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

**Meeting Minutes**

**December 9, 2022**

**Introduction:** The regular meeting of the Nebraska Supreme Court Commission on Children in the Courts was called to order at 9 am, 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, Tana Fye, Monika Gross, Hon. Tom Harmon, Sarah Helvey, Karen Hicks, Hon. Matthew Kahler, Corrie Kielty, Martin Klein, Jamie Legates, Hon. Stefanie Martinez, Hon. James Mastellar, Deb Minardi, Liz Neely, Dr. Kirk Newring, Kathy Olson, Hon. Anne Paine, Mary Jo Pankoke, CJ Roberts, Hazell Rodriguez, Hon. Randin Roland, Hon. Patrick Runge, Michaela Skogerboe, Hon. Mary Stevens, Hon. Ross Stoffer, Juliet Summers, Ivy Swoboda

**MEMBERS NOT PRESENT**:

Stephanie Beasley, Christine Costantakos, Hon. Rachel Daugherty, Hon. Michael G. Heavican, J. Leef, Sen. Patty Pansing Brooks, Hon. Michael Piccolo, Dannette Smith, Corey Steel, Chris Turner, Sen. Tony Vargas, Elizabeth Webb Azar Webb

**OTHERS IN ATTENDANCE**:

Amanda Adams, Mary Pat Coe, Theresa Cusic, Kelly Riley, Stephanie Volkmer, Traci Webber

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

**Subcommittee and Agency Updates:**

**Legislative Session Preview**

Sarah Helvey reported on some possible bills that Appleseed had interest in: 1. The reintroduction of LB 1000 (Sen. Ben Hansen) which narrows the definition of neglect; 2. Expanded B2i, to include youth with juvenile justice experience; and 3. Expect a bill regarding mandatory reporting of abuse – stems from Sen. McKinney’s Interim study on disproportionality in the juvenile justice system. Townhalls were done, and according to Sarah the study shows that while many reports were made not as many were substantiated. Also, we are one of the few states that everyone is a mandatory reporter.

Juliet Summers reported that Sen. Hunt would be introducing a youth bill of rights again. There may also be an instate tuition bill that would include youth in the B2i program and a bill that will address sentencing requirements in criminal class 1a crimes. Also Sen. Conrad may take another look at a possible truancy bill.

Juliet also indicated that a big topic will be the best way to use the budget surplus we have, possible monies for housing since we know lack of housing can lead families into child welfare system.

Commissioner Blomstedt stated that Sen. Arch will be looking at a possible bill regarding how to improve data sharing, this was the subject of an LR that has yet to publish a report.

Jennifer Carter said we may see a bill regarding juvenile room confinement (dealing with length of time) and what the inspector general’s responsibility is in investigating the cases. This will hopefully give us better data in the long run.

Deb Minardi reported that law enforcement continues to be very interested in ‘automatic’ GPS (if LE deems appropriate), this would be without a court order for people on probation.

**CIP Update:**

Mary Pat Coe reported the Through the Eyes of the Child teams are meeting regularly. Recent team highlights include: Dodge County hosting an Immigrant 101 training, Lancaster County using their $500 team funds for National Adoption Day, Douglas County hosting a Practitioner’s Standards CLE training, Red Willow County hosting a Kindness Day at the courthouse, Otoe County collaborating with the superintendent of schools to address truancy, Phelps County providing a forum for the mediation center to update the team on new services they are providing for youth and families in the area, Judge Stoffer’s team designing a peer-to-peer mentoring program, Cheyenne County looking to bring a bullying prevention program to the local schools, and Adams County surveying system involved families to identify motives behind lack of participation in services. The teams are connecting with the community collaboratives if they have one.

CIP continues to work with HHS on obtaining IV-E funding for educational pursuits. An interagency agreement has been drafted and is being reviewed by DHHS and AOCP to fund judicial education. CIP was awarded a grant from NDE to facilitate a Babies from the Bench lecture series in 3-4 locations across the State of Nebraska. The lecture series will take place between April-June 2023.

The Children’s Summit took place on September 13-14, 2022 and was attended by approximately 500 juvenile court stakeholders. CIP hosted a Tribal Court webinar in November 2022, providing an overview of the four tribal courts in Nebraska and the ways in which tribal court practices correspond and differ from state court practices. CIP will host a Legislative Overview Webinar on February 9, 2022 which will include discussion of 2023 legislation related to child welfare, youth justice, education, and other topics relevant to children, youth and families.

Other projects CIP has in the works include the following: ICWA education modules, Stakeholder Collaboration and Connection with the National Center for Courts, A View from the Bench: Foster Parents, and collaboration with trial court services on juvenile record sealing.

**Guardian ad Litem Subcommittee:**

Kathy Olson reported that the revised GAL report, which the subcommittee presented to the commission during the June 2022 meeting, was approved by the Supreme Court. There is a fillable PDF version of the report template currently available on the Supreme Court website, but there are some technical issues with the form. Under the Guardian Ad Litem narrative section there is insufficient space for longer narratives without the font becoming so small that it is either unreadable or difficult to read.  CIP will contact the forms coordinator to inquire whether a fillable Word version of the revised GAL form can be made available on the Supreme Court website. CIP will host a webinar in 2023 to provide additional information on the updated report form.

**Probation Update and Juvenile Justice System Enhancement Nebraska:**

Jeanne Brandner reported that Probation is currently working on a strategic plan. One important focus is working with emerging adults, they are still adolescents, but they have charges in adult court. Probation is looking at how do we treat them, what about 15–16-year-olds in adult court – how do we treat them? Misty asked if there would be a focus on racial/ethnic disparities? Jeanne stated that while that is not specifically included, racial and ethnic disparities are being addressed in JDAI sites in Nebraska. She acknowledged that we are just scratching the surface

Jeanne touched on the JJSEN assessment that had been going on statewide for the past year. The final report is due soon, but if Lancaster’s assessment is an indication, we will be looking at addressing adolescent development, youth and family engagement, and trauma (how to screen), just to name a few subjects.

Jeanne stressed that system actors have to come together for this work, we need agree to common goals even if we have different roles. We need to work together.

The collection and use of data will be emphasized, while we have a lot of data (almost too much), how can we better connect it to the work. How can we use it to guide best practices and quality improvement.

Service delivery is a big component, as we all know our health provider system has struggled to keep up with the need. Last year the legislature increased rates by 15%, but national we do have a staffing crisis. Evaluations and general mental health therapy all have wait lists. The Services subcommittee has been looking at this issue as well. We need more providers (there was a legislative report regarding the issue).

Jeanne reported that we have more youth in detention being held for gun/murder charges and our detention beds are getting less and less. There are lots of moving parts here that are causing angst especially for the youth with high needs. Jeanne indicated that we have more probation youth in out of home care than ever (see FCRO report).

Roughly we have 2200 youth currently on probation, and we are seeing very high needs in both youth and families. The evaluations needed for the youth are not meeting that statutory 21-30 reporting requirement so Probation did some work to find out what the barriers were and what they could do to help. Most of the feedback was pay but there was also feedback regarding no shows of appointment (provider does not get paid) and if youth is in detention it is hard to get a provider to go there because no payment for travel. Probation got approval for both pay for no shows and pay for transportation to appointments for providers.

Telehealth can also be an issue depending on what Medicaid will pay for: Probation is looking at this as well to see what they can do to help.

Judge Stevens commented on the detention issue, especially the youth held on murder and accessory to murder charges and are now on probation. How to help them, the community issues, because we are not set up for this – she wondered if we are able to provide the youth what they need. Judge Harmon asked if the youth charged with murder/accessory to murder (13-year-olds) are receiving the same evaluation as adults charged with the same crime. He stated he can’t even get a parent to come into court to sit with a youth at the prelim. What are going to do with the parent that doesn’t show up for their child? Both judges stated these concerns were not made to be critical but truly asking for guidance.

Per Deb Minardi, JJSEN is looking at these issues and indicated that probation is having the same issues of parents not showing up for their children as well. Deb stated we have national experts currently helping us look at these issues (balancing brain development and the fact they committed murder at 13 years old).

There was discussion regarding the issue that in the provider system they have so much work they can kick a child with behaviors out and take an easier one. Deb stated that they were looking at that issue too.

Judge Roland asked if the detention centers in Douglas and Lancaster counties have beds for youth who live in those counties per contract. He has heard/experienced a youth be turned down due to contract. Deb responded the detention centers all operate differently and that she didn’t know. Jeanne did state that probation does have a contract with the detention centers but that their contract does not have any county restrictions in it.

We do have an issue because we only have four (4) institutions for the whole state for youth to be placed. Judge Roland indicated that Scottsbluff is looking at turning part of jail back into a detention center, they (Scottsbluff) have spoken to some surrounding counties to chip in money for this so they would all have space.

Misty stated that the tribes have this issue as well, she said their youth are going to Iowa for detention because same issue; Judge Runge agreed it was more of a challenge due to BIA guidelines and providers logistics. Tana Fye shared that one of her youth clients couldn’t leave the detention center to attend a hearing because if they did they would lose their bed.

**Case Progression Subcommittee:**

Hon. Matthew Kahler stated that case progression reports go out monthly to provide each judge with a snapshot of his/her juvenile caseload. These reports provide judges the opportunity to see how their docket stands in comparison to the case progress guidelines. The reports are to be used as a tool and judges do not see each other’s’ reports. Some judges use the report as a barometer. For example, the report might show a neglect case where there has not been a review for over 6 months, the judge can look at the report and then set a review hearing if needed. Reports are supposed to be helpful and serve as a refresher of goals.

Currently looking at detention data because all judges handle things differently. Discussion that youth should have revocation hearing within 14 days of being detained. Often juveniles are sitting in detention waiting for a motion to revoke to be resolved, when in reality very few motions to revoke proceed to a formal trial.

Work is being done to develop a permanency report, which will remind Judges of timelines and outline how quickly permanency is achieved in each case. Report will show when an exception is not found, termination filed, and when the hearing on the motion to terminate is held. Independence hearings will also be included in the report. Douglas County utilizes a form which outlines what documents DHHS has provided the child. For example, license, medical records, and other information needed to move forward after aging out. There will be continued training for Judges to ensure they are aware of guidelines and statutes involving case progression.

**State Tribal Relations Subcommittee:**

Hon. Patrick Runge provided an update on the ICWA education modules that are in development. The Nebraska Indian Child Welfare Coalition is currently putting together the education, with the hope that content will be ready by January 2023. The subcommittee was involved in the November 2022 CIP Tribal Court webinar, with a focus towards increasing the number of attorneys admitted to practice in tribal court. There is continued work to enable Bridge to Independence hearings for tribal wards to take place in tribal court.

Hon. Runge discussed a Minnesota court that has an ICWA specific GAL program. Attorneys in that program are well versed in ICWA and their appointment on cases significantly increases ICWA compliance. The Minnesota model might make sense in Nebraska courts. Hon. Runge noted work with trial services to update a bench book, outlining jurisdiction of tribes, federal court, and state court.

**Equity Subcommittee:**

Judge Martinez reported that the subcommittee had not met for a while, and that they are struggling on what their focus should be - what has priority. The members of the subcommittee would like guidance from the commission - so this is more of a request not an update.

Judge Riedmann expressed that maybe the presentation today by Josh Shirk gave some guidance on which way to go with the committee. Judge Stevens offered that maybe we should look with a racial lens at youth who have been charged with like crimes. The question was asked if a JDAI group could connect with us or possibly give us a report. Jeanne summarized what JDAI was for the new commission members.

Hall county was mentioned as a new JDAI site and they were questions regarding why Hall County was seeing an uptick in numbers. Possible reasons posited were the increase in gangs and the changing demographics in the community.

Commissioner Blomstedt thought that we should ask ourselves “what do we mean by equity?” He shared that he has been told he shouldn’t be talking about race in education, which he felt was absurd. He also shared that Sen. Murman pressed hard on that issue. We need to dive into some real conversations about this with regards to youth and education and race.

Judge Stevens asked to what degree does poverty influence the data on race and system involved youth? Deb M. pointed everyone to page 46 in Voices for Children’s publication Kids Count (the presentation by Josh Shirk).

Liz Healy stated that poverty and race are intertwined, and we shouldn’t have disparity based on income.

Andrea Evans shared that education is based on white people in our school system. If you don’t believe you matter in a school system, then you will act out. If you feel like your systems are not for you, what do you do? She also stated, “I’m the only sister in here and that speaks volumes.” Race does play a big role in how things are taking place in Nebraska. Commissioner Blomstedt said he has kids telling him the exact same thing.

Monica Gross indicated that FCRO’s next report will have a special section; age, gender, race and ethnicity and will also have information regarding things like length of stays greater for youth of color, # of caseworks greater, etc...

**Access to Services Subcommittee:**

Judge Roland shared four (4) scenarios with the members of the commission.

He stated that this is what, as judges, we are facing on a daily basis. It has to stop. Deb M. and Judge Roland shared that they have completed a very good first step – a zoom call with other parties.

Issues pointed out: the statute says probation will provide detention or an alternative; it is not an HHS issue, out west the GPS contractor just walked away from the contract (so no putting youth at home with GPS monitoring).

Judge Roland stated that it is not just a western Nebraska problem it is the entire state. We must do something, or more kids will die. Not here to cast blame, it doesn’t get more serious than this. We do not have services to give kids or given them want they need.

Judge Heideman asked if there wasn’t a LR on this issue? The study will be sent to members of the commission.

Deb M. shared that she has reached out to HHS, this is on the front burner. However, we have been put on hold on several things due to the struggling HHS is having with Medicaid and/or providers. Deb M. stated that Probation has found their around many barriers (increased the pay for providers, pay for no shows, pay for transportation) but that they can’t make providers come to Nebraska. Dr. Newring indicated that sometimes for a provider it as simple as the economies of scale – private pay client of $500/per vs probation rate. But he also said that we (in Nebraska) don’t have the bodies (providers) anyway.

Juliet Summers stated again that there is a surplus ($) this year and we need to make a case for this (need for providers/mental health facility/beds) in the legislature.

Tana Fye posed that maybe changes in license requirements could be looked at; we need to talk to college systems about accepting more people in these programs. We have so narrowed the funnel that people can’t get into the programs while earning a living for their family.

**Education Subcommittee:**

Commissioner Blomstedt reported that the subcommittee is in conversations with the Rethinking Status Youth Workgroup regarding what do we need to help system involved youth in education. The subcommittee would like to get more information regarding services available for youth in the different areas of the state.

And the subcommittee would like more information of who is responsible for youth when they move around in the education system (home school vs new school due to out of home care). This causes delays in the youth education.

**Department of Education:**

Ladonna Jones Dunlap reported on her work regarding system involved youth. She stated they are looking at that superintendent letter in order to give better information on who that youth belongs too (becomes a money issue for schools). They are trying to find ways to address the residency issue and the best interest issue for the youth involved in systems.

She has met with rural 18 and special purpose schools and found out that sometimes even they didn’t understand how the young person came into their classroom, so professional day of training on juvenile justice process was planned. Judge Daniels and Dr. Studstill from HHS participated in the training. Dr. White trained the participants on adolescent brain zero on up.

Ladonna is also doing work regarding reentry when a youth transition from Kearney back to Douglas County. She is working with probation reentry, YRTC staff and Omaha Public Schools. Lincoln Public schools are also interested in help with this process.

There is also work being done with security specialists in Omaha Public Schools, Ladonna is working with that person on how to address the uptick in violence. They are looking at those kids coming out to YRTCs and detention – trying not to label the youth so they are not targeting them but also keeping the community (at school) safe.

Commission Blomstedt highlighted the Safe to Help telephone number and the benefits to community safety (article in Omaha World Herald regarding student and gun) He shared that this is being paid for with Esser funds and when they are gone will need to find different funding source.

Tana Fye brought up the issue of Education Surrogate and the problems she has seen. She is interested in helping with this - forms/training. Judge Stevens shared that in her court order she orders that the parent still gets all notices and invites to meetings and notes.

**Title IV-E Funding Subcommittee:**

Kathy Olson provided an update on the subcommittee’s three focus areas. First, education for Judges is moving forward. An interagency agreement between DHHS and AOCP has been drafted and is being reviewed by both agencies. Second, the pre-petition civil legal representation demonstration project in Lancaster County was a success. Legal Aid of Nebraska received block grant dollars to fund the project. Seventeen families used the pre-petition services, with legal issues involving guardianship, bankruptcy, and housing. All cases resulted in no filings in juvenile court. States with a state-wide legal system have been successful in utilizing Title IV-E funding for parent and child representation in open child welfare cases. States like Nebraska, with a county based legal system, have had more challenges. The subcommittee continues to discuss if or how Nebraska could explore this funding opportunity.

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**Other:**

Hon. Tom Harmon inquired about the archived status of the Subcommittee on Guardianship. Previously, the subcommittee drafted guidelines on education, but those were placed on hold as the Supreme Court felt it was more important for those to be statutory changes rather than court rules. The subcommittee is now at a standstill, as the project is complete. There is some concern about the education being provided by the Office of the Public Guardian. Many appointed guardians don’t seem to understand their responsibilities and there is a need for more specific knowledge and information.