

Juvenile Policy Board
Minutes
(Unofficial Until Approved)
September 23, 2016

Members Present

Justice Lisa Fair McEvers
Judge John Grinsteiner
Judge Daniel Narum
Judge Steven McCullough via phone
Scott Hopwood, Unit 4 Juvenile Court Director via phone
Brad Saville, Juvenile Court Officers Association via phone

Members Absent

Judge David Reich
Wayne Goter, Unit 3 Judicial Referee

Staff Present

Scott Johnson, Unit 1 Trial Court Administrator
Cathy Ferderer, Office of the State Court Administrator
Lana Zimmerman, scribe

Guests

Karen Kringlie, Unit 2 Juvenile Court Director
Shawn Peterson, Unit 1 Juvenile Court Director
Heather Traynor, Court Improvement Project (CIP) Research Analyst

Justice McEvers welcomed the members of the Board and introduced Cathy Ferderer who is the new staff member for the Juvenile Policy Board. She asked if there were any additions or corrections to the June 3, 2016, meeting minutes. Hearing none, **Judge Grinsteiner moved to approve the June 3, 2016, meeting minutes. The motion was seconded by Judge Narum, motion carried.**

Council of State Governments Technical Assistance Visit

Scott Johnson updated the Board on the visits with the Council of State Governments. The first initial visit with stakeholders from all branches of government was March 30-31, 2016. A summary of 12 recommendations for improvement with juvenile justice issues was provided. A second technical assistance visit was conducted August 22-23, 2016, facilitated by the Council of State Governments focusing on the YASI and MAYSI risk needs tools. A definition for recidivism was discussed and using the Juvenile Court Management System to develop reporting on recidivism.

The last technical assistance visit is October 19, 2016, facilitated by Lisa Jahner and the Governors Action Group (SAG) on Juvenile Justice to focus on cross over youth.

YASI and MAYSI screening tools - Scott Hopwood reported the Council of State Governments recommendation is to complete the YASI and MAYSI screening tools at the informal adjustment stage. The YASI specialist in each unit will plan and implement the screening tools at the informal adjustment stage.

In response to a question on enhancing education regarding the screening tools, Scott Hopwood explained that, before implementing at a formal stage, education should be provided to the judges, referees, state's attorneys, and defense counsel.

Currently, the pre-screen is completed within the first 30 days and whether the youth scores in the moderate or high risk level determines whether the full assessment is completed. At the informal adjustment stage, the pre-screen and the time frames for completing the full screen assessment will need to be adjusted.

Karen Kringlie added that a trauma screening tool and history checklist was also recommended. A protocol will be completed with all youth who are on caseloads.

Dispositional Matrix Grid - Cory Pedersen reported the dispositional matrix grid is a structured decision-making guideline when recommendations or decisions are made regarding youth in trouble. It also helps in disproportionate minority contact involving the Native American populations and will help target the high and violent offenders.

Community stakeholders will need to have an impact on local schools and law enforcement response. The goal is to match youth with the most appropriate timely responses. Recommendations will be discussed with the Education Commission to educate the judges and referees on the screening tools for juvenile court.

Judge McCullough asked if these are guidelines for dispositions and asked if the intent is the recommendation or is it set up like the criminal sentencing guidelines? Is the design for the probation officers, not the courts or the judicial officers?

Justice McEvers explained the recommendation will go to the judge for disposition, but will not be dispositional guidelines for the court. The discretion is left with the judicial officers based on the recommendations made on what is appropriate for the youth.

Existed Graduated Sanctions Matrix - Shawn Peterson reported on reviewing the practices involving violations of probation and the use of the existing graduated sanctions matrix. This was developed for different common violations and range from minor, moderate or serious, depending on the probationer's risk level. Different options can be explored before going back to court.

The Juvenile Court Director's reviewed the CMS system and its capability to track probation violations. At the October meeting, the Board will further discuss implementation of the new option in CMS to track probation violations.

Legislative Reform – Karen Kringlie reported on the low level offenses that are being referred in young children. In other states, low level of offenses are handled by county social services or mental health providers. North Dakota is among the lowest of ages of criminal responsibility. In North Dakota, once the age of seven is reached, offending youth have committed a delinquent act. Other states have a higher age for criminal responsibility and don't have specific statutes regarding competency. The Board discussed raising the age of criminal responsibility to the age of nine or ten to be in line with other states.

The Juvenile Policy Board discussed whether it should pursue legislation, or whether seeking another entity such as the state's attorney or indigent defense is more appropriate?

Judge Grinsteiner is not opposed to raising the age of criminal responsibility, but has a very high level of trust in the juvenile court officers in North Dakota. It is their responsibility to make sure the youth is in the right services that will ultimately benefit the youth and family. If criminal responsibility is raised to the age of 10, law enforcement and principal's options are limited. The juvenile court officers are the experts at knowing what services are available in the community and can divert to the appropriate programs for youth and families.

Justice McEvers asked if there are studies regarding the juveniles who have initial contact with law enforcement versus initial contact with someone from social services? It may be more traumatic for a child to be taken into custody by law enforcement.

Karen Kringlie explained that it increases the risk when a juvenile is taken into custody. YASI indicates the first age of an offense is a weighted risk factor if the child is detained. If the child is six years old, the juvenile court does not have jurisdiction. At the age of seven, a referral is written, a record is created and is diverted or closed with no action.

Justice McEvers explained there is a significant amount of work for the juvenile court to deal with the additional youth. There is rationale for keeping children out of the system when it actually could be harmful to have contact with the courts at an early age.

Judge Narum agreed that if a potentially harmful situation is created with roughly 270 youth, consideration to further review studies would be important.

Justice McEvers prefers to base the age on studies that explain when it is appropriate for youth to be in the juvenile court.

Cathy Ferderer will put together a list of studies for the Board prior to the next meeting.

Increasing the Availability of Community Based Mental Health and Substance Abuse Services -
Cory Pedersen attended the SAG interim committee meetings for behavioral health. SAG finds the North Dakota system very reliant on residential placements per capita for youth. Many youth suffering behavioral and mental health are placed in residential centers, rather than being treated in their home communities. Per capita, residential placements are used regularly.

Proposed Concurrent Resolution: Justice McEvers explained that a concurrent resolution directing the Legislative Management to study the current juvenile justice process, levels of collaboration among various service systems, implementation of dispositional alternatives, and methods for improving outcomes for juveniles involved in the process was written by Jim Ganje at the request of Chief Justice VandeWalle. A meeting was held with Chief Justice VandeWalle, Justice McEvers, Sally Holewa, Scott Johnson, Lee Ann Bertsch, Director of Corrections and Lisa Bjergaard, Director Division of Juvenile Services. The meeting was at the request of the Department of Corrections, who proposed the possibility of having juvenile services join the Department of Corrections. The basis of the resolution is to study where juvenile services should be located and how juvenile services will be funded. This could significantly impact current juvenile court services.

Juvenile Directors Report – Shawn Peterson reported that during the CSG visit in August, the focus was recidivism. It was recommended to create a definition of recidivism. Youth who have been under formal and informal probation supervision for a delinquent offense and/or if they admit to or are adjudicated or convicted of a new offense within three years of supervision or closure would be considered recidivism.

The program effectiveness and probation violations are also being measured. The next step will be working with I.T. and CMS to determine what type of data can be collected from the system.

Judge Grinsteiner asked how the three years was determined? Shawn Peterson explained that three years was widely used among other states. Nationally, the length of effect of the supervision and programming is considered.

A motion was made by Judge Narum to adopt the definition of recidivism, seconded by Judge McCullough, motion carried.

Karen Kringlie reported two teams from Fargo and Bismarck will be traveling to Georgetown October 24-28, 2016 for the racial and ethnic disparity certification program. The team will be studying disproportion of minority contact in each of their communities and developing new strategies to address those issues. The duration of the project is one year with deadlines in November and December to have the project submitted and accepted.

Private Guardianships and Form Draft Status

Scott Hopwood has updated the form as suggested from the last Board meeting. Also added to the form was child and/or Board throughout the document. Any suggested changes will be referred to the Guardianship workgroup for approval and implemented in Odyssey.

Cathy Ferderer will forward the form to Judge Feland, Chair of the Guardianship Workgroup. If there are any questions, she will visit with Judge Grinsteiner.

Court Improvement Update

Heather Traynor attended the BIA/ICWA final rule training and handed out reference guides that were obtained at the training, which touch on the key summary provisions of the new rule.

Along with providing notice to the parents, notice is also to be provided to the regional director via certified or registered mail to the BIA regional office.

Cory Pedersen inquired about an email box to supply notices. The BIA regional office declined and asked for notice to be certified or registered mail. Heather Traynor explained the regional office would like more involvement and creating a database to track compliance when the notifications are received.

New guidelines will be distributed with the rules which roll out December 12, 2016. Heather Traynor and the ICWA staff are working on training for judges, referees and juvenile court. This will be a one-hour webinar training focusing on the rules and how to implement them in the courtroom.

Judge Grinsteiner explained it would be helpful to conduct a course during Judicial Conference as most of the judges will be in attendance.

Court Improvement is funded through the Families First Act. Notification was sent out this week that if the funding doesn't pass, there will be a continuing resolution for Court Improvement, but it will only cover Basic Grant. This will be a \$20 million dollar cut nationwide to the Court Improvement programs, which would be through fiscal year 2017.

Meeting adjourned at 1:45pm.

