



State of Illinois
Bruce Rauner
Governor



Dr. Mary L. Milano
Director

Human Rights Authority
Legal Advocacy Service
Office of State Guardian

COMMISSION MEETING MINUTES

Tuesday, February 20, 2018 1:00 – 3:00 PM

Video Conference Sites

Chicago:	James R. Thompson Center, Room 2-025
Springfield:	Capitol City Training Center, 130 West Mason Street, Room 104

Commissioners Present

Honorable Andrea M. Schleifer, Vice Chairman	Representative Michael McAuliffe
Representative William Davis	Brian N. Rubin
Dr. Sharon Jenkins-Collins	Inez Torres Davis

Commissioners Absent

Anthony E. Rothert, Chairman	Senator Don Harmon
Rev. Barbara Berry-Bailey	Senator Ira Silverstein

Executive Staff Present

Dr. Mary L. Milano	Executive Director
Veronique Baker	Director, Legal Advocacy Service
Bobbie Fox	Director, Human Resources
Kenya Jenkins-Wright	General Counsel
Gloria Lasley	Director of Finance and Fiscal Operations
Barry Lowy	Director, Office of State Guardian
Gia Orr	Director, Community Rights, Relationships & Resources
Teresa Parks	Director, Human Rights Authority
Constance Umbles-Sailers	Confidential Assistant to the Director
Michelle L. Braker	Private Secretary to the Director, Springfield
Florence P. Martin	Private Secretary to the Director, Chicago

Meeting was called to order by Vice-Chairman Schleifer at 1:15 pm.

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DIRECTOR'S REPORT

Dr. Mary L. Milano

Director Milano reported that since the Commission last met:

- The successful implementation of a new case management system for the Legal Advocacy Service (LAS) and the Human Rights Authority (HRA).
- An enhancement of services through Central and Southern Illinois across Divisions; while secondarily supporting the generation of revenue from various types of work, either where it has not been captured and ways have been determined to capture it *or* by ways of generating new work downstate in the Public Guardian area where we hope fees can be recovered. Most downstate cases are ones the Agency would acquire anyway; however, in this case, if appointed the Public Guardian, we would get them at an earlier stage and be able to implement the appropriate types of Trust arrangements etc., as well as recover the fees that we would be entitled to for doing such work.
- To provide personnel to support the downstate initiatives the Agency has interviewed for a Circuit Rider LAS attorney to be located in the Peoria office that would serve the center of the State, and is also in negotiations with Central Management Systems (CMS) to establish positions for a Guardianship Attorney for Springfield as well as a Paralegal and an Office Associate. Also, we hope to soon be able to post and advertise for an HRA position that would be located in Peoria, but cover the Southern half of the State.
- A revision of the Office of State Guardian's (OSG) fee schedule has been awaiting the Governor's office approval to send to the Joint Commission on Administrative Rules (JCAR). The revision simplifies the classifications of work we do where fees are typically collected, requests a modest increase of base fees and attempts to set up an automatic-anticipated 5 year schedule-where the fees would increase in accordance with a particular consumer price index and published by JCAR and given notice to any relevant party. Although the Governor's office is trying to not have any agencies include fee increases in requests this year, our argument-aside from the requests are modest and have not been increased in the past 5-7 years-is the changes will support the provision of services in areas of the state that we could not otherwise serve.
- The Agency has several legislative initiatives in session with sponsorship divided between Representatives William Davis, Michael McAuliffe and Ann Williams. Those we anticipate to be successful are:
 - **HB 5557** eliminates the potential for the use of Electroconvulsive therapy on an emergency basis.
 - **HB 5558** which states the Agency's HRA information is *posted* in State operated facilities and Community Integrated Living Arrangements (CILAs) as required by the law.
 - **HB 1445** which is the extension of counseling without the need for consent or notice to the Guardian by wards in the instance of sexual assault.
 - **HB 1446**, the most controversial, is the proposal to mandate sex education programs at developmentally appropriate levels for individuals in any type of residential developmental disability facility, including a list of requirement for inclusion in such programs.

Initiatives being held for next session:

- To provide a process where people who are in State operated facilities, particularly forensic units, can ask to be placed where their order entitles them to be. For example: if they're being held in a high security facility, but they are entitled to be in a lower security facility and the reason they haven't been placed is because there's a bed issue, etc. There's currently no process where they can request a transfer.

- Would allow the placement of cameras in seclusion and restraint rooms.
 - Would support parity between CILAs and nursing homes with respect to the ability of residents to have cameras placed in their room if they give consent.
- There's an issue with Legionnaires Disease at the Quincy Veterans Home, and a similar case has also been identified at Chester Mental Health Center. The Chester case has received attention because of the incident in Quincy. Director Milano stated that she has sent a note to Senator Harmon, saying that the Agency would like to make sure the Chester facility is included in any type of study done of remediation or other issues to address the Legionella bacteria as there are a number of residents are Veterans. HRA Director Teresa Parks is collecting data on how many residents may be located in Chester.

The Agency is doing its best to tie all of these initiatives together in a coherent manner, so that what we're doing in Southern Illinois, in the regulatory scheme and with the Competitiveness Council, etc. tie in together and aren't separate entities.

LEGAL REPORT

Kenya Jenkins-Wright, General Counsel

Counsel Jenkins-Wright reminded the Commissioners about their Statement of Economic Interest and asked that when they receive them they sign and return them in a timely manner. In addition she asked all Commissioners who are not Judges or Legislators to watch for an email that will contain the Supplemental Statement of Economic Interest; this too should be completed and returned in a timely manner.

She then spoke to the Agency's participation in the Competitiveness Council. The goal of the Council is to reduce Administrative Rules and red tape by 20%. However, due to the fact that the Agency's rules are mandated rules for how it functions: if the Agency reduces them by 20% it wouldn't exist. Director Milano explained that, for example, Rules say things such as "you shall provide services"; she pointed out to the Governor's office that most of our services are provided for free and therefore require very little paperwork and therefore there's nothing to reduce. The Agency has had some success with specific Administrative Rules: effective January 11, 2018 the HRA has streamlined their processes and are now able to enter complaints into a database instead of doing the double work of creating paper copies as well as the database.

With regard to the previously mentioned revision of OSG's fee schedule, Counsel Jenkins-Wright stated that she and Director Milano continue to strategize to get a decision. The Competitiveness Council is in support of the goals and changes for OSG, but the Agency continues to wait because there's some concern about fee increases. Commissioner Schleifer inquired as to whether the Agency's OSG and LAS clients have fee waivers from the Court and, if they do not, does the client pay or does the Agency pay court costs. OSG Director Lowy said it is stated in the Probate Act that OSG is not assessed fees and LAS Director Baker stated LAS does not assess fees for filing. Director Milano explained that the Agency can ask for the fees entitled to by regulations, but there are 2 issues. The first, and biggest, issue is it requires personnel to process the collection which the Agency is attempting to acquire support for the lawyers in the Chicago office by hiring a paralegal and a downstate attorney to handle the matters in that region of the State. Another issue is sometimes the Court just doesn't want to award the fees. There are certain safeguards built in so that we do not create an additional hardship for the ward, i.e. if a ward's net worth is \$2500 or they cannot be assessed fees. The traditional interpretation that if an estate is over a certain amount, OSG

doesn't get it; however, there's no place in the Statute that supports that interpretation. The Public Guardian has authority to handle a case if it's over \$2500, but it does not exclude OSG from handling it. Director Lowy stated that he plans to reach out and build a more formal relationship with the Sangamon County Public Guardian who he has known for several years, where OSG would be responsible for the person side of a ward's case and the Public Guardian would be responsible for their estate. Director Milano mentioned that often Public Guardians don't want to do person work and should OSG take on the responsibility it would be a way to collect fees from the Public Guardian.

With regard to policy revisions, Director Parks has forwarded some internal policy changes she would like implemented on behalf of the HRA to Counsel Jenkins-Wright. She is in the process of reviewing and analyzing them and hopefully they will have everything finalized for final review by Director Milano soon.

Lastly, at the last meeting there was discussion surrounding concerns about a facility in Allerton, IL where several wards are receiving care; however, the facility was questionable and dangerous. The Agency reached out to IL Department of Public Health (IDPH) and they determined that it was an unlicensed facility; the Department on Aging (DOA) also did an investigation and we have reached out to the Attorney General's office to file a motion for preliminary injunction to close the facility. As was expected, due to closeness of the community, there was opposition. The Judge denied the motion but he did so without prejudice and allowed IDPH and DOA to do investigations on the residents of the facility. The Judge opined that the facility was more of a boarding house and many of the residents did not need medical care; however, if it were established that some needed medical care we can do a renewed motion and try to have those individuals removed from the facility. IDPH and DOA have been doing regular visits to get additional information and there will be a meeting in the coming week to determine when we will file a new motion.

Commissioner Davis asked if there'd been any discussions concerning the incident in Kankakee involving the assault of a ward by a priest. Counsel Jenkins-Wright stated that she has been in communication with the police officer and the State's Attorney and they're moving forward on the case. The Agency hasn't received any further information regarding the priest; it is believed that at the time of the meeting he was still in jail. Jeff Ohlson, Guardianship Representative Regional Administrator in our Egyptian Regional Office, has also taken the lead as he has also taken on additional responsibility for the OSG wards in Shapiro Developmental Center. The Agency is looking to hire a full-time staff person for the Shapiro satellite office. Director Milano pointed out that the incident is a little bit related to the Agency's desire to expand the number of areas where cameras are located in State operated facilities. The Department of Human Services (DHS) position is cameras are expensive and having cameras would violate patients HIPPA rights. The HRA is beginning their investigation on Shapiro also. HRA Director Parks says they will be looking at some of the policies, procedures and measures to protect residents. They will not be looking into the actual abuse incident since the State Police are involved, but will look at some of the underlying practices preventing volunteers from coming into the facilities, etc. She also believes that the sex education bill the Agency is proposing would also educate individuals with disabilities not only about sexual practices but also protecting themselves from unwanted advances. Director Milano added that one of the approaches the Agency is taking with the Sex Education Bill is that it isn't about educating people just to have intimate relations; it's about what sort of signs does an individual need to watch for from others who may have predatory intent or are there things a person may be doing that inadvertently invite some type of attention without an individual being aware of the significance of their actions.

FISCAL REPORT

Gloria Lasley, CFO/CIO

The last time the Commission met was before the end of FY17 and in their information packets was a summary of how the year ended. The Agency's appropriation for FY17 never came through on the General Revenue (GRF) side; the \$9 million listed is what was requested and was used only for payroll based court order. Assuming, based on the court order unappropriated, we count those dollars which gave the Agency \$11.3 million to work with in FY17 and we spent \$9.8 million, lapsing about \$1.5 million. Primary reason for the lapses are on the IT side there were the 2 major IT projects that we continually budget for hoping to move ahead have been shifted to the future year and hiring is continually a struggle to keep up with retirements. Average headcount in FY17 was 98 where we are authorized with a maximum of 108. If the Agency had full head count for all 12 months, the funding in the GRF would not have been more than for a 103 headcount with monies in the GAC fund to cover a few more.

In FY18 we were appropriated just over \$9 million in the GRF-which again is personal services, payroll and Social Security-and in the GAC fund almost \$2.2million. Our estimated expenditures by year end, if we fill all vacancies, we will spend approximately \$8.8 million of the GRF and \$1.3 million of the GAC fund. Part of the GAC fund lapse is due to the fact when we were doing the FY18 budget we were told that 2 of the Agency's headcount—our IT employees—out of our payroll and receive a charge-back from the Department of Innovation and Technology (DoIT) as they become their employees. This would increase our costs because currently for our payroll we don't pay the retirement pick-up and group insurance out of our appropriated funds; it comes from the GRF and we budgeted for them because it was going to change this year; however, that was delayed so we didn't spend the extra \$350K for DoIT out of the GAC fund. It is budgeted again for in FY19 that the DoIT change will happen where they'll become DoIT employees, fall off the Agency's payroll and we'll receive a bill that will not only include their salaries but all of the fringe benefits that aren't currently in the Agency's appropriation.

For FY19 we worked with the Governor's Office of Management and Budget (GOMB) on the maintenance request that would increase our headcount. We asked for just over \$10 million in the GRF and \$2.4 million in the GAC fund; however, by the time it passed through the GOMB process and into the Budget book, what we were allowed to put in the Agency's formal request to the Legislature was reduced by about \$500K in the GRF which brought our headcount down as well. We are currently submitting it with \$9.5 million in GRF and \$2.4 million in the GAC fund, with a total headcount of 108 which does not include the 2 DoIT employees. It is our hope that when it comes out of the Appropriations Committees and through the Legislature into an actual budget bill it isn't cut further.

MANAGEMENT INITIATIVES

Gia Orr, Director, Community Rights, Relationships & Resources

Director Orr gave an update on the implementation of the project connected to the Guardianship Training Bill. Directors Lowy (OSG) and Parks (HRA) prepared a very in-depth outline of the Bill which was then edited to an abridged version where the material is more introductory-a "crash course"-instead of lots of information all at one time. Most individuals inquiring about obtaining guardianship are mainly interested in the basics to get the process started, with the option of going beyond the basics later. The introductory material will be required of all persons interested in becoming a Guardian. In the future the Agency then hopes to add additional, optional modules that will be a resource library of where individuals can use in order to get more in-depth information and/or specific information about a particular aspect of guardianship.

It is the Agency's desire to have a polished and professional design for the training site; however with its limited resources it is not possible to achieve in-house. Director Orr reached out to Governors State University (GSU) and discovered that they produce the Department of Children and Family Services (DCFS) training videos. They are very informational with the proper graphics etc. that we don't have access to; however, it does come with a cost. At her last meeting with them they discussed charging a fee per slide which could cost roughly \$2,000-7500 to cover the cost studio time, the professionals that do the graphics and the personnel who would do the editing.

Technologically, DoIT is putting together an expanded project team, which would include Director Orr and her original DoIT contact. The focus is on how we make what we're creating easy for the general public to access and use. Our current challenge is the Authentication Page, where individuals would access the training modules with a User Name and Password. Where would they get the user name and password? What could be used from the documents they receive at the court clerk to create them? We hope that the DoIT project team can make the authentication process easy by issuing a general User Name and password. DoIT is trying to prevent rebuilding a new page for the project and use one that already exists because it is already secure and has measures in place to avoid hacking, etc.

Lastly, Director Orr gave an update on the Disabilities Task Force Bill. The Agency submitted 13 names to the Governor's office. 11 appointees are needed and the top 11 were indicated with 2 serving as alternates. Individuals who have expressed interest in serving have been inquiring as to the status of their appointment

Director Milano gave a brief update on the status of the South Suburban office. The Agency is in the process of figuring out what the optimal configuration would be for what is now serviced by our West Suburban office. The opening of the Shapiro office was a small way of breaking it up and distributing the work in a way that is more efficient in terms of where our staff lives, where wards are located and where population trends are. We're making progress on having a satellite, prior to having a full office at Governors State University. We must still figure out what would happen to the rest of the staff at the West Suburban location; for many reasons we would like to leave that location completely. Director Orr has completed a study on the staff at the West Suburban office. It breaks down how many miles they travel from their homes to the West Suburban office and then how many miles they would travel to the satellite office at GSU. We're looking at quality of life for our employees and, as Director Lasley stated earlier, we have a lot of people who are eligible to retire now and within the next year and a half; if we have the South Suburban satellite office, it would give people more quality of life and time near their homes on their side of town. We're also looking at the viability in the amount of time that the Guardianship Representatives (GRs) are able to spend with wards doing treatment and discharge planning, being available in an emergency etc. without travelling from an office in the Western Suburbs and the South Side. It also includes a caseload acuity study, but for now we're just analyzing who is where, what their seniority dates are, what their retirement dates are and how much space we'll need to accommodate people. Currently we're looking at space for 8-10 people at GSU. Some GRs will have duality between the offices because of their caseloads unless the Agency redistributes them accordingly. There could be a maximum of 12-15 employees at GSU, but they would never all at the same time. The plan is to compensate GSU by providing internships for their students; there's currently one intern working with LAS on Legal Files and there are 3 other students who are excited to learn about what the Agency does. If we can create an internship program that is fruitful and give students the opportunity to give them not only a birds eye view of State government, but an in-depth view as they're working on their majors and preparing to graduate, we'll be in a very good position with GSU and for having an office there.

ACTION ITEM – Approval of Minutes

Motion was made by Commissioner Rubin to approve the minutes from the August 15, 2017 Commission Meeting. Motion was seconded by Commissioner Davis. Motion passed and the minutes were approved.

Due to an audio equipment malfunction in the Springfield location, Director Milano suggested that LAS Director Baker present her report (she was in the Chicago location) and permit HRA Director Parks and OSG Director Lowy (both attending in the Springfield location) to submit summaries of their reports to be distributed in written form. Vice-Chairman Schleifer agreed.

PROGRAM REPORT

Legal Advocacy Service (LAS)

Veronique Baker, Director

The Commissioners reviewed the LAS program statistics through October 2017 which were provided in their information packets. She reported that the Division has been working diligently to train and begin using the new Legal Files database. All LAS staff were trained as of December 14, 2017 and immediately began entering case information into the system. Overall the staff is happy with the system; there's no need for them submit monthly statistics, they enter all information – their LAS cases, intake, referrals, our Lee Wesley, restriction of rights notices-are now entered into the Legal Files system. Because it is data entry intensive, we have an intern who will be working with LAS for 12 weeks whose job is to make the initial case entries in the system. Some LAS staff receives over 100 petitions per month, and they my deal with only 5 or 6 of those cases. The remaining cases are bare minimum: we receive the petition, the person signs involuntarily, the person may be discharged in 1 or 2 weeks and we have very little contact with them. However, that information needs to be entered into the system and that is what the primary task for the intern. She will also be taught to pull in the petitions and attach those to the files also. Because of Legal Files the statistics presented at the next meeting will be very different from the general information we currently present.

Director Baker stated that the Division has interviewed and tentatively made a decision for an LAS attorney in Peoria and for their Circuit Rider position. The Circuit Rider will be someone who will handle the mental health calls in McLean, LaSalle, Dixon, and Rock Island and perhaps provide backup in Winnebago counties. With the exception of Winnebago, these counties do mental health but not consistently and it isn't technically what they do. LAS' goal is anywhere mental health hearings are being held, there would be an LAS attorney providing representation: our client's rights are not being protected in various counties throughout the State. All information regarding the hires have been submitted to Human Resource Director Bobbie Fox and we're waiting to hear from CMS about the next steps in the hiring process. Between the stationary Peoria attorney and the Circuit Rider, LAS will be extended into 4-5 different counties including taking over the mental health call in Peoria. Director Milano pointed out that if the Agency could hire the personnel, we could ideally take over Kane, DuPage and Lake Counties. Director Baker said that the Division is also handling the new mental health call that's at the Joliet Rehabilitation Center for former inmates who are being released but still need psychiatric intervention.

On February 2nd Director Baker interviewed 10 students at Northwestern Law School. She tendered summer internships to 3 of them to work with LAS attorneys in the Agency's Egyptian, West Suburban and

Chicago offices. The intern for the Egyptian office, in Anna, IL, has accepted; the student for the West Suburban office has accepted another position and she is still waiting to hear from the student on the Chicago offer. They are funded by their schools, so there's no cost incurred to the Agency. All of the students interviewed were very impressive and Director Baker plans to reach out to a few of the others to see what they're doing. It is a great opportunity to provide some assistance to the Agency's overburdened attorneys, as well as giving the students, who are all 711 eligible, litigation and appellate research and writing experience.

Finally Director Baker mentioned that LAS has had Appellate and Supreme Court decisions. The Supreme Court decisions were with Benny M and Linda B. Although they were not wins for those particular clients, they were wins for our clients overall.

- The Linda B case established that if a patient is on a medical floor, and being treated psychiatrically, then it must be established when they were admitted and all filing issues start from that point on.
- Benny M was the case that involved a client that was shackled throughout a hearing. Although they did not reverse the decision with respect to him being shackled, it did determine there's a process that needs to be gone through to establish, once the Judge knows that the client will be shackled in the courtroom, the necessity for the shackles and there has to be a hearing on that. It outlined the process and the questions that need to be answered in order to continue to shackle someone during a hearing.
- There was a great decision, Carol B out of the 4th appellate district, regarding medication and capacity and when those determinations need to be made; how long a person can be administered emergency medication before a petition needs to be filed. While it was a great decision, it still requires some further clarification so it will probably be revisited in the near future.

Director Milano added that LAS received the Advocate of the Year award from the Department of Human Rights and the Agency plans to nominate them division for the American Bar Association's Pro Bono Publico Award.

Motion to adjourn was made by Commissioner Rubin. Motion was seconded by Commissioner Torres Davis. Motion passed.

Meeting was adjourned at 3:00 pm.

The next scheduled meeting will be Tuesday, June 5, 2018.