**Nebraska Supreme Court Commission on Children in the Courts**

**Meeting Minutes**

**June 9, 2023**

**Introduction:** The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 a.m., with Honorable Francie Riedmann and Honorable Roger Heideman presiding.

**MEMBERS PRESENT**:

Hon. Roger Heideman, Hon. Francie Riedmann, Mandi Amy, Hon. Linda Bauer, Matthew Blomstedt, Maralee Bradley, Jeanne Brandner, Stephanie Branham, Jennifer Carter, Andrea Evans, Misty Flowers, Monika Gross, Hon. Tom Harmon, Sarah Helvey, Karen Hicks, Lisa Jurrens, Jamie Legates, Deb Minardi, Dr. Kirk Newring, Kathy Olson, Hon. Anne Paine, Mary Jo Pankoke, Chris Reid, Hazell Rodriguez, Hon. Randin Roland, Hon. Patrick Runge, Michaela Skogerboe, Hon. Ross Stoffer, Ivy Svoboda

**MEMBERS NOT PRESENT**:

Christine Costantakos, Hon. Rachel Daugherty, Tana Fye, Hon. Michael G. Heavican, Hon. Matt Kahler, Corrie Kielty, Martin Klein, J. Leef, Hon. Stefanie Martinez, Hon. James Mastellar, Liz Neeley, Hon. Michael Piccolo, Dannette Smith, Corey Steel, Hon. Mary M. Z. Stephens, Juliet Summers, Elizabeth Waterman

**OTHERS IN ATTENDANCE**:

Mary Pat Coe, Theresa Cusic, Stephanie Volkmer, Deb VanDyke-Ries, Traci Webber, NICWC intern, Appleseed intern,

Minutes from the December 2022, meeting were reviewed. Copies of the minutes were previously disseminated, reviewed, and approved unanimously during the meeting.

**SUBCOMMITTEE AND AGENGY UPDATES:**

**Legislative Session Discussion**

The legislative update was given by Sarah Helvey. Sarah stated that LB 14, the B2i bill, passed this year. This was something she and others had been working on for over ten years. Sarah thought there might be some training needed for judges, HHS, attorneys and other stakeholders. It will help that implementation is delayed until January 2025.

Other bills that passed this year include: LB 50 (law enforcement can access youth name, prob officer name and terms of probation if court order allows; no contest plea available to youth; additional judge added to District 9); LB 705 (MOU regarding information sharing between NDE, Probation, HHS and Courts).

There is also LR 245 (Vargas) that will look at detention rates and their structure. There is also an LR that will look at ICWA this summer, especially now after the Brackeen decision.

And a reminder that LB 1173 is currently in process in areas of the state. A true transformation of the child welfare system is the goal.

**CIP Update:**

Deb VanDyke-Ries gave an update on what some of the Through the Eyes of the Child teams are working on in the state.

* **Adams County** – the team is working on bringing in training for Through the Eyes team members in the community to shift the trauma lens from being trauma informed to trauma responsive.
* **Madison County** –The team is working on creating a peer-to-peer mentoring program in their community and are working with organizations with existing programs to identify aspects of their programs they may be able to potentially use for their own.
* **Douglas County** team is continuing the Safe and Together training this summer/early fall. They are also planning a 3-hour CLE for the summer.
* **Scottsbluff/Banner** team continues to address concerns with school attendance.
* **Seward/York/Hamilton County** team is creating a video to increase recruitment of foster parents.
* **Buffalo County –** Judge Rademacher has agreed to lead the team and the first meeting had over 30 people in attendance. The team is looking to identify topics of interest.
* **Boyd/Holt/Garfield/Wheeler/Valley/Greeley** team is planning a juvenile court seminar in June 2023, with a focus on juvenile rights.
* **Box Butte/Dawes/Grant/Sheridan/Sioux/Morrill** – the team is re-organizing with new county court Judge Aaron Conn and has held their first meeting. The team is exploring working with CASA to create a CASA program in their area.
* **Winnebago Tribal Court** team is working to incorporate the state caregiver information form into their child abuse/neglect proceedings.

In the child welfare arena CIP is involved in the following: Title IV-E funding (Judicial education – Interagency Agreement; quality legal representation); LB 1173; Nebraska Permanency Project team; Child and Family Service Review – Round 4; and Preliminary meetings about Safe & Together training expansion.

CIP is actively engaged in the education of stakeholders. This includes the Project Embrace lecture series taking place in August, the Regional Conference in September, various webinars throughout the summer and fall, development of ICWA modules, and a partnership with ERC for continuing legal education hours.

In the data and research arena CIP has partnered with the Capacity Building Center for Courts to bring JCAMP to Nebraska. JCAMP stands for Judicial, Court, and Attorney Measures of Performance. The JCAMP project developed a set of performance measures to help the field understand and improve child welfare court practices. The targeted audience includes individuals (e.g., judges, attorneys, court administrators) and organizations (e.g., Court Improvement Programs, attorney organizations) with an interest in improving child welfare court practices. Measures may be especially useful to those who make decisions about data collection and use for child welfare court and systems improvement. The JCAMP performance measures focus on the following:

**Court process measures:** What happens in the court process, including before,

during, and after court

**Professional practice measures:** The activities judges and attorneys perform

**Family experience measures:** How families experience and perceive the child welfare court system

CIP also continues to collaborate with various state and federal partners. Such as the National Center for State Courts for the Upstream Consortium:

* Nebraska selected to participate
* State leadership team met twice
* Training of facilitators June 7 & 8
* Locations: Red Willow County

CIP continues to send out the judges’ newsletter as well as our bi-monthly juvenile court stakeholder newsletter. In the Youth Justice field CIP is involved with JJSEN, JDAI and a case sealing project. CIP is also committed to highlighting the importance of youth and family engagement by utilizing the expertise of individuals with lived experience.

**Guardian ad Litem Subcommittee:**

Hon. Francie Riedmann notes Christine Costantakos not present, but Ms. Costantakos reports no updates from the GAL subcommittee.

**Equity Subcommittee:**

Judge Runge reports that a survey was submitted to members of the subcommittee to ascertain a topic area to focus on. Moving forward, now that that a focus area has been identified, the subcommittee will work on next steps. Judge Runge notes that the subcommittee is focused on trying to find its mission.

Sarah Helvey raises the point that the race equity subcommittee was formed before the COVID pandemic and it’s concerning that the subcommittee has not met in over 1 year now. Judge Runge in agreement that the subcommittee has struggled with “paralysis by analysis” and now that there is a focus, there will be emphasis on regular meetings going forward.

**Access to Services Subcommittee:**

The biggest development is the new focus on Districts 11 and 12. A meeting was held early in 2023 consisting of Supreme Court Justice Freudenberg, county judges from Judicial Districts 11 and 12, Corey Steel, Deb Minardi, Jeanne Brandner, and the Chief Probation officers in both Judicial Districts. A few highlights from the meetings: St. Francis Ministries has expressed possible interest in establishing a residential facility somewhere from Kearney west and are currently in the process of processing all the information; discussions have begun on a YRTC-West in Scottsbluff but are just in the preliminary stages; Cathedral Home is also interested in offering community-based services, if that goes well, Cathedral Home could have interest in establishing a residential facility in time with enough support; and Judge Worden and KVC will be going into churches in the Scottsbluff valley this summer to recruit foster families. Probation has also assigned a point person for the area.

The JJSEN assessment is out on the Supreme Court website for public comment.

**State Tribal Relations Subcommittee:**

Judge Runge provides an update on the on-demand ICWA education modules. NICWC has done fantastic work getting modules together. The end goal is to have a resource where anyone who works in juvenile court can easily obtain education on ICWA. If stakeholders have specific questions, can select a specific module to view. For example, if need more information on active efforts, can select that specific module. Judge Runge believes these modules will improve ICWA advocacy throughout the state. Once the modules are up and running, there will be concerted efforts to make sure people know this resource is available. Tangible deliverables coming out of the subcommittee.

Other work of the subcommittee includes creation of a bench book and efforts to make sure native youth are accessing the Bridge to Independence program.

**Quality Improvement Center – Engaging Youth**

Presentation by Laura Opfer, Katie Wachter, and Remonte Green with Nebraska DHHS. Project falls under the Family Advocacy Unit of DHHS-CFS.

**Strategic Planning Discussion:**

Deb VanDyke-Ries reports the Chief’s leadership meeting was held last week. The Supreme Court has many commissions focused on different areas and there may be a need to specify the focus of the commissions. There are many different initiatives going on across the state and there could be value in creating a strategic plan. The hope/benefit of a strategic plan would be the creation of a common mission and vision for this group. Additionally, an emphasis on specifically targeted areas to focus the attention of the group. Historically, there has been a bleeding among the groups – that is duplication – we don’t need to be duplicating efforts. We want to be strategic about how the group is spending its time. A strategic plan might be particularly helpful for those subcommittees that have not met recently, to help decide direction.

General agreement that strategic planning is a promise that we are going to take action on what we are promising and to take the time that is needed to build it. In the grand scheme it’s not about the development of the plan, it’s the commitment to the plan. It was noted that Access to Justice Commission created its strategic plan over a 2-year time period, while the Problem-Solving Court created its strategic plan in 2 days.

There was discussion about a consultant who assisted with the Problem-Solving Court strategic plan and Deb VanDyke-Ries open to exploring the potential of contracting with a consultant. Members discussed whether the three (3) branches of government could meet, as they each have children’s commissions.

For the December 2023 meeting, CIP will outline all subcommittees and put a document together for feedback on potentially moving forward with a strategic plan.

**Guardianship Subcommittee:**

Judge Harmon had some proposed rule language he shared with the group regarding guardianship cases that may involve more than one court due to family situations. There was much discussion about the language and how it would work/not work. Some issues/concerns brought up were as follows: how would tribal youth be affected, do GALs stay on the case and for how long, who researches the parties to the case to make sure no other court is involved, and are there any pro se documents available. At the end of the discussion, it was decided that Judges Harmon and Paine would take the idea back to their subcommittee to work on some new language to be submitted to the whole commission in December.

**Education Subcommittee:**

The subcommittee discussed that there was a bill sponsored by Sen. Arch that focused on improving education information sharing among system stakeholders for system-involved youth. This bill was Christmas treed on to LB 705 which did pass this last session. It generally appropriated $400,000 for a study. The final report is due December of 2024. The goal is to study how to improve education information sharing among system stakeholders for system-involved youth.

The Subcommittee discussed putting everyone who works with system-involved children in one room to allow them to talk and train. Data sharing for all stakeholders could include sharing the following with a child’s new school: placement history, educational history, and address history to start. Part of the goal would be to get Probation and Welfare to come together for cross-agency training. Better data sharing and better communication are always goals. Maybe the Courts could take the lead on this since unfortunately they are the common denominator for youth impacted.

It was brought up that this sounded like a good task for the LB1173 “Steven Group”. This fits into their work or initiative. This is something our group will keep in mind especially since a few of our members are involved with the workgroup.

**Department of Education:**

Brian Halsted updated the commission members on LB 705, the bill regarding data sharing between NDE, HHS, Courts, and Probation. NDE is tasked to hire the outside contractor for the MOU.

Ladonna Jones-Dunlap is working on assisting system involved youth reenter the school system after a stay at YRTC. She would like to begin a task force to look further into how to help system involved youth when they need to reestablish themselves back into their local school system. She will send out an email to interested parties to meet on this topic.

**Title IV-E Funding Subcommittee:**

Kathy Olson provides overview of Title IV-E and funding for foster care. Funding stream not capped for the states. If state spends the money, there can be a percentage reimbursement of funds.

Committee has recently focused on training. Deb VanDyke-Ries explains there is an interagency agreement with DHHS for Judge’s training. DHHS willing to hear recommendations from Judges about any national trainings they hear about.

Committee spent time on pre-petition legal representation – purpose was to get funding in place for attorneys to help families who are at risk of entering the juvenile court system. For example, housing, bankruptcy, and guardianship issues. The committee ran into some roadblocks. The feds were not providing guidelines to access. Legal Aid of Nebraska did implement their own pilot demonstration project to do pre-petition work with referrals targeted from agencies working with families. It was a successful demonstration and Legal Aid is continuing to do the work. The committee has sunsetted its pre-petition work until further guidance from the feds. Regrouping and deciding next area to target for IV-E funding.

LB1173 workgroup – part of their charge is to develop a finance model. Working on maximization of IV-E. Currently looking at other ways NE can draw down funds. Two major barriers: 1) bound to 1996 ADC guidelines. If family making $1,000 they are not eligible for IVE and 2) youth has to be in a licensed home. Not all relative and kinship homes are licensed. Other states require all foster homes to be licensed to receive a full payment, but that is not the case in NE. From a foster parent’s perspective, the question often is what is the motivating reason to get licensed when there is no benefit to the child? It is important to have the foster parent voice part of the conversation.

Lisa Jurrens from DHHS reports that DHHS will have a IV-E review in August 2024. 80 cases are reviewed and DHHS can only fail 4 of those cases. As part of LB1173, DHHS was given more IMFC staff to determine IV-E eligibility. The IV-E review will involve CIP staff who will help with court orders and court order language. Between now and August 2024, DHHS will review all the out-of-home placement orders. Currently NE’s IV-E penetration rate is 18-19%. We have 30-35% of cases that we could claim on.

**Department of Health and Human Services:**

Mark LaBouchardiere, Juvenile Services Administrator, provided updates on the Youth Rehabilitation and Treatment Centers (YRTCs). The YRTCs have seen a dramatic population increase. In the past, there typically were 9-11 females and 38-40 males committed to the YRTC. Since January 2023-May 2023 YRTC-Hastings has 20 females and YRTC-Kearney has 60 males. 24 of the 60 male youths at YRTC-Kearney are from Omaha A population increase like that can kill a facility’s culture and raises concerns about adequate staffing.

DHHS is looking at the old Douglas County Youth Center (DCYC) building in Omaha and considering operating four different programs out of that facility. Looking at DCYC because need a placement quickly due to increased census concerns. Timeline for these new programs is not set. DHHS is still in talks with the governor and label this an initial exploratory phase. Four new program details:

1. Reception and diagnostic unit – youth would complete initial assessments to help match them with services
2. Transition program – youth in this program would be 18+ males. The youth in this program would focus on life skills.
   1. DHHS has seen a significant increase in older male commitments to the YRTC
   2. DHHS is working with the Department of Labor on life skills opportunities
3. Reentry unit – provides an avenue for youth to transition back to community
   1. Youth would be placed here at the 60-day notice
   2. If youth have good supports in place, reduced recidivism
4. Therapeutic treatment care – dually adjudicated youth; youth who are trafficking victims

General Overview of the YRTC facilities:

* 1. YRTC-Lincoln located at Lancaster County youth detention center
  2. YRTC-Kearney has 4 units; youth sleep in barrack style
     1. Goal is to move to individual rooms
     2. Kearney building 2 more units which would be more therapeutic
  3. YRTC not like a Boys Town who can deny youth

Why has there been an increase in commitments to the YRTCs? Possibilities include: limited placements, more youth with mental health needs, youth with adult charges with plea deals including a placement at YRTC, and increased pockets of violence.

**Probation Update:**

Deb Minardi provided an update on JJSEN. The report is available on the Supreme Court website for public comment until August 1, 2023. The link will be send out to all commission members. The recommendations include administration, supervision, inter and intra agency policies. Probation is also working on the emerging adult population that crosses both juvenile and adult court systems. They are partnering with Columbia University to look at best practices.

Times are still tough in the provider world regarding staffing and costs. Probation is very excited to see RADIUS open in Omaha. They will take youth that no one else will, however, at this time it is only for Douglas County system involved youth.

Probation is currently looking to increase access to services in districts 11 and 12. They have assigned a staff member to lead this work. So far there are talks regarding a juvenile detention center opening in Scottsbluff – but very preliminary at this point.

**New Business:**

There was some discussion on the filing/not filing of TPRs by county attorneys. In Douglas County a particular form is usually required from the caseworker before the county attorney will file, not so in Lancaster. Also some discussion among the judges on the use of the exception hearing when the TPR is not filed as per statute. Judge Paine indicated she sets another hearing to revisit the issue. The speed at which TPRs are filed varies from county to county, fifteen months to three years anecdotally.