Juvenile Policy Board
Minutes
(Unofficial Until Approved)
September 11, 2015

Members Present:
Judge William Herauf, Chair
Justice Lisa Fair McEvers
Judge Steven McCullough via phone
Judge Daniel Narum via phone
Scott Hopwood, Juvenile Court Director, Unit 4 via phone

Members Not Present:
Judge David Reich
Referee John Grinsteiner
Brad Saville, Juvenile Court Officers Association

Staff Present:
Scott Johnson, Asst. State Court Administrator for Trial Courts
Lana Zimmerman, Scribe

Guests:
Mike Hagburg, Staff Attorney
Karen Kringlie, Juvenile Court Director, Unit 2
Cory Pedersen, Juvenile Court Director, Unit 3
Shawn Peterson, Juvenile Court Director, Unit 1 via phone
Heather Traynor, Court Improvement Project (CIP) Research Analyst
Kathryne Korom, CIP Quality Assurance Research Specialist

Judge Herauf called the meeting to order. He asked if there are any additions or corrections to the March 27, 2015, meeting minutes. Hearing none, **a motion was made by Justice McEvers to approve the March 27, 2015, meeting minutes. The motion was seconded by Judge McCullough, motion carried.**

Supreme Court change to N.D.R.Juv.P. 18/Impact on Policy 401
After the most recent rules were adopted and after discussion with the Joint Procedure Committee; Policy 401 was discussed by the Supreme Court. Section IV (C)(3) highlights that the juvenile court will not collect money for insurance companies, banks or credit card companies unless directed to do so by the judge or referee.

Mike Hagburg shared this was the only language that the court objected to remove from the rule. After discussion by the Joint Procedure Committee, there was a question as to why the juvenile court is collecting for some, but not for all. Based on the discussion, the Supreme Court took the language out of the rule and is referring it back to the Juvenile Policy Board for discussion. The directive of the Supreme Court is to discuss it and reconsider whether to keep the language

in the policy. They will remove the language from the rule. There is the concern that this violates equal protection.

Under the restitution statute, the court has to determine what the child is able to pay, what is in the child's best interest, and can be assessed against the parents of up to $5,000.

Judge McCullough's understanding was that restitution could be ordered by the Judge against anyone. This rule would primarily affect informals where there isn't an order from a judge or referee.

In the past, in the statute about restitution, a judge would find something that would be reasonable for a child to pay back or a parent pay back up to $5,000. This is better practice to get the personal victim their deductible back first, as opposed to collecting for a large entity.

Shawn Peterson asked if it isn't going to be in the policy or rule, would it be added to the Juvenile Court Best Practices Manual? It could still be handled that way, otherwise directed by a Judge or Referee in a formal case.

A priority should be set up for who gets paid first. It should say up to the officers discretion, to prioritize the victims to be repaid.

After discussion, the language will be taken out of the policy and added to the Juvenile Court Best Practices Manual. The Juvenile Directors are to come up with alternate language, and bring back to the next Juvenile Policy Board meeting.

A motion was made by Justice McEvers to delete Section IV (C) (3) of Policy 401. The motion was seconded by Scott Hopwood, motion carried.

Rule 20. Use of Restraints in Courtroom

Mike Hagburg worked with Karen Kringlie on an initial draft of the restraint rule. It is designed to ensure there will be no restraints providing a mechanism to allow restraints under certain circumstance, but only if the court makes a specific finding in a case. Law enforcement in charge of transportation, make the decision on whether the juvenile has restraints in the courtroom. The decision has to be made by the court itself on a case by case basis.

There was a suggestion to have the language under definition modified to account for restraints that aren't visible such as electronic monitoring bracelets, that might qualify as restraints. The word "physical" could be added in front of restraint, which would make it directed towards tangible restraints.

Under the language of this rule, before a restraint maybe in place, there must be a hearing at which the child has an opportunity to be heard. If there is an order for a restraint on someone, there needs to be good reason as to why they need to be restrained.

In the East Central Judicial District, out of 123 detention hearings, 5 cases were asked for the restraints to stay on. When there are escape pending charges in the past, the restraints stayed on and when the referee was on the bench, they could see the restraints were on and the state requested that the restraints stay on for the hearing. A court order has been developed which is filled out addressing the factors.

Justice McEvers asked if it requires a request to remove? Should it start from when somebody has to request that they be removed, before they are removed? They would be brought in the restraints and then have a hearing to decide if they should stay in restraints if someone requests they be removed. The escape risks could be added in the special security needs in the rule.

Mike Hagburg suggested to end the sentence at, "The child must be given an opportunity to be heard regarding the use of restraints." If you take out "before the court may order their use," would allow the language legitimate under the rule.

Justice McEvers suggested adding the language under (c)(4) reading, "the security situation at the courtroom and courthouse; including special security needs or escape risks."

A motion was made by Judge McCullough to approve Rule 20 with the current changes. It was seconded by Judge Narum, motion approved.

Mike Hagburg said Rule 21 Title and Citation will go to Joint Procedure Committee for discussion.

Meeting adjoured at 2:00 pm.