

## COMMISSION MEETING MINUTES

Tuesday, October 12, 2021 1:00 – 3:00 PM

Via WebEx

### Commissioners Present

Anthony E. Rothert, Chair	Donald Dew
Honorable Andrea M. Schleifer, Vice-Chair	Kathryn E. Eisenhart
Representative Thomas Bennett	Mary Kennelly
Representative William Davis	Sonni Choi Williams

### Commissioners Absent

Representative Jonathan Carroll  
Dr. Sharon Jenkins-Collins  
Senator Julie Morrison

### Executive Staff Present

Dr. Mary L. Milano	Executive Director
Teresa Parks	Deputy Director / Director, Human Rights Authority
Kenya Jenkins-Wright	General Counsel
Veronique Baker	Director, Legal Advocacy Service
Barry Lowy	Director, Office of State Guardian
Gia Orr	Director, Legislative Affairs / Director, Community Relationships
Melanie Brambila	Private Secretary to the Director - Springfield
Atul Chokshi	Private Secretary to the Director - Chicago
Florence Martin	Confidential Assistant to the Director

### Executive Staff Absent

Clinton Everetts	Chief Fiscal Officer
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The meeting was called to order by Chairman Rothert at 1:08 pm. Roll was taken, and a quorum was present.

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### OFFICE OF THE DIRECTOR

Director Milano suggested to Chair Rothert that while a quorum was present that the minutes from the previous meeting be approved. Chairman Rothert agreed.

Motion was made by Commissioner Williams to approve the minutes from the June 15, 2021, Commission meeting. Motion was seconded by Vice Chair Schleifer, and the minutes were unanimously approved.

**Director's Remarks                      Dr. Mary L. Milano, Executive Director**

Director Milano reported that although it was currently in between legislative sessions, the Commission has had a full quarter. In September 2021 the Executive team convened in Springfield for a 2-day Strategic Planning Session. Prior to the meeting the Commissioner's received an outline of some of the directions it would like to go. There were several focal points and discussions:

- How to better serve, how to expand the Agency's services to place where there is no service and how to enhance the ways the Agency thinks of and deliver service to those it currently has connections with
- An inward-looking focus on how the Agency can enhance some of its support functions to support the ways we can deliver the mission.
- How to develop the resources the Agency needs.
- How the Agency can the assistance of its Commissioners as well as other 3<sup>rd</sup> parties to the Agency, non-staff, to advocate for what it really needs to move forward, both for the Office of State Guardian (OSG) with respect to caseload reductions as well as the Human Rights Authority (HRA) and Legal Advocacy Services (LAS) with their expansion to underserved groups.

The team also spent some time listing its successes and surprised itself with the enormous number of changes and progress that the Agency has made. One of the significant accomplishments of the agency was the finalization of the report of the special legislative task force and the protection of those with disabilities within the criminal justice system. While not necessarily an Agency product it could not have happened without, Director of Legislative Affairs Gia Orr who was the only support person for the entire project, as well as Director Milano herself, Alan James, who served as Vice-Chair and Deputy Director Teresa Parks, playing a very significant leadership role in moving discussions forward. The 3 of them together along with Governor's representative drafting the final report of recommendations.

**Legislative Report    Gia Orr, Director, Legislative Affairs / Director, Community Relationships**

Director Orr began by pointing out that the Agency had positive success in the last General Assembly session. She expressed that she was thankful that the Agency had gotten its legislative proposals through the entire process to Governor's signature.

- Out of a list of 7 bills, 6 passed and the agency voluntarily tabled its Right to Jury Bill.
- Senate Bill 538, the Right to Jury Bill, was voluntarily tabled after several conversations with LAS Director Veronique Baker and the LAS legislative team members, sponsor Senator Robert Peters and other legislators with him. They felt there needed to be a sense of urgency created around pending lawsuits, and more data was needed regarding whether there would be any ADA lawsuits filed because of not having a right to jury. The Bill will also be tabled for the Spring 2022 session to give the LAS team an opportunity to do more research.
- The supported decision-making Bill is in the process of implementation phase.
- Senate Bill 80 is among bills which GAC aggressively and actively supports. It is among a few that are not a part of its slate but has related or direct effect to the work of the Agency. Representative Bennet co-sponsored the bill, along with Representative Costa Howard and Director Orr worked extensively to have the bill passed. Representative Bennett gave a very impassioned speech on the floor which Director Orr feels was pivotal in its passing.

### **Proposed for the future:**

- One of the Agency's bills that passed was the Healthcare Surrogate Act. There's another bill that GAC worked on with the POLST (Practitioner Orders for Life-Sustaining Treatment) Illinois committee. Both bills passed; however, the bills have conflicting language, and the Agency must go through reconciliation in the General Assembly process. Documents were received from the Legislative Research Bureau (LRB) and she and OSG Director Barry Lowy are back in negotiations with POLST Illinois regarding the bill. However, Veto session would begin the week following the meeting, during which will involve the public agenda and things the General Assembly would want to work on specifically, so patience will be needed with the process. It is likely that the reconciliation bill would not be presented in the veto session. It is GAC's hope to present it at the beginning of the Spring session, with hopes that its sponsor will get it in the first committee hearing. GAC's Healthcare Surrogate Act and its language was effective immediately, the POLST bill will not be effective until January 1, 2022. At that time Director Lowy and his team will figure out how to make things work until the reconciliation bill is done.

### **Priorities for next session:**

- The first is called Supported Decision Making and IEPs (Individualized Educational Plans). While discussing implementation of the Agency's Supported Decision-Making bill, it was realized that care should be taken to make sure schools around the state, staff who work in case management, etc., had some direction that supported decision making should be a part of the IEP process. Families need to be aware that supported decision making is an option, a middle ground, least restrictive option for students and persons with disabilities, instead of the choices far ends of guardianship or independence.
- The next priority is hinges on a bill that passed called Keeping Students Safe and Healthy. Our language input is called Keeping Students with Disabilities Safe and Healthy. In the bill there isn't a carve out that speaks specifically for students with disabilities and we want to make sure it is there and to highlight it for not only school systems but whatever settings where there's students.
- The third priority is expanded training for guardians of adults with disabilities. This is a GAC bill that was passed 2 sessions ago, and Cook County was specifically earmarked as a county for training. To have 101 other counties be able to go ahead and execute the use of the training, Directors Milano, Parks, Lowy, and Orr, as well as LAS/OSG staff attorney and one-time interim OSG Director Kelly Phelps, put together a free training and posted it publicly for Illinois courts to use for persons who have been appointed as guardians of persons with disabilities. The training has been available for a couple of years and over 2000 certificates have been issued to date. There are judges from different states that utilize it, while the rules may not be the same, they want to use it. The next step is to add Cook County as a county that should be able to give the training to persons who are appointed as well unless there's a special circumstance, i.e., a waiver, etc.
- Disability training for licensed daycare staff is the fourth priority. This bill is in relation to the neutral investigations that the Agency's HRA does. What has been found is that the mandatory hours set by DCFS for disability training is for owner/operators, not for the persons who work directly with the children who are being cared for in the facility. GAC is looking to expand the training into those who interact with the children, and work with sister agencies to be on one accord.
- The Agency's fifth priority is electronic monitoring in state mental health facility restraint rooms. This would not be only state operated facilities, but hospitals as well. Electronic monitoring has been a conversation for many years; the agency passed a bill on electronic monitoring offerings in state operated facilities and CILAs (Community Integrated Living Arrangements). What this will do is expand it to restraint rooms, not only to protect the rights and safety of patients, but workers in facilities as well.

The Agency is waiting for what will be approved for Spring 2022 session, it will not run anything in veto session. There are a few bills GAC plans to aggressively advocate for and support if they're presented again in the Spring session. Director Orr stated she is monitoring bills that had been filed in the Senate closely related to criminal justice. As Dr. Milano mentioned in her remarks, the agency just wrapped up its work as the Task Force Administrator for the Protection of Individuals with Disabilities in the Criminal Justice System. It was 2 ½ years of work; the bill was sponsored twice by Representative Davis, who also worked to get a bill report extension due to the COVID-19 pandemic.

Director Milano pointed out that GAC is one of few agencies whose legislative packages are typically not for the benefit of regulator of fiscal issues around the agency. They are almost always directed toward the enhancement of procedural and substantive rights for the population it serves. Also, the Agency manages to accomplish things such as support the Task Force for 2 ½ years, develop public guardianship training, etc., for free to the public or to the state in addition to its ongoing work which is significant.

She also mentioned that GAC is working on its plan for Diversity, Equity, and Inclusion; she feels the Agency is far ahead of most, and secondly the development of a language access program, which she believes the ideas being developed are also steps ahead.

### **Deputy Director Report    Teresa Parks, Deputy Director**

- The agency continues to work on filling vacancies and is learning to use a new HR system implemented by Central Management Systems (CMS), it has been a challenge, but HR is gradually making progress. The Agency's headcount has risen from 106 to 110. Director Parks commended the new Human Resources Representative, Carmen Arnberger, who has been working very hard to catch up, clean up and get hires in place and get the agency back on track. Scott Vineyard is a temporary Acting HR Director for the Agency under a 75-day appointment. He is a retiree from the Department of Human Services' (DHS) HR division and has been instrumental in moving the Agency's HR forward.
- GAC has developed both a remote and in-person work plans. This was required and the plans were approved by the Governor's office, CMS and AFSCME. Most staff will continue to have remote work opportunities, based on their position as well as the operational needs of the Agency. Most staff will work 1 to 2 days a week in office as they've been doing over the past year. She expressed appreciation for the Agency's IT staff, including Greg Fletcher, on helping to facilitate remote work setting up the technology equipment needed.

Director Parks discussed collaborations with several external stakeholders:

- The Special Education Advocacy (SPED) team met with the IL State Board of Education's (ISBE) Director of Special Education. They exchanged and shared information about GAC's programs and established contacts for the future. They also had a separate meeting regarding the special education legislative proposals.
- Directors Milano and Parks have established quarterly meetings with the DHS Office of Inspector General, to exchange information and receive updates because so many of the Agency's clients in all divisions are clients of DHS.
- Collaboration continues with the IL Guardianship Association, to facilitate staff development and continuing education credits. Recent trainings have included a guardianship panel; OSG Director Lowy and manager Susan Creighton participated on that panel, as well as a webinar on the HRA where HRA managers Jon Burnet and Gene Seaman presented. There was also a panel regarding youth transitioning from DCFS into OSG and adult services. Presentations were made by Laura Hart, from the SPED team, as well as Jennifer Alvarez, manager of the Agency's intake unit.
- There were 2 presentations in collaboration with DHS, one focusing on updates regarding LIGAS, specifically helping individuals exit or get services outside of intermediate care facilities for persons with developmental disabilities, as well as a webinar regarding the Federal Settings rule. HRA would like to have a conference, hopefully in person, in Spring 2022.
- DHS and GAC continue to collaborate over the ongoing implementation of the Sex Education bill. In September Director Parks was part of a panel presentation that cover DHS' expectations of service providers on the provision of sex education materials for the individuals they serve. There were over 700 participants. DHS' Bureau of Quality Management will begin monitoring for assessment and provision of sex education in the facilities they license. Train-the-Trainer modules are being posted on the DHS website for service providers and received feedback that they're interested in a webinar on consent capacity.

The agency has developed draft training materials based on the supported decision-making act. They've undergone an internal review by the Agency's staff, and the materials were sent to external stakeholders who have until November 1<sup>st</sup> to provide feedback. In the meantime, introductory fact sheets have been posted on the Agency's website, as well as a sample supported decision making agreement. The Act doesn't take effect until February 2022.

## **Legal Report          Kenya Jenkins-Wright, General Counsel**

- The Agency completed the timeframe for its statutory ethics training. She will follow up with the few who have yet to complete it, so the Agency doesn't receive a violation. Deadline for completion is December 31. She is working with Deputy Director Parks on getting the training to HRA volunteers.
- Mandatory training for discrimination and sexual harassment will open soon and is also due by December 31. The staff will be given a timeframe for when it should be done. Commissioners who are not legislators will receive an email with links to training.
- Counsel Jenkins-Wright and Director Parks met with AFSCME and conducted via WebEx through the Department of Human Rights, 2 diversity trainings, mandatory for all GAC employees. One of the trainings focused on Diversity and the other Intercultural Communication.
- As Interim Director of Labor, Counsel Jenkins-Wright has been working with Scott Vineyard on higher level AFSCME issues. The Agency is trying to develop a good relationship, not only with AFSCME members in our offices, but the state to make sure labor relations goals are met. We have not seen any breakdowns in established labor relations protocol, including meeting all steps for grievances and responding to grievances as well.
- Outside the Agency, she and Dr. Milano are Co-Chairs of the IL State Bar Association (ISBA) steering committee on Racial Inequality. As a team they are looking at various legislative issues and looking for a legislative intern. The intern will work under Jim Covington, Legislative Director for ISBA. She asked Commissioners to share the intern search and if anyone was interested, they should have them send their resumes to Mr. Covington.

## **PROGRAM REPORTS**

### **Office of State Guardian          Barry Lowy, Director**

- In relation to the discussion on OSG's legislative initiative for the coming session, Director Lowy was asked to reach out the Office of the Public Guardian (OPG) to determine if they would be supportive. He received response back from Dan Belko; OPG is supportive internally, externally they've met with the acting Chief Judge Murphy who was send a link to the training and will review it. If approved by Judge Murphy it will be a significant breakthrough for the Agency.
- Work continues on the agency's Panoramic case management system. There's a meeting scheduled with the development team to work through some items. It was hopeful that the power port could be automated for Director Parks, but it may not be accomplished this year. For the first time statistical reports were generated through Panoramic and provided for the Commissioners. Data accuracy is in far better condition that with the previous case management system, but there are still things to be work out regarding how data is drawn. Another positive is that when someone calls looking for something other than guardianship services, the nature of what that call was about can be captured—it's called information and referral, as opposed to deflection. There were 242 such calls last quarter.
- Director Lowy stated that the most significant thing he has noticed in Agency operations has been is OSG is averaging 2 new appointments a day. There was a significant number of deaths and the caseload fell just below 4,900 but now has increased to over 5,200 and rising. There were 568 pending cases currently in intake. We must continue efforts to obtain resources for the Agency; unlike other organizations, where if the resources aren't available the case is declined, that isn't possible for GAC. In the north and west suburban regions cases number are increasing rapidly. There is a Polish speaking position established for the North Suburban region, but because of head count it can't be filled at this time.
- Another legislative initiative that isn't a GAC initiative but one that OSG has been approached on is last session there was a bill presented by Representative Didech to have psychologists be included as part of those who can provide the report to support guardianship. Director Lowy is going to work with others on moving forward legislation for the possibility of tasking psychologists with providing capacity evaluations in guardianship proceedings.

## **Human Rights Authority**

**Teresa Parks, Director**

- Director Parks was happy to report the HRA has been fully staffed for over a year but continues to fill HRA member vacancies for volunteer panelists and board members in the HRA regions and would welcome referrals from the Commissioners for individuals interested in that type of work.
- HRA staff were involved in 2 trainings in September. One was held jointly with LAS, regarding recent court decisions as well as ways HRA and LAS can work together. The second training was part of plans for HRA to begin considering disability related cases involving law enforcement. The training included presentations by the law enforcement standards and training board, regarding police requirements for training specific to persons with disabilities. There was also a representative from the Great Lakes ADA center regarding ADA requirements pertaining to law enforcement. Also, LAS attorney Allen James spoke regarding mental health code requirements that apply to police officers.
- HRA's administration, Director Parks and its 2 managers, are currently taking time to research upcoming laws that may impact a situation coming to effect in January 2022. One issue is called the Safe Key Act, which includes provisions for enhanced crisis intervention training for police officers. The other is called the CESSA (Community Emergency Services and Support Act) Act. This is a possible diversion for persons with disabilities when the emergency response system is alerted when that individual involved in a crime has a disability. The HRA team will educate themselves better and see how that Act might also apply to HRA investigations.
- Statistics for end of FY21 were included in the Commissioner's packets. Most of the cases handled in 2021 involved persons with either mental illness or developmental disabilities. Most cases came directly from a person with a disability or a family member and involve mental health providers, including state operated facilities and hospital behavioral health units. There has been an increase in complaints concerning CILAs, the most common type of group home here in Illinois for persons with disabilities, there has also been an increase in cases involving jails as well as hospital emergency rooms. Substantiated cases mostly involved state operated mental health facilities, hospital emergency rooms and hospital behavioral health units. There was an increase in substantiated cases involving state operated developmental centers; substantiated rights violations mostly involved issues of inadequate treatment, medication issues—usually involving forced medication—and discharge rights.
- Director Parks also stated that the HRA is a negotiating body. It doesn't have a lot of enforcement power; however, last fiscal year 93% of the recommendations for improvement and change that were sent out as part of substantiated findings, were accepted, and implemented by service providers that were investigated. Given its limited authority, that is a good success rate.
- There are 2 legislative proposals coming from the HRA: the first is cameras in a facility restraint rooms. This proposal rose out of cases involving Chester Mental Health Center, which is the most restrictive state operated facility in the state. HRA has received numerous and repeated complaints about restraint application at that facility. DHS has come to us with concern about privacy if cameras are put in those facilities; however, the patients who make the complaints say they don't care about privacy: they want some protections and safeguards in the form of cameras. The second proposal HRA developed was on disability training for licensed daycare staff. This also rose out of HRA cases where children with disabilities were asked to leave these settings because their staff didn't know how to interact with them. Parents didn't feel as though they had a choice, so they left and reported to HRA. DCFS regulations require accommodations be made for children with disabilities and that centers be inclusive, but there's not any training for direct staff.

## **Legal Advocacy Service**

**Veronique Baker, Director**

- Director Baker stated that LAS will not be proposing any legislation in the coming year. They'll take the time as an opportunity to do research, gather allies, see who its opposition is etc.
- There are 2 pieces of legislation that may be problematic: 1 involves DCFS and the other DHS. On the DCFS legislation: we are the appointed counsel for mental health patients who are in DCFS custody, and they happen to be in Cook County. LAS is asking that DCFS broaden that to throughout the state of Illinois, because LAS is called in on those cases anyway. It would require them to send us the documents regarding

an appointment of counsel, we get a little information about the caseworker. What it does for the child is they now have an attorney; they're on a locked mental health unit and now they'll have an attorney to reach out to. LAS provides them with their rights sheet and give them a number where they can call an attorney to ask questions. Then we can go into a facility, and find out whether the child is being educated, if they're being held too long, why are they being held so long, what the discharge planning is, etc. We're asking for the broadening of LAS' responsibilities with respect to expanding the Lee Wesley consent decree throughout the state of Illinois. LAS hasn't had any hard conversation with DCFS, because its hoping that it is something they'll just agree with, without need of legislation.

- LAS will not run jury trials for medication cases; it's not giving up but thinks it would like to approach it in a different way. There needs to be different types of allies, bring all the stakeholders together and hear what each one's fear is regarding those cases now having the opportunity to be heard by a jury of their peers.
- Director Baker said that LAS continues to work diligently to expand into certain counties where mental health hearings are taking place, not being handled by LAS attorneys, we get the appeals that come out of those cases and very basic rights are being violated. LAS has offered training to those areas, and some have taken advantage of it, many haven't.
- LAS staff attorney Matthew Davison argued the Julie M. case before the IL Supreme Court. Julie M is a bit of an offshoot of the Linda B case. In this case the issue is who has the burden of proof for showing when this person became unable to leave this facility, making it a mental health facility and all those rights and protections come into play. It is LAS' contention that it is the facilities burden of showing when they started treating this person as a mental health patient. Either the person was on a 1:1, they were offered treatment, psyche evaluations, etc. LAS is hopeful that the IL Supreme court will rule in its favor and place the burden. If you review the mental health code, the majority of the burdens have always been placed on the facility or the petitioner. For it to be the burden of the respondents, who are not able to deem when they knew the facility was treating them as a mental health patient in mental health facilities, the doctors, nurses, all keep very copious notes in their charts and are in a better position to know exactly when they began treating our client as a mental health patient.

### **Other Business**

General Counsel Jenkins-Wright stated it was brought to her attention by the Governor's office, as they are going through an audit, if Commission had elected a Chair and Vice-Chair. After going through past minutes, nothing was found concerning an election in this audit period. She proposed that an official election be done as soon as possible. Vice-Chair Schiefer stated she had no objection to having or setting an election at any time; however, there must be notice given in advance of the meeting. It was decided that it would be put on the agenda for the next meeting, and anyone interested in being either Chair or Vice-Chair should contact Director Milano. It was also suggested that the General Counsel provide everyone with an outline of how officers are selected or elected to their positions.

Motion was made to adjourn the meeting by Vice-Chair Schleifer and seconded by Commissioner Williams.  
Motion passed

The meeting was adjourned at 2:20 pm.