

Kentucky Equal Justice Center Board Meeting

April 21, 2015

Addendum to Minutes

Summary of Staff Reports

The following reports were delivered for information and discussion during the April 21, 2015, 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: AmeriCorps

AmeriCorps member Dan Welsh passed around a handout, “AmeriCorps Project Update,” describing recent activity. Dan said he was based at Maxwell Street Legal Clinic where he helped with intake and answering the phones and the door. Otherwise, he said, his project focused on outreach.

Dan’s handout listed recent outreach events including the “Restoring Human Dignity Conference on Human Trafficking” at Asbury University and an appearance on Spanish language Radio Vida. Upcoming events included after-Mass presentations over the coming weekend at Catholic churches in Frankfort and Versailles.

Dan said that the Migrant Ed network across the state also offered outreach opportunities. All told since his project began, Dan said, he had reached 470 people, with about a third of the presentations in Spanish. He said his outreach focused on workers’ rights, but was coordinated with CHIPRA health enrollment outreach conducted by Miranda and Sara.

Dan said that demand for the monthly wage claim clinic at Maxwell Street was growing, with 22 attendees since he had started. He said clinic participants send self-help demand letters to employers or file complaints with the Labor Cabinet. As well, Dan said, he and McKenzie referred participants with potential discrimination complaints to the Kentucky Commission on Human Rights.

Dan said the April clinic had seen the biggest turnout so far, with seven workers and two volunteers participating. He said he was analyzing “no shows” to improve attendance.

During tax season, Dan said, he participated in the United Way of the Bluegrass tax site at Parkside Center off Alexandria Drive. The site was also staffed by Kentucky Domestic Violence Association. Dan said he prepared about 120 tax returns, mostly in English. He said turnout at the site was down slightly from the year before, but it was still a busy site.

Dan said preparing returns helped him “connect the dots” on misclassification, since he saw workers bring in 1099s when they probably should have been treated as employees and issued W-2 forms instead.

Turning to communications, Dan said he had updated Maxwell Street website pages and added a calendar linked with Google apps that showed outreach events. Dan said he also kept up a steady flow of Maxwell Street Facebook and Twitter postings.

Looking ahead, Dan said that Lexington would likely open its new Bluegrass Inter-Cultural Center in June, with physical space for presentations and a possible ongoing presence for Maxwell Street. Reflecting on outreach, Dan said that radio was turning out to be a good tool for promotion to Spanish-speaking audiences.

Staff Reports: CHIPRA Child Health Outreach

Health Outreach Coordinator Miranda Brown passed around a one-page “Health Outreach Staff Report” for the first quarter of 2015. She said, “I didn’t include everything,” but instead offered highlights. The handout showed that the CHIPRA team had reached 8 churches and 20 other community organizations, with:

- 6 Medicaid or KCHIP applications completed
- 8 Medicaid or KCHIP renewals completed
- 12 Medicaid applications completed for parents, guardians or caregivers

Miranda said she had done joint outreach in Louisville with Dan through Presbyterian churches. She agreed with Dan that radio was a good outreach tool, saying that she had been on air for a full half hour show with Radio Vida and had received 3 calls about enrollment right afterward.

Looking ahead, Miranda said she wanted to go to Owensboro. She said that outreach through Village Branch and Northside libraries in Lexington had been valuable and that the team would continue a presence there, probably once a month.

Miranda said that it made a big difference to link outreach and enrollment to KEJC’s health advocacy capacity. She said the “case issue pipeline” to kynect and DCBS through Cara and Rich helped solve problems not just for individuals but systemically.

Looking ahead, Miranda said she hoped to do more outreach in coordination with the Dream Coalition at BCTC, including work with mixed status families. She also had begun discussions with Cara about ways to reach justice-involved populations.

Staff Reports: Employment Law

KEJC Employment Law Attorney McKenzie Cantrell passed around her “Employment Law Project Update.” The report was organized by functional elements of her project: community education, networking and coalition building, policy advocacy and litigation.

McKenzie said she and Dan now had “regular gigs” for community education, including recurring presentations at Kentucky Refugee Ministries in Louisville. She said she and Rich had prepared a proposal to the Louisville Bar Foundation to hold a monthly wage claim clinic in Louisville.

Like Dan, McKenzie said outreach had increased the turnout for the monthly wage claim clinic at Maxwell Street, with a big turnout in April. Also on outreach, McKenzie said she planned to do training at Kentucky Coalition Against Domestic Violence for spouse abuse center staff.

McKenzie said that KEJC’s March 12 “mini-summit” on Kentucky working families had turned out really well, with good presentations and attendance. The event featured a speaker from the Nashville office of A Better Balance. Board member Mary O’Doherty said she had attended the summit and that the event was “really good. Well done.”

Also on the training front, McKenzie said she had been invited to speak at a “Work in the South” conference, March 3-5, at Loyola Law School in New Orleans. She said the school hosted a workplace justice project.

Turning to policy advocacy, McKenzie said the General Assembly had been “a little busy.” She said it was good to have an affirmative bill on misclassification and great to have several House majority leaders sign on as sponsors. McKenzie said the misclassification bill came out of committee only to be bogged down on the House floor with a series of hostile amendments focused on workers comp.

McKenzie said another affirmative bill, to help survivors of domestic violence with UI claims, also got bogged down, in this case by “really crazy figures” on cost from the state agency. The bill would have allowed domestic violence survivors to claim good cause for leaving a job for safety reasons. McKenzie said the \$12 million cost estimate was far out of line with other state figures. She said she would follow up with Workforce Development agency staff to revisit the estimate.

Turning to local minimum wage battles, McKenzie said that Louisville’s new ordinance had been challenged in court. The case focused on whether Kentucky cities had the power to enact minimum wage ordinances. Mary O’Doherty asked who filed the case. McKenzie said the plaintiffs were the retail and restaurant federations, plus one individual business, represented by someone at the Greenbaum firm.

McKenzie said she was working with staff at the National Employment Law Project to prepare and file an amicus brief in the Louisville case.

McKenzie said the Lexington City Council had begun deliberations on a minimum wage ordinance. She said Rich attended meetings of the local coalition. Meanwhile, she had testified at a Lexington Council committee hearing along with about 20 community

advocates favoring the ordinance. McKenzie said her testimony focused on the city's power to act on the minimum wage.

McKenzie said the Lexington Council committee would take up the matter again in June. Meanwhile, the local community coalition planned monthly events to keep momentum going—including an event the next day where McKenzie was scheduled to speak about the experience in Louisville.

On litigation, McKenzie said she had filed a wage claim in a human trafficking case, including a claim for treble damages under Kentucky's newly enacted remedy for cases of forced or coerced labor. McKenzie said another trafficking case was in a pre-complaint stage. Meanwhile, McKenzie said, she had succeeded with an individual UI appeal on behalf of a domestic violence survivor.

On the Louisville Bar Foundation grant, Jeff Been encouraged McKenzie to mention that she was coordinating with the employability project at Legal Aid Society and with Prof. Abrams at U of L Law School.

Staff Report: Health Law Fellow

Health Law Fellow Cara Stewart passed out a project summary along with an excerpt from the Governor's recently released White Paper on Medicaid expansion. Highlights from the excerpt included findings that the expansion had brought \$1B in funds to the state and had generated over 40,000 jobs.

Cara said she had attended a briefing at the White House for state based advocates, including a discussion with new HHS Secretary Sylvia Burwell. Cara said that at national convenings "Kentucky is in vogue."

Cara said she had participated in meetings with the Homeless and Housing Coalition of Kentucky and KFTC members on potential statewide expansion of the Uniform Residential Landlord Tenant Act. She said the concept of "healthy homes" provided a link with her project.

Also on networking, Cara said she had attended a Re-Entry Coalition meeting in Louisville, which included federal corrections officials, prosecutors and jailers. She said the partnership was finding new ways to use the ACA to forge access to care, including access to substance use services.

Cara described several "frenemy" relationships in which KEJC participated in agency advisory processes while retaining the capacity to challenge practices in court if need be. One example was the relationship with kynect, whose staff had so far been very responsive to suggestions for improvement.

A second "frenemy" forum, Cara said, was the State Interagency Council (SIAC) on mental health services for children. Cara said that she, Anne Marie and Rebecca

DiLoreto of the Children's Law Center participated in SIAC committees, which also brought together school personnel, judges and mental health service providers.

Turning to individual consumer assistance, Cara said she had requested state fair hearings on a decision about Medicaid or other insurance in six cases. She said that no hearings had been held and that four of six cases had been resolved informally. Cara said the experience seemed to mirror experience nationally: she had heard of only a small number of "marketplace" hearings being held so far.

John Rosenberg asked whether the re-entry efforts Cara described included efforts to get people jobs, including jobs in health care. Cara said the initial focus was health coverage. She said she had focused on getting attorneys—defenders and prosecutors—interested in the coverage possibilities.

Cara said she was disappointed that the statewide smoke free law didn't pass the General Assembly.

Rich offered "color commentary" on the themes of Cara's report. He said that kynect offered a brand new forum for advocacy: the tiers of customer service that Cara had worked so successfully. Rich recommended that each program retain a Certified Application Counselor (CAC), even after the CHIPRA grant ended, because CACs had access to the tiers.

Josh Crabtree asked whether non-attorneys could make successful use of "work the tiers" advocacy. Cara said "yes." She described the task as "case handling that comes from enrollment." Jeff Been agree that with the CHIPRA grant coming to a close, now was the time for conversation about retaining CACs.

Staff Report: Maxwell Street Legal Clinic

Program Director Guion Johnstone passed around a handout "Maxwell Street Legal Clinic: Updates Since December 11, 2014, Board Meeting." The handout offered highlights on funding, meetings with officials, outreach and use of students and volunteers.

Guion said that Maxwell Street was doing lots of work on funding, including pursuit of a Fellowship to bring a second attorney to Maxwell Street for the coming year. Guion said that Skadden and Equal Justice Works fellowships had not come through. She said there was a good chance of approval through the Harvard Law public service program.

Guion said the Fellowship candidate was Sarah Adkins, who had clerked at Maxwell Street the previous summer before going back to Harvard Law for her final year. Guion said that the Fellowship programs paid salary but that KEJC would be responsible for fringes and operating costs.

Guion said that Citizenship Coordinator Spencer Lee would soon graduate from UK College of Law and leave his position. She said one idea for funding Sarah's Fellowship would be to fold the Citizenship Project—and its funding—into her project.

Guion said she had worked with Rich on a proposal to the Kentucky Bar Foundation for Special Immigrant Juvenile Status cases and training. The grant was still pending but there was good news nonetheless. Guion had received word that Judge Phillip Shepherd would receive the Distinguished Judge Award at the KBA convention. The judge planned to designate the award's \$2,000 donation to Maxwell Street.

Guion said she had joined with Latino and immigrant advocacy in a meeting with Governor Beshear in January and in another meeting more recently with Lexington Mayor Jim Gray and the new Lexington Police Chief and Assistant Chief. She said that the new Chief had shared his personal phone number for use in emergencies.

Guion said she had spoken in support of the Bluegrass Inter-Cultural Center at a recent Lexington council meeting. She also had offered training for the Lexington area Women's Lawyers group and for Cabinet for Health and Family Services child protection supervisors. The child protection talk focused on Special Immigrant Juvenile Status.

Also on outreach, Guion said that she, Amanda and Marilyn had participated in a free immigration clinic at Eastern Kentucky University on April 18.

John Rosenberg said that Kentucky Bar Foundation offered scholarships and asked about student participation at Maxwell Street. Guion said the program was getting a great response from UK Law, with four interns lined up for the summer. All the interns spoke Spanish proficiently and two were immigrants themselves, she said. Guion said that 19 students had applied for the summer positions.

Mary O'Doherty asked whether there was room and time for four students. Guion said yes. She added that one would be shared with Legal Aid of the Bluegrass.

Guion wrapped up her report by offering case statistics. She said that since the December 11 board meeting, Maxwell Street had handled 268 cases, including 224 immigration matters and 44 citizenship cases. Cases included the two U visa approvals Rich had mentioned, two VAWA self-petition approvals, and two Special Immigrant Juvenile Status approvals.

Guion said there was an ongoing criminal prosecution in a separate trafficking case. She said the perpetrator had been offered seven years incarceration and had rejected the offer. The case was expected to go to trial.

Meanwhile, Guion said, the big national news about immigration focused on the Obama administration's proposal to expand DACA and provide a new, similar program for parents of children who were citizens or lawful permanent residents. Guion said she had expected a big shift in case activity but the new policy had been held up by an injunction,

now under review by the 5th Circuit Court of Appeals. Guion said Maxwell Street had received lots of calls about the new policy. She asked “how do you explain ‘injunction’ in Mandarin?”

Staff Reports: Impact Advocacy

Senior Staff Attorney Anne Marie Regan was not present at the meeting. She was attending an invitation-only meeting of SNAP advocates in Baltimore. McKenzie presented Anne Marie’s handout, “Impact Advocacy Report: April, 2014,” which included sections on Health and Public Benefits, Consumer Advocacy and the General Assembly.

McKenzie said that many of Anne Marie’s activities had been touched on during other reports and discussion, including Anne Marie’s role in defeating the non-judicial foreclosure bill. Anne Marie’s handout also included details on:

Payday loan advocacy: Anne Marie worked with the Kentucky Coalition on Responsible Lending on SB 32, Senator Alice Forgy Kerr’s bill to cap interest rates at 36 percent. Anne Marie had attended lots of meetings with Senators with the group. She had obtained data on repeat lending from DFI, through Open Records requests.

CFPB advocacy: Anne Marie also had worked under a small MOA with Center for Responsible Lending to support the national Consumer Financial Protection Bureau as it prepared to issue rules on payday loans. Anne Marie had sent a KEJC letter to the Kentucky delegation, plus a separate sign-on letter listing 30 Kentucky groups.

Anne Marie also had organized a webinar on the ADA and public benefits, with Greg Bass of the National Center for Law and Economic Justice as the featured speaker.

Staff Reports: General Assembly

Director Rich Seckel offered a “big picture” summary of KEJC’s work in the General Assembly. He passed around copies of a one-page spreadsheet entitled “Kentucky Equal Justice Center: Quick Guide to the General Assembly.”

Rich said that he, Anne Marie and now also McKenzie were the program’s registered lobbyists. He said he began the spreadsheet by listing a broad selection of bills reported on KEJC’s legislative ethics reports. He had then:

- Briefly indicated the subject matter
- Indicated whether KEJC opposed or favored a measure
- Listed a key lobbying activity describing KEJC’s work
- Described the legislative outcome in terms of passage or defeat
- Rated the outcome positive, negative or neutral given KEJC’s concerns

Rich said the spreadsheet was color coded to highlight negative and positive results on “high concern” and “high effort” bills. He said it wasn’t weighted to reflect the relative seriousness of issues. He said the successful defeat of the non-judicial foreclosure bill alone illustrated the value of KEJC’s legislative advocacy.

Rich said that “negative” results slight outnumbered positive ones. But he added that further analysis showed a happier story: the negative results were no so much bad things happening as good things that hadn’t happened yet.

All told, he said, there was a nice constellation of affirmative bills for low income people, including bills on misclassification, UI good cause, payday loans, URLTA and mobile home park landlord-tenant relations—all told, as good a mix as he had seen in years.

Reports from Partners

Rebecca DiLoreto of the Children’s Law Center described a potential training initiative focused on Western Kentucky in November. She suggested that training focus on children’s rights in education, with links as well to SB 200 juvenile law reforms and the SIAC deliberations on redesign of children’s mental health services.

Rebecca said that Children’s Law Center would participate in the KBA Kentucky Law Updates held around the state for attorneys. She added that she was the Chair of the KBA Committee on Children’s Rights.

Jeff Been suggested that the legal services programs consider holding Poverty Law Overview training, since it hadn’t been held for several years.

Mary O’ Doherty said that Kentucky Coalition Against Domestic Violence had filed a fair housing complaint against the city of Hazard. She said the city wouldn’t approve tax credits for its low income housing project for survivors.

John Rosenberg said the Eastern Kentucky Leadership Conference would be held on Thursday and Friday of the same week as the board meeting, with a theme of entrepreneurship. John said he would host a panel discussion on health at the conference, with panelists, to include Joe Smith of Kentucky Primary Care Association, Susan Zepeda of the Foundation for a Healthy Kentucky and a representative from the Kentucky Hospital Association.

Next Meeting and Adjournment

Rich said the next meeting was scheduled for Thursday, July 16. There being no further business, Mary O’Doherty moved to adjourn. The motion was approved by acclamation.

Reported by:

Richard J. Seckel, Director
July 10, 2015