenzie said that new AmeriCorps member Daniel Welsh had done an outstanding job with outreach. She said that she and Dan had set up regular outreach events in Louisville at both Goodwill Power of Work and Kentucky Refugee Ministries.

McKenzie said that the wage claim clinic at Maxwell Street had been busy the last three months, with four or five workers attending each time. She said Dan assisted there, too, including tracking and reminders for potential attendees.

McKenzie said that she and Dan also had piloted a Louisville clinic, including outreach through distribution of flyers and participation by members of the Louisville Bar Association. Only one person had attended, but another called later, so she felt word had gotten out.

McKenzie said she had met with Mary O’Doherty from KDVA to plan workplace issue-spotting training for shelter staff.

Turning to networking, McKenzie said she had convened a Workers’ Rights Task Force meeting November 18 at the Foundation for a Healthy Kentucky in Louisville. The meeting agenda allowed for lots of good discussion among attendees from different sectors about the upcoming General Assembly. She said that she and Rich were working on a potential bill on misclassification of workers.

Mary O’Doherty encouraged work on another issue: domestic violence as good cause to leave a job without being disqualified from UI benefits.

McKenzie said she had attended a day-long meeting hosted by KSPAN, a watchdog and advocacy group for worker safety. She said KSPAN was working to host a “total worker health fair” at the Governor’s Safety Conference in May 2015, with sessions on topics including smoke free workplaces and depression. She said KSPAN was a great group.

On policy advocacy, McKenzie highlighted the minimum wage campaign in Louisville, where the Metro Council was considering an ordinance to raise the minimum above the state and federal minimum. She said a vigorous campaign was being waged both pro and con, with the issue in the news two or three times a week.

McKenzie said she had testified twice before the Metro Council, each time focusing on whether localities had the power to enact a minimum wage above the state level. In one hearing, she said, she was the counterpoint to testimony by John Scheller of Stoll

Keenon. She said a Council vote could be held as early as the Monday after the board meeting.

Turning to litigation, McKenzie said that a multi-plaintiff case handled jointly with a private firm was scheduled for a settlement conference within a few days. She said the case originally involved multiple plaintiffs but had not turned into a collective action. She said the story illustrated the “fear factor” experienced by immigrant workers, who oftentimes decide not to proceed.

McKenzie said she anticipated a good settlement for the remaining plaintiff. The private firm in the case was the firm where former KEJC attorney Trent Taylor now worked.

Finally, McKenzie said that a second plaintiff soon would be added to a trafficking wage theft case against a Lexington restaurant. She said the case had been filed but the defendant had not yet been served. She said the case included a claim based on Kentucky’s new wage theft remedy. The remedy provides for treble damages for wages wrongly unpaid for forced or coerced labor.

Staff Reports: AmeriCorps

AmeriCorps member Dan Welsh passed around his AmeriCorps Project Update. He said that he was working on outreach with McKenzie on workers’ rights and Miranda on health coverage. Dan said that he and former Grace Mandry had visited 20 cities during the calendar year to make presentations, reaching nearly a thousand people face-to-face.

Dan said that networking had gotten beyond “cold calls” and now focused more on scheduling with existing partners, like the network of Migrant Ed programs.

Dan invited board members to follow Maxwell Street on social media for regular posts and updates. His handout listed the program’s Facebook, Twitter and Instagram links. He noted that Guion had appeared on WFPL radio and that a link to the program had been posted.

Dan said that he was looking forward to having a presence for the project at the new Lexington International Center that Dianet had described. He said he was undergoing training to become a certified tax prep volunteer during tax season.

Reported by:

Rich Seckel, Director
April 20, 2014