

Governance and the Rule of Law Professional Fellows Exchange

In October 2014 I was one of 13 professional fellows selected to participate in the Governance and Rule of Law program, sponsored by the U.S. Department of State and facilitated by Boston College. The program offered the opportunity to explore ways in which the U.S. seeks to promote justice and the rule of law, with the focus placed upon the intersection of youth justice and good governance.

The group comprised of lawyers, senior PSNI and Gardai officers, senior civil servants, policy professionals and front line workers involved in youth justice from both Northern Ireland and the Republic of Ireland.

The program lasted for 6 weeks with the first month spent in Boston and the remaining time in Washington D.C. Once we arrived in Boston, we began our 3 week work placement. I was particularly fortunate to be selected for placement with Associate Justice Stephen Limon at Suffolk County Juvenile Court in Boston. During my placement I had the opportunity to observe different practices within another legal system. While some practices could not be considered child's right compliant, such as the shackling of all children brought before the Criminal Court, there were many examples of best practice from which we in Northern Ireland could learn.

I was particularly impressed with the joined up approach adopted by the Courts in dealing with children coming into the legal system for a variety of reasons. Not to be confused with our Youth Courts, which focus on criminal proceedings, the Suffolk County Juvenile Court has a very wide remit, dealing with all areas of law through which children can come before the Court, such as criminal, family, education and supervision. This way allowed the one Judge to be allocated to each case concerning a particular child.

Other examples of best practice include the constant focus on the child's education, regardless of the reason for which they are before the Court, the ability of the Court to seal a child's criminal record, the interaction between the child and the Judge and the attention given to the child's understand of proceedings, the speedy and efficient way in which cases progress through the Court, particularly given the lengthy delay in concluding matters in Northern Ireland.

Of particular interest to me as a child's rights lawyer was the prominence given to the best interests and voice of the child in care proceedings. A number of professionals are allocated to a child during the Court proceedings including a solicitor to represent their wishes and feelings, a Guardian to make recommendations to the Court, and an independent Court appointed Investigator to investigate the background of the case, the issues and the concerns raised by the Department of Children and Families (DCF) and report back to the Court. In Massachusetts, this is considered necessary as it could be viewed that to only have a report from the Social Worker could be considered by some to be lacking in independence considering they are employed by the Applicant in the case.

The role of the Court Appointed Special Advocate (CASA) was especially interesting and I was able to explore this during a meeting with the Executive Director of CASA in Boston. A CASA is allocated to one child at a time and will remain with that child to the conclusion of proceedings and sometimes beyond. The CASA has access to all documentation including the child's medical and education records and will help the child to access education, health and mental health services and can request assessment where necessary to ensure the provision of appropriate services. Given the statistical evidence regarding the low educational achievement of children in care in Northern Ireland, the CASA model could assist with equal opportunities for child in the care system.

During my time in both Boston and at the beginning of my visit to Washington DC, I was able to meet with a diverse range of professionals and organizations such as the American Bar Association, the National Legal Aid and Defender Association, the Center for Children's Law and Policy and the National Juvenile Defender Centre. Given my role with NICCY, I particularly enjoyed meeting with the Gail Garinger, the Child Advocate for Massachusetts, and discovering that we encounter many of the same issues in seeking to protect the rights of children and young people. All of these meetings afforded me the opportunity to learn of the rights afforded to US citizens under the Constitution as well as how lawyers challenge infringements by both States and Federal Government. It was interesting to discuss the US's reluctance to sign the UNCRC. I was also able to highlight some issues of concern, particularly the shackling of children in Court in Massachusetts which the National Juvenile Defender Centre were able to take forward under their anti-shackling initiative.

The trip concluded with the US Department of State's Professional Fellows Congress a 3 day conference with over 200 fellows from various international delegations where we were all able to share our experiences both during our fellowships and in our home countries.

Overall, my participation in the Fellowship was extremely interesting and beneficial. Observing the operation of another legal system allowed me to witness examples of best practice as well as other situations which reinforced the need for the incorporation of the UNCRC.

Sinéad Mallon