10-1977

Review of Applied Urban Research 1977, Vol. 5, No. 10

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CHILDREN IN THE NEBRASKA COURTS

BY

GENEVIEVE BURCH

Introduction

When a legal case involves a child, particular concerns arise for his treatment before, during and after the court appearance. In some instances a child is not represented by an attorney other than that of other family members. Often the case revolves around a question of custody, and whenever the court decision results in changes of family circumstances the consequences may be greatest for the child. Any delay in recognizing an error in a custody decision or in establishing permanent custody intensifies the psychological stress and may even endanger his physical well being.

This study has addressed two questions. First, what children are currently under court jurisdiction and what problems do they encounter? Second, what improvements in the delivery of service to children by the courts have been recommended by lawyers, judges, social workers and other authorities at national and local levels?

The Problems

Three interrelated problems are under consideration: 1) the number of children under foster care in Nebraska and Douglas County, 2) differences between treatment of children in juvenile and in district or conciliation courts, and 3) involvement of children in Douglas County divorce cases.

Children Under Foster Care in Nebraska. Foster care is a temporary resolution to cases in which permanent legal custody of children has not been established. Foster children may be placed with families or in institutions while awaiting court decisions which would return them to the custody of one or both parents or allow them to be placed for adoption.

No central records exist in the State of Nebraska or in Douglas County for children who go through all courts. In late 1975 the Nebraska Department of Welfare surveyed all units of the State that deal with children under foster care situations. The report identified more than 2,600 children under foster care from records of local and regional departments of welfare, courts, probation offices and private child care agencies. These children were estimated to represent approximately 75 percent of children under 18 who are under the care of someone other than their natural or adoptive parents.

Table 1 shows the placement of 2,403 Nebraska foster children. One in three of these placements resulted from court decisions that the child was dependent or neglected. In such cases the child was not permanently removed from the legal custody of his parents but neither was he allowed to live with them. In 477 more serious cases the child was removed from the parents' custody. Another 412 children were placed under foster care because of their delinquent behavior.

Douglas County Juvenile Court did not respond to the Department of Welfare survey. In August, 1977, the Douglas County Juvenile Court reported the following children under its jurisdiction: 281 neglected/dependent children, 58 placed under guardianship, 192 on probation and 100 to 150 awaiting a court decision. These data appear in parentheses in Table 1.

At least 542 Nebraska children under foster care in 1975 had been so for more than two years with no plans made for establishing their permanent custody (Table 2). More than half the foster children included in the Welfare Department survey had no definite plans for court review of their status.

In some cases, foster placement is made without any court appearance. As of November 30, 1976, 41 foster children under the supervision of Douglas County Social Services had been placed on an emergency basis with no hearing to determine the matter of their custody and future plans. Because there were no hearings, there was frequently little or no evidence of neglect or abuse by their parents which would have enabled them to obtain a hearing in the juvenile court.

Differences Between Juvenile and District or Conciliation Courts' Treatment of Children. Children who appear in Nebraska courts as a result of their own condition or behavior are treated much differently from children whose court appearance results only from other family problems. When the child is the principal, his case is seen in the juvenile courts in the three Nebraska counties which have them.


3 Douglas, Lancaster and Sarpy Counties have separate juvenile courts.

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There are several approaches which can be taken to change the way the courts deal with these two groups. Both broad and narrow approaches have received approval of grassroots authorities--a legal change in the system and an administrative change in the system. These include self-help and other means suggested by Douglas County professional who were polled by the Mayor's Commission on the Status of Women, and one form of Change. One way in which problems of children going through the courts could be handled more efficiently is to legislate it. A current favorite system is the concept of the family law court. A family law court would have jurisdiction over any problems of children related to either their own behavior or to that of their parents as it affected them. Generally, family law courts hear a wide variety of claims, including, delinquency, non-support, divorce, visitation, custody, contributing to the delinquency of a minor, paternity, and adoption.

In summary, the family court's place is clearly established. Institution of a family court would: 1) simplify court process--transfer of cases from one court to the other, duplication of paper work; 2) reduce court costs; 3) lead to consistency in handling all concerns regarding any case handled by the same judge; 4) improve coordination with social services since only one jurisdiction would be involved and one set of workers; 5) avoid duplication of social and other support services; 6) facilitate long term review because the records would be in one place.

The family court approach has been hailed as a beneficial system in many places.10 It has been supported by the American Bar Association, the National Council on Crime and Delinquency, the Federal Probation Association, the American Judicature Society and the National Legal Aid and Defender Association. However, the disadvantages of the family law courts include: the fact that it has not been widely used. When such courts have been instituted, they have not been as comprehensive as suggested above. Some courts have used it to make a temporary custody arrangement to children to the court system or by instituting more comprehensive review of cases. The lack of wide acceptance of the family law courts is due to a number of reasons. First, political difficulties remain inconsistent where the problems the court should have jurisdiction over and organizational problems (how the change should occur, who should be involved, and what is the cost) have been left unresolved. William Gordon thinks that the time is right for the transition to a family court because the Law Enforcement Association of America and a coalition of groups for funds for change, has endorsed the idea of the family court. While local judiciaries may not have the funds necessary to make a change in the court organizations, with some outside funding it is more feasible.

A second way in which courts can change is administratively. In recent years, the courts have been criticized for being accessible, chaotic, archaic and ponderously slow.11 Some changes in the past, however, have dramatically improved court functioning by instituting more efficient mechanisms to handle the mandated tasks.

Priorities for Change in Douglas County. In early 1976, a group of Douglas County professionals formed the Commission on the Status of Women to form a sub-committee to deal with court reform. A task force on court reform was formed from a wide cross-section of voices in Douglas County. When they met, there was general agreement that some problems existed. There was less unanimity on the source and extent of the problems and how they should be addressed. The task force polled a group of concerned persons who work for children in the community. Their responses are shown in the first column of Table 2. These responses included people from a wide variety of interests.

26References of local court authorities polled by the task force on court reform of the Commission on the Status of Women.
More than 35,000 Omaha residents are black. Between 70 and 75 percent of them live in an area bounded by 16th and 42nd Streets from Cummg to Fort. Many of an estimated 318 minority business firms in Omaha are also located in this North Omaha community. The Center for Applied Urban Research, in an attempt to assist local community and business leaders in identifying needs of greatest priority of the North Omaha community, conducted a survey of 247 black North Omaha residents and 117 minority businessmen during July 1977. 1

Respondents were asked to identify the needs of the black community, the needs of the North Omaha business community and the types of stores or other businesses desired in North Omaha. Those interviewed were also asked to name the most influential North Omaha community leaders and to evaluate the quality of leadership.

Both residents and businessmen identified housing and jobs as the needs of greatest priority in the black community. Unity and a sense of togetherness, recreation and leadership were also cited as areas of need.

Minority businessmen, when indicating the greatest need of the North Omaha business community place top priority on the need for achieving a sense of unity or cooperation among businessmen. The need for capital and financial assistance is considered top priority by almost an equal number of minority businessmen.

Almost half the residents of the black community specify grocery stores as the type of store or business most needed in North Omaha. Other types of stores mentioned follow no definite pattern.

The importance of a sense of community is closely related to perceptions of community leadership. More than seven of every ten black residents and minority businessmen believe black leadership is not good. Nearly four of ten indicate that either there are no influential leaders or that they do not know who they are.

Both businessmen and residents name Senator Ernest Chambers most often as the most influential leader in their community. The black ministers of the area are considered next most influential by minority businessmen. Reverend James S. Allen of the Zion Baptist Church was next most frequently mentioned by black residents of the community. Both groups also name Charles Washington of the Omaha Star and WOWT as among the community leaders who are most influential. The questions asked and responses by both businessmen and community residents are presented in Table 1.

R. Todd

1 The survey was undertaken in cooperation with the Mid-City Business and Professional Association. The questionnaire was designed by Robert Henningsen and Margaret Hein. Interviewing was performed by Mr. Henningsen and Gene Hanlon, CAUR staff, and Velma Snell, Marilyn Devors and Norine Samuel, CETA summer assistants, under the direction of Mrs. Hein. Minority businessmen were selected from the UBDC Directory of Minority Businesses. A random sample of 306 North Omaha residents was selected from the Street Address Telephone Directory; the 247 blacks among this sample were interviewed.
survey respondents are presented in Table 3. Development of a family court approach to all cases involving children was the first priority for the greatest number of respondents. The priority ranked second by the greatest number of respondents also received the most total responses—the need to establish a regular review of cases of children brought to the courts' attention because of a family problem but who were not themselves adjudicated.

Summary

In 1975 more than 3,000 children were under foster care in Nebraska. Nearly half of these children had been under foster care for more than two years. In 1977 more than 500 children's cases were being handled by the Douglas County Juvenile Court and an unknown number of others by the County's Conciliation Court.

Cases of children in court because of their own condition or behavior are under the jurisdiction of the juvenile courts in Douglas, Lancaster and Sarpy Counties. Three differences exist between children placed in foster care by the juvenile court and children under the jurisdiction of the conciliation court as a result of their parents' condition or behavior. Children under juvenile court jurisdiction have been shown to retain the rights to legal representation and appeal, be placed more often in institutions and be provided more supportive services by the courts.

ANNOUNCEMENTS

The economic impact of the arts in Nebraska is the focus of a study of 206 Nebraska arts organizations and 33 fine arts departments of Nebraska colleges and universities. The study is sponsored by the Nebraska Arts Council and the UNCO College of Fine Arts.

The housing needs and desires of members of the Saudi Arabian National Guard and their families are the subjects of a study undertaken by the Center for Applied Urban Research and other personnel of the College of Public Affairs and Community Service in association with the Leo A. Daly Company and the U.S. Army Corps of Engineers. CAUR staff members are primarily responsible for conducting a survey of officers and enlisted of the Saudi Arabian National Guard and preparing a

1978 divorce records from Douglas County indicated that over half the more than 2,000 divorce cases during the year involved children and that nearly one-third of these families had serious problems either directly or indirectly involving the children. Nevertheless the District Court has assigned a staff person to assign to investigate current cases and review past placements of children in foster care.

Some of the needs of children in the courts might be met by legislation creating a family court with jurisdiction over any problems involving children. The family court would avoid duplication and the resultant costs, improve consistency in treatment of juvenile cases, improve social services provided and facilitate review of long-term foster care placements.

Administrative changes that could be instituted without legislation might accomplish many of the same ends as legislative reform. A judicial planning unit specifically charged with coordination between the courts and regular review of probation and foster care cases has been advocated to meet many of the same needs of children in the courts because of either their own or other family members' actions.

Court reforms of highest priority for Douglas County professionals polled by the court reform task force of the Omaha Mayor's Commission on the Status of Women were 1) to establish a family court approach to cases involving children and 2) to establish a system of regular review of cases of children involved in but not adjudicated by the courts.

REVIEW OF APPLIED URBAN RESEARCH

Vol. 5

October 1977

No. 6

Published monthly by the Center for Applied Urban Research as a public service and mailed free upon request in Nebraska. Annual subscription rate outside Nebraska $3.60. The views and opinions expressed in the Review are those of the individual authors and do not necessarily represent those of the University of Nebraska at Omaha. Material in this report may be reproduced with proper credit.

UNIVERSITY OF NEBRASKA AT OMAHA

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COLLEGE OF PUBLIC AFFAIRS AND COMMUNITY SERVICE

Evelyn R. West, Director

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Address of Fins Arts. Data obtained by survey will be used to determine the extent to which Nebraska arts organizations contribute to the State economy.

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