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

**Meeting Minutes**

**June 12, 2020**

**Introduction:**

The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 am via WebEx, with Honorable Francie Riedmann and Honorable Roger Heideman presiding.

**MEMBERS PRESENT**: Marty Klein, Judge Mike Burns, Misty Frazier, Liz Neeley, Sarah Helvey, Judge Roger Heideman, Marcie Bergquist, Ivy Svoboda, Judge Patrick Runge, Judge Larry Gendler, Juliet Summers, Judge Ross Stoffer, Jeanne Brandner, Mary Jo Pankoke, Corrie Kielty, Kathy Olson, Carole McMahon-Boies, Stephanie Beasley, Deb Minardi, Dr. Kirk Newring, Monika Gross, Judge Anne Paine, Chris Turner, Judge Tom Harmon, Judge Francie Riedmann, Mandi Amy, Judge Randy Roland, Milo Mumgaard, J. Leef, Judge Stefanie Martinez, Monica Kruger, Senator Patty Pansing Brooks, Tana Fye, Julie Rogers, Chris Costantakos, Judge Gary Randall, Dannette Smith, Matt Blomstedt, Judge Vernon Daniels

**MEMBERS NOT PRESENT**: Judge Rachel Daugherty, Chief Justice Michael Heavican, Karen Hicks, Judge Michael Piccolo, Corey Steel, Senator Tony Vargas, Liz Waterman, Azar Webb

**OTHERS IN ATTENDANCE**: Stephanie Volkmer, Hazel Delgado, Deb VanDyke-Ries, Traci Webber, Mary Pat Coe, Chris Triesbsch, Julie Wertheimer, Henry Dobson, Claudia Brock, Pat Carraher, Kari Rumbaugh, Laura Opfer, Sheryl Connolly, Eric Asboe, Michelle Borg, Hazell Rodriguez, Kelly Riley, Alisha Jimenez, Michele Borg, Maralee Bradley

Judge Riedmann asked new FCRO director Monika Gross and new CFS Director Stephanie Beasley to give a short introduction.

Minutes from the December 2019 meeting were reviewed. Copies of the minutes were previously disseminated, reviewed, and approved unanimously during the meeting.

**Subcommittee and Agency Updates:**

**Education Subcommittee – Judge Gendler**

There was an email that was sent out, assume everyone has had a chance to read the recommended rule, open for discussion. Judge Heideman, clarifies - recommendation is to approve to submit to Supreme Court, LG notes it’s the attachment with added clause, “unless such release is authorized elsewhere by NE law, to cover FCRO and CACs.”

Sarah Helvey – assume based on background provided, working w/ Michele Borg, clarify the subcommittee feels it would enable on the school side to release the information. Judge Gendler – working with Karen Hasse (sp ?)Yes, a lot of this is protected by federal law, she thinks it would encourage school districts to share more info knowing it would be protected.

Before we go to a vote, subcommittee will meet again in a few weeks, Dr. Newring gave presentation on threat assessments in schools, will discuss what to do with that information, will also deal with re-entry issues.

Any other questions? Judge Gendler motions to submit to Supreme Court to be adopted, Sarah Helvey seconds. Judge Riedmann asks all in favor – vote taken.

Commissioner Blomstedt has joined the call and comments Department of Education is glad to help where we can.

Deb – everyone has voted and the motion passes.

**HHS Update**

Stephanie **–** many heard us talk about where we are at CFS, there has been a decline in reporting, down 38% from last four weeks this time last year, but it has leveled off. We have been working with NDE and Behavioral health to address issues of well-being. Issued a well-being guide – translated into multiple languages. We moved quickly during pandemic with virtual connections. Order issued on May 8th – allowing families to go back to face to face visits. Focused on getting PPE to families. Working with providers to ensure families are equipped and supported and can transition safely. Virtual is still an option.

Dannette – YRTC update – have had a few children and staff test positive in Kearney. No additional positive tests since March. All youth programs are stable, census is good. Appreciative of work doing with probation for staffing. Admissions and looking at youth being prepared for discharge. Kearney 58 males, 14 females, 72 youth. Lincoln – 6 males, 3 females. Geneva 4 females.

**Legislative Update**

Senator Patty Pansing Brooks - One major legislative success happened despite legislators leaving in March due to Covid, the ban on solitary confinement for juveniles passed. There is some concern for the outcome of the Bridge to Independence for tribal youth bill due to the possible budget impacts. Senator Pansing Brooks will be studying truancy this fall, she will focus on status offenses and the possibility of moving them out of the court process. Deb Minardi stated that probation was also looking at status youth in Nebraska and would like to collaborate with the senator.

She also stated she appreciated the letter from Chief Heavican and agrees with him regarding equal access to court. She feels very strongly about equal access to counsel for juveniles across the whole state not just in the larger cities.

**Chief Heavican’s Letter**

Discussion ensued regarding equality and the disproportionality in the juvenile court system. The listening sessions that were held in Omaha and Lincoln were mentioned as a step in the right direction. Commissioner Blomstedt, among others, supported the discussion regarding inequalities and the need to continue working on the issues. Judge Riedmann and Senator Pansing Brooks mentioned some other studies that may be happening in the fall regarding motions to transfer and what court juveniles are being charged in and sentences for youth, especially those who have mental health issues. Due to the many other ideas mentioned by various people regarding equality/disproportionality/inclusion Judge Riedmann suggested the need for our own call to action and the possible formation of a sub-committee to address the issues brought forth. A vote, via the chat box, was held and a new sub-committee will look at the issues presented, research what is already happening and determine how we collaborate with what services/agencies that are already in place in order to compliment the work and not duplicate it. CIP took the names of those interested in being part of the new sub-committee.

**IV-E Funding Subcommittee – Kathy Olson**

The focus of the Title IV-E funding subcommittee is three-fold, training, structure and evaluation. As to training, conversations are continuing between DHHS and other statewide organizations to identify opportunities for Title IV-E funding. This funding will support education and training of court stakeholders. The second focus, structure, has centered on 1) identification of activities that can be reimbursed, 2) how reimbursement can be used to expand services to families, 3) financial reimbursement of legal services varies by county, 4) financial match requirement of Title IV-E funds, and 5) needs of tribal courts. The subcommittee was interested in exploring pre-petition interdisciplinary legal representation, and have identified regional and national resources to guide this work.

To further explore the idea of pre-petition legal representation a workgroup was developed to identify recommendations for a pre-petition legal representation pilot project. The workgroup met on April 9 and May 5, and presented recommendations to the full subcommittee on May 8. See the full report for a list of all the recommendations.

The third, and last focus, was evaluation. The workgroup has started to identify what data elements may be available to evaluate the impact of pre-petition legal representation on preventing court involvement. Nationally, civil legal representation has shown to be an effective tool, and ensuring that a pilot project, or supplemental funding coming to the state helps prevention efforts is key.

**Case Progression Subcommittee – Judge Linda Porter**

A little bit of the history of the case progression subcommittee was given to the group. These standards have been in place for some time. The reports are sent to all the judges and while there can be some issues with dates, they are getting cleaned up as we go. The education piece for new judges is critical, they need to know how to best use the reports and the ‘why’ behind it. Covid will, and has, created issues for us and thankfully these reports will help judges get their dockets back in order. The reports are instrumental in day to day case management for judges.

A follow up survey has been sent to judges to nail down what is working and what is not.

Judge Porter is retiring at the end of August – give her thirty (30) days or so then she will be open to help out.

**Guardianship Subcommittee – Judge Harmon and Judge Paine**

Judge Paine - About 2 years ago came up with recommendations, have been trying to have them adopted since. Supreme Court has been reluctant to adopt. Recommendations cover where should guardianship be filed, how should reporting be done, whether there should be reviews, what would happen if guardianship disrupted, what qualifications happened at beginning. Subcommittee came to consensus and made recommendations but none that have come to fruition. The hang-up has been the issue of whether a GAL should continue to represent a child once a guardianship is in place and what their function is. We are just waiting and wanting to implement a lot training and education once we know what the rule will be. Another thing I wanted to bring up, discussion earlier, services for b2i program, when you have kids put into a guardianship, they still qualify for b2i, but DHHS has been released from the case so there is no procedure in place for the kids to get referred. One of my concerns that some kids may be falling through the cracks.

Since I’m unmuted – highly concerned, weekly reports from HHS, seems to kids sitting in facility who is done with treatment and can’t get out of facility because there are no foster homes. I have a real concern that there is a lack of foster homes in the state. Kids are sitting in facilities for *weeks* and can’t get out due to lack of placements. Judge Heideman – I took a note so we can talk about this at the end of the meeting.

Judge Heideman – you are in a holding pattern for either legislature or Supreme Court to make a move? Judge Harmon – that’s correct.

Senator Pansing Brooks – Judge Harmon talked about sending this to the Judiciary Committee, I’m co-chair of that committee and haven’t seen that information. If someone can send me that information. Judge Paine will send that.

**CIP Update**

Deb VanDyke-Ries – Regarding Covid 19 we have been partnering and connecting with entities both locally and nationally to keep abreast of barriers and solutions with face to face contact. CIP was requested to put together a transition plan for the courts. We used case progression reports as a tool for courts to track cases.

The Court Observation project has moved into the data evaluation phase. Hazel and Dr. Weiner will be presenting initial findings at the county judges meeting on June 26th with final analysis this fall.

About 10 years ago CIP partnered with Linda Leatherman to create a codes manual. It was in need of updates, a group is working to update both the 3A and juvenile codes manual.

The CIP impact report was distributed this spring. Highlights the work on CIP in the last year. Can be found on the CIP website. We are currently in the final process of updating strategic plan that is due in July.

This fall CIP will be hosting structured conversations with judges and attorneys to discuss concurrent planning and TPR filings. Both were identified in the last child and family services plan as areas needing improvement.Conversations will be held virtually to identify adaptive challenges.

Regional conferences scheduled for last week of September/first week of October. Line up well with conversations we’ve been having this morning, racial and ethnic disparities, and SRO’s. Partnering with Strategies For Youth, we will be working on next steps off of LB390. How can we as a system do things differently? Judge Gendler, Commissioner Blomstedt, psychologists, law enforcement, and youth will be presenting. Right now, we are scheduled for 4 locations – hopeful we can do them in person. Plan B – we will present virtually.

Racial and ethnic disparities, in 2017 CIP regional conferences keynote speaker was Joyce James who also presented at a Supreme Court Commission meeting. CIP continues to provide demographic information and has been involved with Inclusive community trainings as well as Hazel and Traci working on developing online inclusivity training to provide to our TEOC teams. We are developing a training checklist to ensure our trainings impact a diverse population. CIP will be urging TEOC teams to assess their local courts and communities.

Judge Heideman – with the Chiefs letter. Are you going to reach out to the TEOC teams to refocus on the disparity issues? Deb - With regional conferences we are looking at a variety of data elements. We will continue to do active outreach.

Monica Kruger – has there been any consideration to provide that training outside of the TEOC teams? Deb – we are open to that. Liz Neeley – we are doing implicit bias training, or some type of training every month for the rest of the year. Training has been adapted for lawyers.

**Probation Update – Jeanne Brandner**

During Covid services have been difficult to maneuver, many facilities have closed around the nation. The increase of requirements, due to Covid, has also put a strain on probation. We are continuing to think out of the box for these youth to get them the best services possible.

Foster care in particular has been very difficult to attain for our youth. In probation there is a higher level foster care (professional foster care) but again Covid has impacted this too. It is hard to form a relationship over a Zoom call, which in turn impacts whether or not a youth will be accepted into a home with a foster family. Things are opening up a bit now, but people are still being cautious. In Douglas and Lancaster counties foster families/agencies are not accepting outside youth for a while. This does make it hard for probation, but probation is committed to working with all stakeholders.

Date reporting has been revamped, the quarterly report was attached to the committee report and some highlights were given. Also the screening instrument (RAI) is being revalidated with the assistance of a Florida partner to look at a number of things including the amount of overrides.

**State-Tribal Relations Subcommittee** – **Judge Patrick Runge**

The listening sessions in eastern Nebraska were very successful. We were scheduled to travel in western Nebraska but Covid hit and it has been postponed. The intention was to build on the momentum from the earlier sessions but unfortunately the group is on hold. We have a judicial education small workgroup and an access to ICWA compliance small workgroup that have formed from the larger subcommittee. One of our long range goals is looking at joint jurisdictional hearings, juvenile court judge and tribal judge present at the same hearing, some states do this now.

Our next coalition meeting is scheduled for June 22, 2020, hopefully in the next six (6) months we will have more deliverables.

**Attorney Standards Subcommittee – Judge Michael Burns and Sarah Helvey**

Sarah Helvey – We are a “sister subcommittee” to the IV-E, looking at new opportunity for IV-E for attorney representation. It must be high quality – so we are looking at what does that look like and how do you define that. Resurrection of previous Attorney Standards committee that developed standards for attorneys practicing in juvenile court. Things have been on hold a bit due to Covid and we are waiting a bit for the IV-E subcommittee as the work we do will be somewhat directed by them. Decided to start a small workgroup – have had quite a few volunteers. First meeting will be 8/21 for the whole group. On the agenda for that meeting, looking at practice guidelines, overview IV-E funding opportunities, update on IV-E subcommittee, drafting new standards for pre-petition attorney standards, reviewing definition of high quality legal representation.

**Department of Education Update**

Michele Borg – Commissioner wanted to visit about work being done to reopen schools, department has launched Launch Nebraska. How schools should prepare for a variety of scenarios. Making sure kids are safe and healthy in the midst of a pandemic. Things could change over the course of the school year, things may look different in different areas of the state. Trying to work out different plans for different scenarios.

Commissioner Blomstedt – We are trying to get to a point where we are providing guidance for schools reopening, very concerned about system involved youth, and are taking all of those things into consideration. Very important to keep building, and have partnerships with many different folks. Thanks for all those efforts. Will highlight YRTC’s – committed to figuring out where we need to go with youth who are system involved and the need to take a whole system approach. Scott English is working as principal in Kearney. We need to have/continue the consistency for all system involved youth. Found huge gaps in programming from a digital perspective. Linkage between education and probation and HHS and then the courts with response piece and there is a considerable amount of work to do that effectively. Pandemic has also pointed out deficiencies’ in other settings. Appreciate partnerships we’ve had. We are having on-going conversations about SRO’s.

**New Business**

Recruitment of Foster homes

Director Beasley indicated that openings do exist and that they need to find out why the placements are not accepting the youth. She intends to do a deeper dive on this issue. She also asked for thoughts on how do we recruit and/or train, educate and support foster homes so that they accept these higher needs youth. At this time Judge Paine brought up a 3a case she currently has in her courtroom and the extreme difficulties they were having in providing services for this youth. HHS had staffed the case numerous times, increases in rates had been offered, and both OMNI and KVC had also staffed the case. The judge was not sure what else could be done but opined that surely they were other cases like this in the state. Jeanne Brandner offered her assistance with this (I believe this is where the services catalogue was discussed), Director Beasley asked the Judge to start with her (Director Beasley) first for assistance in the 3a case.

New forms

Sarah Helvey and Maralee Bradley introduce the draft of a motion to intervene for siblings or next friends for comment from the group. These pleadings are for use in cases where siblings are not placed together and visitation is not occurring. With a few minor changes the group voted in favor of the legal pleadings being included on the Supreme Court forms page.