Nebraska Supreme Court Commission on Children in the Courts
Meeting Minutes
June 17, 2016
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-chairman Hon. Everett O. Inbody presiding.

Roll call was taken, as follows:

MEMBERS PRESENT

MEMBERS NOT PRESENT

OTHERS IN ATTENDANCE
Katie Bass (Nebraska Court Improvement Project), Deborah Denny (Administrative Office of the Courts), Kelly Engquist (Nebraska Court Improvement Project), Sarah Frankel (Nebraska Court Improvement Project), Mary Ann Harvey (Nebraska Court Improvement Project), Brian Lisonbee (Nebraska Court Improvement Project), Meghan Malick (Nebraska Human Trafficking Taskforce) Laura McCormick, Katie Mcleese Stephenson (Nebraska Court Improvement Project), Stephen Patrick O’Meara (Nebraska Human Trafficking Taskforce), Kari Rumbaugh (Administrative Office of Probation), Deb VanDyke-Ries (Nebraska Court Improvement Project), Alicia Webber (Nebraska Human Trafficking Taskforce)

I. UPDATES

Court Improvement Project - Deb VanDyke-Ries, Project Specialist and Katie Bass, Research and Evaluation Specialist. There are 25 Through the Eyes of the Child teams throughout the State. CIP staff have been meeting with teams to understand the issues they want to focus on. Court observation has been a focus of the work for about the last 6 months. A court observation tool has been developed and validated to assess child welfare and juvenile justice hearings, with a goal of presenting preliminary findings at the Children’s Summit this year.
Court improvement has facilitated a variety of trainings this year. In the fall a webinar on adoption will be provided to stakeholders. Members of the CIP team have been able to attend a variety of trainings this year. CIP, working with Probation, received a 3-year, 2 million dollar grant, which provides the groundwork to implement MST and the Boys town model for probation youth. The Sherwood Foundation is bringing in evaluators to look at the juvenile justice system as a whole, through a developmental evaluation. CIP is also very involved with Crossover Youth Practice Model. Multiple breakout sessions will focus on CYPM findings at upcoming Children’s Summit. CIP has been working on their 5 year strategic plan (specifically focused on Child Welfare). The Supreme Court Commission will approve the plan before it is sent to our partners. CIP Director, Katie McLeese Stephenson, has accepted a position with Child Guidance and will be leaving soon. We are working on finding the right person to replace Katie. As with everything it is hard to find the right person and takes some time. In the interim, Jeanie will oversee CIP.

Questions were raised about how MST is going to work. MST will start in Omaha. The struggle in more rural areas is that MST requires a minimum number of referrals to use the service, and it is important to be careful on how to select MST sites because they need to be in areas that can sustain MST. In areas that have struggles sustaining, the Boys Town model may be a possibility because it requires less resources. It is helpful for more rural areas. Is there a plan on how it will roll out? CIP and Probation Administration are working with MST international right now to figure out how to get teams in a position that they are able to receive more referrals. We will branch out with MST as we move forward. Is there a schedule? Not determined right now. CIP and Probation are currently working with Boys Town to determine replication in the Western part of the state.

**NDHHS - Doug Weinberg, Director, Division of Children and Family Services, Nebraska Department of Health and Human Services.** Mark LaBouchardiere has started as the administrator of YRTC-Kearney. HHS is exploring new treatment models for YRTC in addition to new staff schedules to assist with treatment model. Overall there will be an organizational assessment including assessing leadership, which will assist in defining the role of Kearney YRTC. HHS administrators meet daily to discuss issues at YRTC. The advisory board was revised and will conduct a July town hall meeting in Kearney, with the focus to be visible and engage community. Assessment regarding a fence is underway.

A question was raised regarding recidivism. Child welfare has seen an increase of 4% in children served. There has also been a 5.7% increase in out of home placements, increase in alternative response and an increase in hotline calls since July. Change in entrance and exits with child welfare – 2140 entry, 1941 exits, which is a significant drop in exits. Statewide it is an issue, most relevant in Eastern Service Area. Nationally there is an increase in the child welfare population. Key factors for the increase are parental substance abuse, as seen locally and nationally.
HHS has identified pilot projects to address out of home care, including a pilot project with NFC. It is a coordinated response initiative where HHS retains case management through initial investigation with NFC also involved during the investigation period to assist with continuity. Federal partners provided technical assistance to retool IFP to find a new model. Assessment is underway with Casey Family Foundation on a Structured Decision Making tool for intake/hotline use. DHHS is looking at service array, identifying where there are gaps and what appropriate interventions should be rolled out, some of which will include faith based agencies, and collaborative efforts to provide support to families. Pilots in North Platte and Omaha are family-focused case management including the Employment First (job training for TANF recipients) collaboration. Child welfare and economic assistance staff work with families as “coaches.” Alternative Response struggled with low numbers, so needed to relax criteria to increase scope and generate more data.

A question was raised about court delay issues. Director Weinberg stated that there are not really court delays, but instead a need to work on caseworker retention which will help with case progression. There is also an issue with limited services in some areas. Another question was raised regarding the measures HHS puts in place to assist with diversity regarding providers. Director Weinberg stated there needs to be an intentional engagement with providers who traditionally have not been at the table. Using the same providers creates the perception that HHS has “favorite” providers. They will look at data to see which providers are offering successful interventions. SDM will also help guide referrals to certain providers.

Probation – Jeanne Brandner, Deputy Probation Administrator, Juvenile Services Division, Administrative Office of Probation. Scotts Bluff closed their juvenile detention facility because the population was very low. Lancaster County is having a conversation about potentially closing the staff secure detention. Now a focus is on referral volumes needed to keep services sustainable, so looking into partnering with collaborators like DHHS.

Probation is also focused on YRTC-Kearney. Staff have participated in several tours, looking into high profile kids in particular to find a better match for youth. There has been a lot of work with Medicaid for the MST project and working with Heritage Health to make transition from Magellan as seamless as possible. Probation is also exploring Title IV-E funding and working with DHHS on partnering so that Probation can access funding for youth that meet IV-E requirements. Probation has engaged with Justice Benefits and other states for assistance on how that may be structured. Developmental Disabilities is at the table during discussions as state wards are already given priority, and they are looking to expand that priority to juvenile justice youth who fit requirements.

Probation is working on a Legislative Bill on extended support for juvenile justice population with Juliet Summers, to determine how to get similar B2i benefits for juvenile justice youth to prevent adult incarceration.
Probation recently completed a probation services catalog identifying services available across state which is available on line and will be regularly updated. Probation is working on clearly defining services for providers so that they can apply appropriately to provide sources. Those definitions will be posted and have a 30 day review process for providers.

Probation has several pilot projects in the works:

1. Status Offense Youth: Status offense youth are staying on supervision just as long, or longer than delinquent counterparts. They tend to be lower risk, but many times have higher needs. A Lancaster County pilot is exploring how to treat them differently.
2. Evaluation and Justice Wrap-Around Pilot: A pilot in metropolitan areas to improve consistency in evaluations. In conjunction, probation implemented a mental health tool that includes a trauma assessment.
3. Community and Evidence Based Services (CEBS) grant: A partnership with CIP. The grant has been focused on the RFQ and implementing a developmental evaluation which will ask “What does successful change look like?”
4. JDAI: JDAI interventions will be especially important with detention centers closing. JDAI is very labor intensive so need to think about how these principles become “how we do business” instead of something “in addition” when implementing both JDAI and CYPM.
5. Crossover Youth Practice Model (CYPM): The Nebraska CYPM is working with Georgetown on technical assistance. The state usually has 170-180 youth who are dually involved who tend to be high risk and high needs.

Kari Rumbaugh and Lindy Bryceson presented on the collaborative efforts at the Nebraska Juvenile Justice Association and are developing a collaborative memo at the administrative level that can be taken to caseworkers and probation officers.

Probation has implemented monthly reform document available on the AOC/AOP website. They have seen a slight decline in out of home placement, which is great, but need to keep that effort going with CEBS and other options. There will always be out of home placement, but we must making sure it is the right youth and they receiving right services for them and their families.

Comments, questions and discussion:

- There was commentary that reform has been going well. The negative often is the focus of discussions, but things are moving forward.
- Is the challenge with developmental disabilities is it geographically based? It is currently statewide for the DHHS state wards, and Probation is looking to see if they can buy into the state plan amendment with them due in September. Does DD eligibility translate into DD funding? No – being eligible means the youth is placed on the waiting list. There
are concerns that the long wait time may result in the youth aging out because there can be as many as a five year waiting list.

- Probation experienced increased expenses and funding deficiencies last year, what is the situation this year? Much improved, there may be a slight deficit – probation is working to see how they can impact financial process without interfering with the services youth need.

- Questions remain as to whether or not the funding is adequate, but Juvenile Probation is making adjustments with what they have. Largest expenses are out of home and detention, thus as out of home decreases, there will be improvement with the budget. Probation was left out of conversation to increase rates, so they are behind on rates compared to other agencies. Probation has not been able to keep up with Medicaid rate increases (about 2.5% a year), but they cannot increase without an additional appropriation.

- Is there a group that is looking at out of state placements? Probation has been monitoring and there is an LR this year. Out of state placements have been declining. Placements out of state are at group homes, so Probation is looking at that for therapeutic services in home. A large percentage of youth going out of state are gang involved in the Omaha area. There needs to be a long term solution that is closer to home.

- In situations where there are multiple failed placements are we looking at whether or not we have identified appropriate placements in the first place, given that each time a youth starts over they are losing treatment? These are the types of places that Probation is looking at, particularly if YRTC could be an option – it may not be the answer today, but it could be in the future. Probation has been talking to foster care providers about starting to utilize professional foster care which is a higher level of foster care for higher risk youth. There has been a positive response to these conversations and probation is looking in to partnering with DHHS on this issue. Regarding failed placements, Probation has an ACE team that looks at those specific cases and is trying to build special services for those youth. Using the ACE team helps officers place youth and identify where we are lacking services. There was a request that judges receive ACES reports, probation can provide those to the judges. Regarding provider capacity, we have providers but need to change the culture. We need providers to think more about the higher risk youth instead of the low risk youth that are no longer placed out of home. For example – interviewing the youth instead of just looking on paper to reduce some of that negative stigma that can result from reading about a kid on paper. A question was posed about professional foster care and whether it would include therapeutic foster care. Therapeutic foster care is a part of the conversation, but the professional foster care would not be therapeutic, so would not be covered by Medicaid. Trying to get into home like setting instead of congregate care.
• A comment was made that probation officers are perhaps frustrated because they are working with mostly high risk kids instead of the low risk kids they use to work with, which can be difficult, but it’s because we are diverting a lot of those low risk kids. Probation stated that is correct, but are low risk kids are doing really well, very successful.
• There was a question about establishing diversity and especially language diversity. Are there requirements for language diverse or diverse providers? There are no direct efforts, but agreed the language issue is significant and they are looking at it.

II. MINUTES APPROVAL

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

III. NEW BUSINESS

Temporary Custody in District Court – Hon. Everett Inbody, Court of Appeals. The committee is preparing a white paper that looks into how temporary custody practices affect children and families. Judge Inbody requests a Subcommittee from this Commission to review that paper and make recommendations on improving this system. The committee should include District Court judges, litigators, and people from this group.

Lynette Boyle moves to create the above described subcommittee; Rachel Daugherty seconds the motion.
• Discussion: There was general agreement that this is an issue. This Subcommittee will also address tensions between Separate Juvenile Courts and District Courts about jurisdiction.
• Vote : The motion passes with 32 ayes, 0 nays, 0 abstentions
• Subcommittee Members: Lynnette Boyle, Patrick Runge, Kathy Olson, Rachel Daugherty

Juvenile Court Defense Standards – Corey Steel, State Court Administrator. Chief Heavican has joined the meeting. Corey thanked him for his leadership with Court Improvement Project and the Judicial Branch.

Questions have been raised about how defense attorneys represent juveniles in both juvenile justice and child welfare cases. For example, in larger districts, new attorneys start in Juvenile Court, but it is a complicated system. There are now standards to be a GAL, why do we not have standards for the Juvenile Defense attorneys? Do we need a subcommittee of this Commission to look at the education requirements that should exist with juvenile defense attorneys? JBE has a model based on the work done with GALs that could be applied to the defense attorneys.

Judge Vernon Daniels moves to create Subcommittee to make recommendations on standards for Juvenile Defense attorneys, Judge Harmon seconds.
• Discussion: Who will be included in the defense attorney group? LB 894 clarifies that the Supreme Court will set standards for all attorneys.

Motion amended by Judge Daniels to include all attorneys, Judge Harmon amended second.

• Discussion: Who should be involved with the drafting of guidelines setting forth standards?
• Vote: The amended motion passes 32 ayes, 0 nays, and 1 abstention

DHHS documents for CASA volunteers - Corrie Kielty, Director, Nebraska CASA. CASA programs are not currently getting documents that they previously were able to receive. Part of the issue may be related to electronic notices. Another part of the issue is that HHS legal department has reviewed the process and says that CASA should not receive some of the documents (ie. home studies). It would be best if there was one court order that identifies what CASA can and cannot receive.

Discussion: The documents that DHHS has are confidential by law and are required not to release except to approved parties, so this might be a legislative issue. If there was an agreed upon order for a Judge to sign, that would be helpful for uniformity. If DHHS and CASA could agree upon this. This may be able to be a blanket order or there might be able to be some sort of solution within JUSTICE. Some discussion about whether there may need to be a statutory fix or if this can be handled within the Courts on an individual basis.

CASA will take the input and work on a solution.


The Taskforce recognizes Katie McLeese Stephenson’s role in getting this project off the ground and the importance of this multi-agency, collaborative work.

Update: A two-day training will be presented in October through a federal grant. Human trafficking is modern day slavery – 89% involved in sex trade want out and there is no such thing as a child prostitute. The Women’s Fund is trying to bring in a research element to get an accurate picture of the occurrence of human trafficking. Online is a primary source of trafficking but does not account for trafficking in rural areas well. UNL researchers estimate 49-100 Nebraska High School girls are trafficked each year. There is not currently a lot of research on males being trafficked. Most of the money from trafficking stays within the state of Nebraska. The gang connection is increasing.
V. STRENGTHENING FAMILIES ACT (SFA) PRESENTATION – Sarah Helvey, Nebraska Appleseed and Katie McLeese Stephenson, CIP

Stakeholders and young people convened, surveys and focus groups were completed, and an interim study released the results. A taskforce for SFA was developed via LB 746, which reconciled state law with federal law and included stakeholder recommendations. A Normalcy Guide for stakeholders was distributed. There will be a bench card for SFA coming. Normalcy is a key element of SFA, which is defined via the reasonable and prudent parent standard. There are standards elaborated in state statute, including training requirements and that facilities must have a person available to make the reasonable and prudent parent decisions 24/7. The statute says that the Juvenile Court shall ask the child about normalcy efforts, which may lend another reason for children being in court. HHS must have a signed acknowledgement that youth received a Bill of Rights. Transition planning should also begin at age 14 not 16. All youth should be consulted in case plan development – 14 and older must be involved per state law.

Changes to APPLA: Federal law states that youth under 16 cannot have independent living as a permanency goal. 16 and over can still have it be a plan, but the plan must provide a compelling reason why APPLA is in the child’s best interest and who are the supportive adults in the youth’s life. In terms of the GAL report, an element needed to be added for compliance with SFA within their report to the court and the GAL Subcommittee has added it.

Questions, comments and discussion:

- Judges encounter issues with youth dating, which may cause a foster care placement to terminate. Courts also encounter issues about piercings, tattoos, religion – the challenge is defining “reasonable.” Another challenge is that what the youth wants, which may be supported by the foster parents, may not be approved by biological parents. HHS has already started implementing SFA normalcy standards, and it is a culture shift which includes training. They are working with placing agencies, which will take time. The Judge will still need to make findings regarding some of these issues if there is conflict between bio and foster parents.

Regarding the Taskforce, members were appointed by the Children’s Commission with the next meeting in July, where there will be reports from subcommittees. The subcommittees include: Community and Family Voice, Normalcy, Trafficking, Grievance and Training. Probation is also involved with this process. A good structure in place but it may be beneficial to connect with federal partners to determine other states guidelines.

VI. SUBCOMMITTEE REPORTS

Case Progression Standards – Hon. Linda Porter. This Subcommittee involves making recommendations for case progression standards for child welfare and juvenile justice cases focused on time frames in which decisions must be made. The Supreme Court has made standards for County and District Courts, which have been utilized since late 2013 and data is distributed to County Court judges once per month. The data is intended to be informational
and aspirational. Recommendations for Juvenile Courts were made once in 2007 or 2008 and were put up for comment and nothing happened since. The Supreme Court is invested in having this project move forward.

The Subcommittee suggests preliminarily:

1. Timeframe for removal to temporary custody hearing – 8 days
2. Time between filing of motion for termination of parental rights (service) and when the matter is submitted to the Court for decision – 90 days
   a. 180 days for a case where petition and TPR filed at the outset
3. If a youth is detained, his or her trial/plea should be within 30 days.

Questions, comments, and discussion:

- If a Court only convenes once every 2 weeks, what should it do? This could be a problem - the Judge may have to participate via video conference to have hearings on time. Best practice for removal hearing is actually 72 hours, so 8 days is already an accommodation.
- The good thing about being able to track case progression is that it can identify needs and potentially provide resources such as an extra judge or a visiting judge. This does force the court to prioritize speedy trial.
- *In re Interest of R.G.* was the first case to address the time frame from removal to protective custody hearing within 14 days. There is some concern that ICWA is lengthening the time between hearings.
- What’s the consequence to the Judge or attorney if the timeframes not followed? These timeframes are not sanctionable, but informational or aspirational, and help to identify need. The District Court has the same type of standards, so each Judge gets a reports of cases that are taking too long, which makes it easier to know when things are moving too slowly – it prevents things from falling through the cracks.

The Subcommittee will address time to adjudication in child welfare, time to disposition in child welfare, and time to adjudication and disposition in juvenile justice. Some group members identified that this Subcommittee needs to consider service of process before time is running, and also consider identification of parents, especially fathers in the cases.

New members are always welcome!

**Family Court Pilot Project – Sarah Helvey, for Hon. Douglas Johnson.** A report was distributed regarding the Family Court Pilot Project. This is the one judge, one family model, with the goal of improved case coordination and access to services. The Subcommittee has looked at what other states have done and examined Nebraska state statute to determine what the jurisdiction rules look like. The Subcommittee may engage the services of Professor Barbara Babb from University of Baltimore for an assessment and Dr. Ryan Spohn, UNO, for help with evaluation. Application for a grant will be submitted to provide financial support to bring in these experts.
for possibly implementing a pilot. The Subcommittee will also evaluate any changes to Nebraska Statute and Supreme Court Rules that may need to be made.

Discussion: There are some law professors here who would be good to consult at UNL and Creighton.

**Tribal Court Collaboration – Hon. Patrick Runge.** Challenges with leadership issues have resolved. Report submitted by Mary Ann Harvey regarding work thus far between CIP and the Tribes. It continues to be a priority of the state to work with the Tribes and. The Subcommittee will hope to convene before the next Commission meeting.

**GAL subcommittee – Christine Costantakos.** The GAL subcommittee met three times over the last six months and reviewed 2016 legislation. There was much discussion, especially regarding LB 746 (SFA). The GAL report now contains SFA language. JBE will be using the updated GAL report form in training, and it can be forwarded to GAL’s for use. It is also on the Supreme Court website and can be forwarded to the list serve.

**Children in District Court and Parenting Act – Hon. Gary Randall.** This Subcommittee looks at implementation of the Parenting Act. Currently, there is work being done on JUSTICE modifications for mediation, custody, family makeup and dynamics. The Subcommittee is hoping to standardize methods and is working on a triage process for cases. Ideally, they would like to look at cases from the beginning to see if some divorce cases can be fast-tracked, whether cases can go to mediation, or if cases need to go to trial. Overall, they would like to make the divorce process smoother for the public.

The Subcommittee is also working to enhance the use of mediation. There is a need for more trained mediators in the state. The Subcommittee is also working to evaluate parenting education programs. In a couple of weeks several members of the committee will be doing a presentation at the family law practitioner’s annual conference. The Subcommittee met twice this year and meeting again soon. Full recommendations are outlined in the subcommittee’s report.

The Subcommittee is working on a white paper with input from the entire state. The process will change things, but all of the input will make the process better.

Comments, questions and discussion:

- This Subcommittee may want to connect with the Unified Family Court Pilot.

**Guardianship – Hon. Thomas Harmon.** The issue for this Subcommittee is guardians who are assigned in juvenile cases. Judge Harmon made an initial report and Public Guardian contacted him. He has now done much training with GALs and Public Guardian. New public guardians are currently training new guardians and Judge Harmon will be involved with the process.

Questions, comments, and discussion:
• There is very little consistency in Juvenile Courts in regards to the role of guardians. Most of the guardians for foster children have been foster parents in the past and have had training. However, foster parents have said they have not had enough information to prepare reports, etc. They are currently using probate reports in some courts, but also the caregiver information report and youth questionnaire. There is also some confusion about the reporting requirements regarding the subsidy. There is currently not the expectation that guardians take a guardianship class, however, the Public Guardian is tasked to train all guardians in the state. Guardians should receive some training on what happens if the guardian wants to terminate the guardianship, as this has been coming up.
• There is not always consistency about whether the GAL stays on the case. There needs to be more uniformity. Statutory or clear Supreme Court guidance is needed.
• Judge Harmon requested further assistance to review the issues of guardians in Juvenile Court. Judge Linda Porter and Kim Hawekotte volunteered.

VII. TRAINING

Children’s Summit – Hon. Lawrence Gendler and Deb VanDyke-Ries (CIP). This is Katie McLeese Stephenson’s last meeting. She and the CIP staff are thanked for the work that has been done.

CIP started the Through the Eyes of the Child initiative 10 years ago. Currently, teams exist in every district. The Children’s Summit happens every three years; it is happening this September. The dates are September 7-9 at the Younes Conference Center in Kearney. There will be three keynote speakers: Shay Bilcheck, T. Ortiz, and Hon. Katherine Lucero. There will also be roughly 50 training sessions offered with tracks focused on child welfare, juvenile justice, judicial, native youth and families, special populations, human trafficking, transitioning youth and attorneys. This is the first Children’s Summit with a juvenile justice track. In addition to the sessions, three tours are scheduled for YRTC-Kearney, two meetings are scheduled for the Through the Eyes of the Child teams to review data reports and develop goals, a showing of the Paper Tigers movie, and meetings of Judges and Team Coordinators. Registration begins July 5th on the CIP website. Scholarships are available and three awards will be given: a Team award, a Judicial award in honor of Judge Offner, and a Resiliency award. September 6th will be a pre-Summit meeting with the Crossover Youth Practice Model teams, which will allow for sharing of ideas and celebrating successes. The meeting will be facilitated by Shay Bilchick and Michael Umpierre from Georgetown Center on Juvenile Justice Reform.

New Judges Training – Hon. Michael Burns. There are five members of this Committee, which was formed last year and has met several times. The Committee is working on two tracks: Procedure (9 topics) and Child development/family dynamics (8 topics). Members are creating
outlines for each topic. The work is well underway. At next meeting will be ready probably to make recommendations to the Supreme Court. A report on the work was prepared by Carole McMahon-Boies.

Adjourned 3:37pm

Next meeting is December 2, 2016