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Diversion in Nebraska: FY 2012/2013

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DIVERSION IN NEBRASKA

FY 2012/2013 ANNUAL REPORT TO THE GOVERNOR & NEBRASKA LEGISLATURE



The Nebraska Commission on Law Enforcement and Criminal Justice

Dave Heineman, Governor

Darrell Fisher, Executive Director

January 2014

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Nebraska Commission on Law Enforcement and Criminal Justice

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JUVENILE DIVERSION IN NEBRASKA

Among the many initiatives created with the passage of LB 561, the position of the Juvenile Diversion Program Administrator was established within the Nebraska Crime Commission. The Diversion Administrator is tasked with assisting in creating and maintaining juvenile pretrial diversion programs to divert juveniles away from the judicial system and into community-based services. That process includes creating a statewide steering committee to assist in regular strategic planning related to supporting, funding, monitoring, and evaluating the effectiveness of plans and programs receiving funds from the Community-Based Juvenile Services Aid Program, as well as provide best practice recommendation guidelines and procedures used to develop or expand local juvenile diversion programs.

The statewide steering committee has been created as a subcommittee to the Nebraska Coalition on Juvenile Justice. Members of the subcommittee are Dr. Anne Hobbs, Amanda Speichert, Bob Denton, Denise Kracl, Elaine Menzel, Julie Beyer, Kim Culp, Monica Miles-Steffens, Kelli Schadwinkel, Vanessa Sherman, Vicky Thompson, and Wilma Arp. These members represent County Attorney, Juvenile Attorney, Diversion Directors, Probation, Juvenile Detention Alternatives Initiative, Juvenile Justice Institute, and the Nebraska Association of County Officials. The subcommittee began meeting in October, 2013 to identify priorities and make recommendations on actions moving forward. So far, the subcommittee has requested more training opportunities. A Youth Level of Service Assessment (YLS) training took place on October 25, 2013. A WhyTry training is schedule for March 17-20, 2014.

The subcommittee's preliminary recommendations on priorities moving forward include establishing baseline program guidelines and a best practices guide for juvenile diversion programs, evaluate the effectiveness of programs receiving Community-Based Juvenile Services Aid, examine data collection practices and provide enhancements to the Juvenile Diversion Case Management System (JDCMS), organize trainings, conferences, and open communication for diversion directors across the State, and expanding equal access to diversion across the state.

As of the 2013 Legislative Session, 52 of the 93 counties in Nebraska reported having a juvenile diversion program.¹ In October, 2013, the Diversion Administrator

¹ Adams, Arthur, Boone, Buffalo, Burt, Butler, Cass, Chase, Cheyenne, Clay, Colfax, Cuming, Dakota, Deuel, Dodge, Douglas, Dundy, Fillmore, Furnas, Gage, Garden, Garfield, Hall, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Keith, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Platte, Polk, Red Willow, Sarpy, Saunders, Scotts Bluff, Seward, Sherman, Washington, Wayne, and York.

called all 93 counties to inquire as to whether they had a juvenile diversion program, and to remind them of their statutory obligation to report their diversion data through JDCMS, pursuant to Neb. Rev. Stat. § 43-260.07. A request was made to the counties to have the fiscal year of July 1, 2012-June 30, 2013 completed by November 10, 2013. Out of the initial 52 counties reportedly having a juvenile diversion program, 25 were meeting the statutory requirement of reporting their juvenile diversion data through JDCMS. Of those 27 programs not reporting their data into JDCMS, two reported that they did not have a juvenile diversion program² and two reported they had no data to report.³ Seven additional counties indicated that they did in fact have a juvenile diversion program⁴ and four were in the process of developing a program.⁵ Since the initial contact in October 2013, 43 of the 57 currently functioning programs have entered the required juvenile diversion data into JDCMS to date.⁶

JUVENILE DIVERSION DATA

From July 1, 2012 to June 30, 2013, a total of 4,062 individuals (4,962 law violations) were referred to a formal juvenile diversion program in Nebraska. Roughly 66% of all juveniles referred to diversion were referred to a program in one of the three larger metropolitan areas of the state: 29.8% of youth were referred to diversion in Douglas County; 19.9% in Lancaster County and 16.3% in Sarpy County (Table 1). The remaining 34% of youth were referred to diversion in a county outside the three largest metro areas.

Table 1: Referrals to Juvenile Diversion

| | Frequency | Percent |
|-----------|-----------|---------|
| Lancaster | 807 | 19.9 |
| Douglas | 1212 | 29.8 |
| Sarpy | 662 | 16.3 |
| Other | 1381 | 34.0 |
| Total | 4062 | 100.0 |

² Nuckolls, Washington

³ Arthur, Garfield

⁴ Antelope, Box Butte, Frontier, Kimball, Logan, Saline, and Webster.

⁵ Kearney, Pierce, Stanton, and Richardson.

⁶ Missing data from Antelope, Boone, Burt, Cass, Frontier, Garden, Harlan, Lincoln, Logan, Nemaha, Pawnee, Perkins, Saline, and Wayne.

Hall County accounted for 7.7% of the referrals to diversion (313 youth), while Buffalo County accounted for almost 4% of referrals statewide (157 youth). Platte County accounted for roughly 3.1% (125 youth), while Madison County accounted for 3.0% (119 youth referred to diversion). All other counties referred less than 100 youth to diversion during FY2013. A list of referrals by county can be found in the Appendix.

The average age of youth referred to diversion ranged from 7 to 21 years of age. Some programs allow youth over 17 to complete diversion, but these 255 cases were excluded when we examined juvenile diversion cases only. A total of 3,901 cases were referred for youth ages 7 to 17, with a mean age of 15.1 years of age. Eighteen year olds comprised the majority of the referrals for youth over 17 (162 youth were 18; 61 were 19; 30 individuals were 20 and only 2 individuals were 21 when referred).

Of the 4,062 total cases, 60% of the referrals were for white youth; 16% were Black or African American; 16% were Hispanic; 4% race was unspecified; 1.2% of were American Indian, while 1.5% were of another race/ ethnicity. The largest number of youth with race unspecified came from Lancaster County Diversion (n= 159). Counties with the highest levels of diversity reported more diversity in referrals to diversion. For example, 36% of the cases referred to diversion in Douglas County involved African American / Black youth while statewide only 16% of the referrals involve Black youth. Statewide, roughly 16% of referrals involve Hispanic youth, but comprise 38% of referrals in Hall County and 23% of referrals in Platte County. These statistics indicate that youth are proportionately referred to diversion in the more diverse counties, but additional analysis would need to be done to verify that is statistically proportionate.

Law Violations

More than 110 different law violations were referred to diversion, with an incredible range of type and severity ranging from truancy to more serious law violations. The most common legal violation referred to juvenile diversion involved traffic offenses (603 cases), followed by minor in possession (565 cases) and shoplifting (557 cases referred).

Success Rates

Many youth do not succeed because they do not enroll in diversion or are not offered the opportunity. Juvenile Diversion is not available in 57 of Nebraska's 93 Counties. In the 38 counties that reported data using the statewide case management system

(JDCMS), 9.7% of youth and families declined the opportunity to complete diversion. The percent that decline diversion ranges from 1.3% to 54% of the youth referred electing to go to court instead of diversion. Additional research should be conducted to determine why these individuals chose to go to court rather than diversion.

Of the youth who failed to enroll statewide, 4.7% received a new law violation and were not eligible; 3.4% the diversion program declined the youth and in 3.9% of the cases the prosecutor pulled the case back into court (reasons unknown).

Of the youth who enroll in diversion statewide, 79.7% were successfully diverted from court; 14.3% fail to complete the requirements while 6% commit a new law violation and have their case returned to the prosecutor. The success rates vary from 67% to 100% across the counties.

Appendix: Referrals to Juvenile Diversion by County

July 1, 2012- June 30, 2012

| | Frequency | Percent |
|-----------|-----------|---------|
| Adams | 75 | 1.8 |
| Box Butte | 7 | 0.2 |
| Buffalo | 157 | 3.9 |
| Butler | 22 | 0.5 |
| Chase | 3 | 0.1 |
| Cheyenne | 10 | 0.2 |
| Clay | 2 | 0 |
| Colfax | 45 | 1.1 |
| Cuming | 15 | 0.4 |
| Dakota | 24 | 0.6 |
| Deuel | 9 | 0.2 |
| Dodge | 28 | 0.7 |
| Douglas | 1212 | 29.8 |
| Dundy | 3 | 0.1 |
| Fillmore | 8 | 0.2 |
| Furnas | 10 | 0.2 |
| Gage | 21 | 0.5 |
| Hall | 313 | 7.7 |
| Hitchcock | 8 | 0.2 |
| Jefferson | 4 | 0.1 |
| Johnson | 1 | 0 |

| | Frequency | Percent |
|--------------|-----------|---------|
| Keith | 25 | 0.6 |
| Kimball | 2 | 0 |
| Lancaster | 807 | 19.9 |
| Madison | 119 | 2.9 |
| Merrick | 22 | 0.5 |
| Nance | 3 | 0.1 |
| Otoe | 63 | 1.6 |
| Phelps | 16 | 0.4 |
| Platte | 125 | 3.1 |
| Polk | 1 | 0 |
| Red Willow | 29 | 0.7 |
| Sarpy | 662 | 16.3 |
| Saunders | 74 | 1.8 |
| Scotts Bluff | 63 | 1.6 |
| Seward | 35 | 0.9 |
| Sherman | 12 | 0.3 |
| Washington | 18 | 0.4 |
| Webster | 1 | 0 |
| York | 8 | 0.2 |
| Total | 4062 | 100 |