

Nebraska Supreme Court Commission on Children in the Courts
Meeting Minutes
December 4, 2015

The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at the Judicial Branch Education and Court Improvement Project office, 5001 Central Park Drive, Lincoln, NE, with co-chairmen Hon. Everett O. Inbody and Hon. Douglas F. Johnson presiding.

Roll call was taken, as follows:

MEMBERS PRESENT

Lynette Boyle, Ellen Brokofsky, Pat Carraher, Hon. Rachel Doherty, Hon. Larry Gendler, Bob Goodwin, Rebecca Harlan, Ashely Harlow, Kim Hawekotte, Carla Heathershaw-Risko, Sarah Helvey, Alicia Henderson, Josh Henningsen (for Senator Les Seiler), Corrie Kielty, Carol McMahon-Boies, Hon. Anne Paine, Mary Jo Pankoke, Courtney Phillips, Hon. Michael Piccolo, Hon. Linda Porter, Hon. Gary Randall, Julie Rogers, Hon. Randy Roland, Dick Stafford, Corey Steel, , Juliet Summers, Elizabeth Waterman, Doug Weinberg.

MEMBERS NOT PRESENT

Sen. Kathy Campbell, Hon. Caster-Senff, Chris Costantakos, Hon. Vernon Daniels, Marsha Fangmeyer, Tony Green, Hon. Michael Heavican, Sen. Bob Krist, Hon. Stefanie Martinez, Liz Neeley, Hon. Jodi Nelson, Kathy Olson, Amy Peters, Hon. Patrick Runge, Hon. Kenneth Vampola.

OTHERS IN ATTENDANCE

Monika Anderson, Katie Bass (CIP staff), Jeanne Bradner, Debora Denny, Kelly Engquist (CIP staff), Sarah Frankel (CIP staff), Mary Ann Harvey (CIP staff), Kari Rumbaugh, Deb VanDyke-Ries (CIP staff), Katie McLeese Stephenson (CIP)

Minutes of the June 12, 2015, meeting were approved by the Commission.

I. SUBCOMMITTEE REPORTS AND UPDATES

Court Improvement Project – Katie McLeese Stephenson, Director. December 1st marked 6 months since CIP transitioned to the Courts. The focus has been to build on the good work that has been done, and also work on collaboration and system change. Thanks to all those who have taken time to talk to CIP staff and to share ideas. The Team includes Sarah Frankel (Project Coordinator), Kelly Engquist (Design and Communications Coordinator), Katie Bass (Data Analyst), and Mary Ann Harvey and Deb Van Dyke-Ries (Project Specialists). Recent accomplishments include connecting with stakeholders, hiring staff, and Regional Conferences in Hastings, O’Neill, Kimball, and LaVista, where training was provided on human trafficking, team data review, legislative and case law updates to over 300 court stakeholders. Moving

forward, CIP is creating a strategic plan for child welfare and juvenile justice. Also, save the date for the Children's Summit which will take place in Kearney September 7-9, 2016.

NDHHS - Courtney Phillips, Chief Executive Officer, Nebraska Department of Health and Human Services, discussed focus directed toward filling leadership roles in the following departments: Developmental Disabilities, Medicaid Medical Director, Human Resources, Lincoln Regional Center and a variety of deputy director positions. Adjustment of the supplemental budget is being worked on, as well as a legislative package for the upcoming session. A business plan that addresses initiatives for the next 1 ½ years is being tackled. Employee relations is another element that has been a focus, working on an open collaborative approach to teams working with other entities as well as SKIP level meetings, which focus on the work of supervisors and managers. Great strides are being made on the Medicaid and CFS side. There are many challenges, but positive efforts have been seen such as reduced wait times for services, reduced staff vacancies and services put in place faster. Out of home placements are higher than desired and still a focus. Collaboration at the Department is prioritized. Doug Weinberg stated that the number of court involved cases are edging up and approximately 80% of kids are out of home, 20% in home. The next Child Family Services Review (CFSR) is set for 2017. The NFC contract is being examined.

Chief Phillips shadowed case managers in a variety of departments, one of which was Alternative Response. This experience was very helpful, which provided a direct perspective from the families who are served by the department. The importance of basic needs being met was a key element highlighted by families.

A System of Care implementation plan is being developed by workgroups to identify timelines in addition to understanding gaps and where the gaps in service are.

Nebraska Medicaid will be Heritage Health as of January 1, 2017 and RFP's are being requested for providers. Heritage Health will focus on how to work with managed care, identifying social determinant services, connection with community resources in addition to concrete deliverables.

Accreditation is moving forward regarding the CDC and juvenile justice prescription drug coverage as well as at UNMC with their community and population health program.

In terms of Developmental Disabilities, the department is examining the services provided and how to improve, focusing on keeping the client at home and bring services to the client. A multidisciplinary committee is looking at triaging challenging cases.

Juvenile Justice – Ellen Brokofsky, Probation Administrator and Jeanne Brandner, Deputy Probation Administrator provided a handout and an update on Juvenile Probation.

Probation is working hard towards a culture of collaboration in trying to stop the siloing of departments. This type of collaboration started on the adult probation side in 2006 and began to see the results in 2011. Juvenile Justice transitioned in 2013, but there are still silos.

Partnerships have been forged; HHS, CFS and Medicaid now meet with Probation once a month.

Probation is working with behavioral health, CFS, and the Regions to pull in evidence-based practices to match the needs of the youth. Each probation regional administrator is meeting with the Regions once a month about services that exist and are not utilized and services that need to be created. For example, in Region 6 there is a crisis team and every time probation gets an intake on a status case, the crisis team comes out to the home and works to try to avoid removing the child. There have been 67 referrals and 67 youth remained at home and were not detained.

Probation met with the Juvenile and County Court Judges to talk about the reform and discuss that it takes time. They are working with national and local partners including Annie E. Casey, Georgetown Center for Justice Reform, and the UNO Juvenile Justice Institute (Dr. Anne Hobbs). Probation has also attended national conference with cross system groups to Austin and San Francisco. Juvenile Justice Reform everywhere is taking time and is a process.

The reports distributed were based on data from August and September 2015. They include numbers reflecting out of home placements and also highlight status offences

There is a potential for collaboration between UNO and Douglas Juvenile Court to look at every youth that comes in on a status offense and find out why they are there. Judge Johnson mentioned that they need some data because often what we see as a status offense should be a 3a.

There is also a pilot starting in Lancaster County focusing on kids that have been filed on for a status offense. They will use instruments to find out what the root cause and how to intervene before there is an adjudication. This pilot will use the JIF instead of YLS.

The group then participated in a discussion around 3a kids who run away. The Preventing Sex Trafficking and Strengthening Families Act can be of assistance. The Through the Eyes Teams can also be a good way to look at how different areas are dealing with this.

Regarding reentry, Probation is focusing on the transition process back home out of placement. There is a plan put in place for each youth.

The group discussed that it is possible to have probation working with a youth preadjudication. Judges are ordering this in certain areas, but not others. Probation can work with youth preadjudication for evaluations and services. Probation mentioned that as detention costs have had a major impact on their budget. This led to a larger discussion about county funding. Much of what happens preadjudication is funded by counties. There is a process through the Crime Commission for counties to obtain community based aide dollars to fund these programs, but in smaller counties it is hard to find someone to do the application process and manage the money. It is possible for counties to come together and ask for the money collectively. The

Supreme Court Commission may try to have a presentation about the county grant process at the next meeting from Cindy Kennedy.

With crossover youth (youth involved in a 3a and juvenile justice case), HHS and probation can split the cost of services 50/50.

The Juvenile Service Division is working to put together a service guide that will come out in January that has the service array. There was a request from Judges that this guide include some of the services offered in nearby, commonly used, out of state providers.

The Community Based and Evidence Services Grant MST grant was awarded from the Sherwood and Omaha Community Foundations and the funding will start in January. This will assist with the implementation of Multi Systemic Therapy (MST) and the Boys Town In-Home Services Model. There was a question regarding if the state Medicaid plan amendment had been requested yet to include MST. HHS will provide an update as one is available.

Probation is also working with UNO on a detention screening tool and hoping to add screening for mental health needs.

Bridge to Independence (B2i), Sarah Helvey (Appleseed) and Doug Weinberg (DHHS)

Overview of Bridge to Independence (B2i), a voluntary program providing extended services and support for young adults age 19-21 who were adjudicated 3(a) and were in out-of-home placement at 19 years old, or discharged to independent living after 16 years old, or entered into a guardianship subsidy after 16. Services provided to young adult include medical coverage, based on Medicaid eligibility, supportive case management and monthly maintenance payment of \$760.

B2i staffing currently comprised of two supervisors and 11 coordinators statewide. Independence Coordinators are located in Omaha, Fremont, Lincoln, Kearney and North Platte.

In the last year, the program has grown. 96 youth participated in 2014, as of Nov. 1, 2015, there are 158 youth involved. There has been a slight increase in the number of pregnant or expecting youth. The IV-E penetration rate for B2i has been 20%, primarily because the income guidelines are based on parent's income when youth transition from foster care. The Department is looking for guidance from the feds regarding increasing IV-E fund use.

Some data has been collected comparing youth who participate in B2i compared with their counterparts who do not participate. Better outcomes are seen for the B2i youth regarding increased number employed, none of the youth are homeless, increased number of youth are in school and there is a decrease in incarceration. There was not data available regarding participation rate. Anecdotally, it was noted that it has been difficult to reach those youth who aged out prior to B2i formation.

LB 243 was a cleanup bill for B2i that expanded to include guardianship youth, clarified Medicaid eligibility, identified the last hearing at case closure as the Independence hearing and

made B2i hearings confidential. A question to the Commission was posed regarding expansion of B2i to juvenile justice youth, which was in the first proposal of B2i. The B2i task force convened focus groups regarding B2i expansion. The feedback was positive that B2i should be expanded to juvenile justice youth.

Legislation has been recommended, and a legislator identified, to expand the program to youth on the juvenile probation docket who are in an out of home placement when turning 19 and they don't have a safe or stable home to return to. An analysis by Mainspring Consulting showed the fiscal note to be \$1 million. Input from the Commission would be helpful to ensure the correct language regarding identified youth. There has been some consideration to change the parameter from 19 year olds to 18 year olds because of the limited scope of the courts between 18 and 19.

Additional conversation regarding the benefit of changing the age of majority to 18, similar to surrounding states, filing a 3(a) case for youth who have been abandoned so the B2i services can be accessed through child welfare, limitation of services available to a youth if they are returned home, not wanting B2i service availability to be a determinant to a child being reunified. Need to look at b2i to be a deterrent to reoffending, especially for juvenile justice youth. Foster Care Review Office provides data about b2i in their annual report, just released. The Children's Commission Report has the B2i task force recommendations.

DHHS, NFC and Boys Town are discussing a pilot project beyond 2016 that focuses on out of home placement in Douglas and Sarpy counties. This would be a new program, new interventions and new services, with a contract based on outcomes. Working with probation in the crossover youth, DHHS had dedicated staff. January – April 2016 will see an expansion of Alternative Response at DHHS. And there will be more focus on bringing workers together from CFS and Income Maintenance to help families regarding poverty, an underlying issue for many families.

Implementation of Preventing Sex Trafficking and Safe Families Act

Brief overview of the law – most provisions went into effect on 9/29/2015. Three pieces: trafficking, normalcy, other provisions.

Normalcy: There is a normalcy guide for court stakeholders provided; includes questions from the Bench. Implements "reasonable prudent parent" standard – allows foster parents and group homes discretion to make day to day decisions about extracurricular/cultural activities. Provides liability protection for foster parents. Eliminates Another Planned Permanent Living Arrangement (APPLA) under age 16 and provides more oversight for youth with APPLA over 16, including documentation requirements for agencies about looking for connections for the youth. The act also includes asking youth about their permanency plan choice. HHS commented that this is a real change in culture for a system that by nature is focused on risk, but they have already published guidance/policy.

Youth age 14 and over are to participate in their case planning and choose two adults to help with that. The case plan should reflect a plan to transition to successful adulthood and youth need to be advised of their rights. CIP provided a new template for judges to help reflect these changes. Youth are required to receive certain documents before they age out.

LR 248 happened in the interim to study the implementation of the SFA. There was a report released with recommendations which is in the materials. The Children's Commission has established an SFA Normalcy taskforce. It would be useful to have input from judges and lawyers. Sen Campbell is working on legislation to tweak the statute to reflect SFA changes.

Trafficking: Nebraska statute has decriminalized prostitution for youth under the age of 18. Concern about how to file these cases: seems like filing as a 3a could be a possibility, but there are concerns being raised. Some cases have come up in Omaha and have filed as 3a no fault, and in one case the child was able to remain at home. Some taskforces are wondering if there should be another way to file besides 3a. How do we talk to youth about what happened to them while they were on run? If there is a detention intake, there is an evaluation that should be done right away. Various systems are looking at how to screen youth knowing that the relationship established with the young person will be a key aspect. Services for those that have been trafficked is also identified as a need. . The youth are often not self-identifying as victims.

There are two parts to this complicated issue, mitigating risk factors for vulnerable youth but also prosecuting the traffickers and buyers. LB 294 did increase some penalties. The Nebraska Human Trafficking Task Force (NHTTF) led by Stephen O'Meara from the Attorney General's office is working on both aspects. There are federal requirements on the state agency (DHHS) to try to protect and work with vulnerable youth. Includes both youth that are involved in sex and labor trafficking. There is an education committee of the AG's group. We include anyone under the age of 18 who have been prostituted as victims.

A presentation for the June meeting from the Nebraska Human Trafficking Task Force was suggested.

Subcommittee on Guardians ad Litem, Carol McMahon-Boies

403 attorneys are on the approved GAL list. The map shown identifies the number of GAL's per county. Some areas of the state have few to no GAL's.

Since the launch of the initial GAL classes in April 2014, 160 attorneys have completed the basic on-line course. The course was updated after the last legislative session to include the mandatory nature of the GAL education and required reporting to the court. 120 GAL's have completed the B2i course.

Upcoming topics will include an ICWA course that looks at the history of ICWA and current changes in the law and regulations. Robbie McEwen of Nebraska Appleseed assisted in creating

the course. Following the ICWA launch will be a course that covers the nuts and bolts of investigations and interviewing.

An issue of concern is the continued reports of GALs being appointed who are not approved and are not current on education.

Juvenile Court Conferencing, Judge Piccolo and Debora Denny

One year ago, LB 464 brought dollars to the AOC to provide for child welfare and juvenile justice conferencing/mediation.

Office of Dispute Resolution received a Sherwood Foundation grant to assist with juvenile Victim Offender Conferencing (VOC). The eighteen month grant focuses on enhancing restorative justice in Douglas County and District 12.

The Office of Dispute Resolution contracted with Dr. Mark Umbreit who has provided consultation and training for Victim Offender Mediators in the past six months. Currently there are 40 trained mediators, fourteen of whom were trained in Scottsbluff. Besides training, work has focused on developing protocols, forms and letters to provide guidance in addition to stakeholder meetings. A powerful element of VOC is the meeting between the victim and offender. Even if the victim is not available or comfortable with meeting their offender, a surrogate victim can be utilized, which still provides a powerful experience. As shown by the data in the handout, as of June 2015, 7 VOC cases had been held, with anticipation that there will be a large increase by June 2016.

Child welfare and juvenile justice conferencing data was shown. Across the state 91 family group conferences, 521 prehearing conferences and 43 mediations were held 2014-2015. Training on use of JUSTICE codes to identify child welfare cases recommended for conferencing, Family Group Conference facilitator training and quality analysis of JUSTICE data entry rounds out the activities of the past six months.

To meet the needs across the state, mediators have been trained and reside in various parts of the state which assists with providing the service regardless of distance.

Children in District Court and Parenting Act – Judge Randall and Judge Piccolo

A report was circulated that was released on October 22. Today, the subcommittee asked for authority to proceed with data gathering. JUSTICE does not track how many divorce cases include children and whether there needs to be Parenting Act work on the case. This data would be used to make the Parenting Act more effective. There is a chart on pg. 5 of the Report to outline this need.

Between now and June the subcommittee will be looking at the other recommendations that need to be implemented and come to the Commission with those in June. A cost-benefit analysis is being completed for some of the recommendations.

Work is occurring a system to triage domestic relations as some cases could be fast-tracked through the system. Most people are pro se and the Supreme Court has created great forms, but some people do not fill them out correctly or choose the right form and so triaging could really help. For example, in Minnesota there is a Judge who is doing a pre-trial conference three weeks after service before the conflict gets increased, so this subcommittee is looking at that as an idea.

Based on an evaluation, in Nebraska we have temporary hearings in divorce cases, but they are being used in a wide variety of ways. Often these temporary affidavits escalate conflict in the case. The subcommittee is going to meet with the Chief to decide how to approach this issue. They are also thinking about how to involve mediation in this process.

Overall, the Parenting Act is helping on timing of cases. Creating a parenting plan is a fallback if the parents cannot make an agreement otherwise. Additionally, if kids are kept out of the conflict of the divorce, they are less likely to be involved in the Juvenile Court. It was also mentioned that Senator Krist has proposed a bill for a pilot project for a Family Court.

Judge Randall moved to pursue the recommendation related to Justice (bottom of pg. 5). Lynette Boyle seconds. Passes with all ayes and no nays.

Subcommittee Updates

State-Tribal Court Collaboration – no report

Guardianship – no report

Case Progression Standards Judge Porter – recruiting members for this sub-committee

Working on identification of progression standards for child welfare, regarding all the different hearing standards. One question posed is “do we know we have a problem” and are not meeting case progression standards? Second question “can JUSTICE track those cases where we are not meeting those standards”? Discussion with Linda Leatherman, who stated that she thinks we can get some data.

Corey Steel stated, if there is a hole or a gap in tracking data, we need to know so it can be fixed. If nothing else we need to have a baseline to start.

Signup for committee members circulated. The committee will be expanded to include juvenile justice progression standards.

Family Court - Judge Johnson

Family Court Committee proposed to begin working in 2016, how can families be served better and/or more efficiently? A pilot project is being considered in Douglas County. Questions posed regarding Family Court include: Is there a need for a potential juvenile code re-write? Some jurisdictional change?

Looking at models around the country to provide guidance on a best practice model that would be piloted here. Case managers that can work with people to help resolve issues. There may be some overlap between Parenting Act issues and Family Court. Another program of interest is the Fragile Families program working with unmarried parents with no relationship but a child, the challenges associated.

Court Data – no report

2016 Through the Eyes of the Child Summit – Judge Gendler and Katie McLeese Stephenson

The Children’s Summit will be September 7-9, 2016 in Kearney. There is a group that will be coming together to help plan. We are anticipating that the Summit will start early afternoon first day, the next day will be all day, then just the morning the third day. If you have ideas about content, let Katie know; CIP is open and interested in input to make it work for stakeholders. There was a recommendation to include law enforcement voice in the planning and training.

2016 Nebraska Young Child Institute – Judge Johnson

This conference will be happening in June 27-28, 2016 in Kearney. The Institute is the new name for “Helping Babies from the Bench” and is focused on serving birth to age five in all the Courts. JBE is interested in sponsoring this as the Juvenile Court Judges separate meeting. Enhanced resource guidelines will be coming out this summer, which will bring together all the new Federal Laws. County Court Judges have their own training at the same time, but County Judges can make the choice to go to this instead.

New Juvenile Judge Training Curriculum – Carole McMahon-Boies

There was some criticism of Juvenile Judges in certain studies, so Nebraska has decided to revamp the curriculum. The Chief Justice has appointed a committee to create this ideal curriculum for Juvenile Judges and the committee will have recommendations ready by the spring/summer. The Supreme Court will decide if this training will impose mandatory or aspirational guidelines. This committee is glad to entertain any comments.

New Business

Next meeting: June 17th at 5001 Central Park Drive Lincoln, NE

Happy birthday to Ellen and Carol.

Meeting adjourned at 2:05pm