

Labor Advisory Council Committee Minutes

November 3, 2021

1:30-2:30 p.m.

Hennepin County Government Center - Grand Jury Room (C2092)

Attendees:

- Nicole Blissenbach
- Octavio Chung Bustamante
- John Choi (Co-Chair)
- Mike Christenson
- Susan Crumb
- Adam Duininck
- Jim Farrell
- Mike Freeman (Co-Chair)
- Chelsie Glaubitz Gabiou
- John Kelly
- Madeline Lohman
- Kyle Makarios
- Dan McConnell
- Tony McGarvey
- Joe Moenck
- Jonathan Moler
- Don Mullin
- Greg Nammacher
- Merle Payne
- Kera Peterson
- Edward Reynoso
- Tim Sturdivant
- Chris Tolbert
- Mike Wilde

Agenda:

- I. Mike Freeman (5 minutes)**
 - a. Goals
 - b. Timeline
- II. John Choi (5 minutes)**
 - a. Success with prosecution of sex trafficking
 - b. Involvement of State Agencies
- III. Deputy Commissioner Nicole Blissenbach (10 minutes)**
 - a. Presentation of MNDOLI civil complaint process
- IV. Susan Crumb and John Kelly (10 minutes)**
 - a. Hennepin County Attorney's Office perspective
 - b. Ramsey County Attorney's Office perspective
- V. Jim Farrell on workplan (15 minutes)**
 - a. Training Model
 - b. Hand-off
 - c. Sub-committees
- VI. Mike Freeman and group (15 minutes)**

Discussion:

I. Welcome

- a. Co-chair Mike Freeman called the meeting to order at 1:30 p.m. He asked everyone to introduce themselves, reviewed the economic injustice caused by wage theft and labor trafficking, and urged the participants to collaborate and develop a systematic approach to these cases in our region. Freeman set forth goals and invited people to participate only if they found it useful and believed it to be a good use of time. He hopes that a system for addressing these civil and criminal cases can be built from strong functioning units between Hennepin and Ramsey Counties and the State of Minnesota. He complemented the three largest and most influential public law offices for their continued partnership. Freeman reviewed the workplan and goals for the first meeting. He then introduced co-chair John Choi.
- b. Co-chair John Choi welcomed everyone, thanked Freeman for his leadership and partnership, and commented on the lack of capacity in investigative resources that stifles attempts to combat wage theft and labor trafficking. He urged a collective impact model along the lines of the very successful statewide effort to defeat sex trafficking. Choi introduced his colleague, John Kelly, who announced that Ramsey County's half-time investigator had been upgraded to full-time by recommendation of Choi and approved by the Ramsey County Board. Choi announced that two members of this committee would be asked to serve on the recruiting committee.
- c. Freeman added that Minnesota Attorney General Keith Ellison had been briefed on this committee and its workplan. Ellison assigned Jonathan Moler as his delegate to the effort.

II. Presentation by Deputy Commissioner Nicole Blissenbach

- a. Deputy Commissioner of the State Department of Labor and Industry reviewed the authorities and staffing, including 19 investigators, on the State team that polices wage and hour cages. A full copy of her presentation is attached.
- b. Freeman complemented Blissenbach for a thorough review of the regulatory environment.
- c. Freeman commented on Blissenbach's call for increased coordination between State and local authorities. Freeman noted that a proposed hand-off between offices would be designed by staff and committees with a draft by December 1, 2021, a final prepared by December 15, 2021. The proposed hand-off design will be on the agenda for the next meeting. Mike Wilde accepted Freeman's invitation to head the committee.

III. Susan Crumb and John Kelly

- a. Freeman asked the Hennepin and Ramsey County attorneys assigned to these cases to provide commentary on needs to improve enforcement.
 - i. Kelly asked the Committee to support greater investigative authorities and urged others to look at the developments surrounding a full-time investigator in the Ramsey County Attorney's Office.
 - ii. Susan Crumb focused on investigative capacities, especially those with experience in examining financials. She pointed to the Minnesota Commerce Fraud Bureau law enforcement agency as offering those resources during the recent Batres case and believes that local police departments lack the resources and tools and treat these cases as civil and not criminal – in part because of this. Engagement of Sheriffs Departments in both Counties was recommended. She also reviewed the Merit Drywall case and cited deterrent effects across the construction industry by the prosecution of the \$300,000 evasion of workers' compensation premiums – thus more law enforcement will have an impact beyond the case.

IV. Mike Freeman and group on Deliverables

- a. Freeman recommended three immediate deliverables for the January meeting and proposed a committee structure to cover each (see attached workplan):
 - i. Partnership meetings with Ramsey and Hennepin County Sheriffs
 - ii. Model hand-off protocol
 - iii. Non-profit and agency training tools
- b. Freeman sought comments and offers to assist from the Committee.
 - i. Adam Duininck offered to lead a subcommittee on misclassification of workers. Freeman thanked Duininck.
- c. Freeman asked group for comments
 - i. Edward Reynoso related his view of wage fraud across three particular sectors – trucking, construction and hospitality. Trucking has an independent contractor record that includes agreements that seek exclusivity for five years for truckers.
 - ii. Merle Payne offered to meet with Sheriffs and asked training to be for non-profits and agencies – an exchange. Freeman promised that unless there was objection.
 - iii. Choi believes more research should be done on the treatment in Minnesota Statutes of the line between civil and criminal treatment of these cases. He suspects more clarity is required there.

- iv. Madeline Lohman announced that her organization is near final on a draft protocol on labor trafficking cases. She will circulate when complete.
- v. Moler stated that the distinction of criminal treatment follows from an intent to defraud. He believes law and policy can be clearer on how to prove that element and route the case to the right investigator.
- vi. Choi mentioned that wage theft may be as common and unseen as domestic abuse; sex trafficking cases appeared to be before the recent statewide collective impact effort.
- vii. Blissenbach wants clearer direction on the cases the hand-off from State agencies to local offices, like the Sheriff.
- viii. Reynoso advocates for a clearer focus on statutory reform. He pointed to the ABC program in other states as providing workers with the checklist to determine if they were in fact independent contractors. Are state laws and policies clear enough to provide guidance on independent contractor status? Are state agencies consistent in their guidance across department?

V. Closing Comments

- a. Freeman asked for closing comments from those who had not yet spoken.
 - i. Chelsie Glaubitz Gabiou urged that the Committee review opportunities to compete for ARP dollars. Freeman offered to follow up.
 - ii. Greg Nammacher commented on the workplan.
 - iii. Choi offered compliments on the first meeting.
 - iv. Kera Peterson offered to join the meeting with the Ramsey County Sheriff.
 - v. Chris Tolbert offered to advocate for resources within the City of St. Paul departments as appropriate and invited.

Respectfully submitted,

Jim Farrell
Committee staff