



Administrative Memorandum

Administrative Memorandum 06-10
October 2006

Nebraska Supreme Court
Administrative Office of the Courts & Probation
P. O. Box 98910
Lincoln, NE 68509
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Michael G. Heavican, Chief Justice
Janice K. Walker, State Court Administrator
Ellen Fabian Brokofsky, State Probation Administrator

Administrative Memoranda available at www.nebrascacourt.com under "Court Administrator's Office" on the main page, left-hand menu.

SPECIAL PROJECTS AND EVENTS

Supreme Court Leadership Meeting 2006

Chief Justice Mike Heavican welcomed twelve judges and several administrative court and probation staff to the 2006 Supreme Court Leadership Meeting, held Friday, October 13, at Wilderness Ridge Conference Center, in Lincoln. Trial judges participating included Larry Gendler, Sandra Dougherty, Jim Livingston, Marcena Hendrix, Jean Lovell, Pat Lamberty, Mac Martin, and Pat McDermott. Supreme Court Justices John Gerrard and Kenneth Stephan; Court of Appeals Chief Judge Everett Inbody; and Workers' Comp Presiding Judge Michael High were in attendance and participated in the leadership activities.

In recognition of the prioritization efforts of this same Leadership group at the 2005 Supreme Court Leadership Meeting, Janice Walker, State Court Administrator, outlined the accomplishments resulting from those priorities, which included budgetary requests for increased court staff salaries, completion of the judicial workload assessment, new technology for courts, maintaining probation in the judicial branch, and addressing children's issues.

The morning agenda also included a presentation by Janice Walker and Ellen Brokofsky, State Probation Administrator, setting forth the key points in the 2007-09 Supreme Court budget and the current judicial and probation initiatives underway. Following a dialogue of the group on the 07-09 budget proposal, Janet Bancroft presented information in regard to the Legislative Judicial Communications programming for the 07-08 legislative session. Several judicial branch-sponsored events are scheduled to introduce and orient new legislators to the judicial branch and its governmental mandate and responsibilities. Judicial association legislative liaisons McDermott, Gendler, and Dougherty discussed, along with the rest of those present, activities and bills that might impact the administration of justice in the coming legislative session.

The afternoon agenda included a reporting out of several judicial branch activities, including the 2006 Nebraska judicial workload study, interpreters, information technology activities, minority justice, pro se litigants, children's commission, alternative dispute resolution, probation, workers' compensation court, problem-solving courts, guardian education, child support guidelines, legal research assistance, judicial independence (PEOPLE), and court security.

In order to provide those present an opportunity to think and talk together about major issues confronting the judicial branch in the next two to five years, all participants divided into three small groups in the early afternoon for about an hour to discuss two key questions: What trends and opportunities will the Nebraska Judicial Branch encounter in the next two to five years? What concerns or barriers will the Nebraska Judicial Branch encounter in that same time period?

Some of the responses are below.

TRENDS:

- increased numbers of pro se litigants
- greater need for interpreters
- greater need for problem-solving courts with a need for different skills for participating judges
- more alternatives to incarceration through the work of the Community Corrections Council
- a need to use technology to avoid travel for judges, litigants, court staff and interpreters
- increasing demand for mediation and restorative justice
- influence of the internet and technology on public's demand for quicker delivery, increase in types of services, uniformity of practices across county lines.

BARRIERS:

- many long-time court employees and judges will retire and we will lose their experience and institutional memory
- resources available to the courts will continue to be limited
- term limits in the legislature makes information sharing between branches a priority
- increasing need for safety and security measures in courthouses
- traditional interpretation of confrontation clause in face of technological advancements
- public perception of judiciary and court system continues to be negatively influenced by media, news or entertainment.

Final Juror Appreciation Ceremony Held in Omaha

On October 16, 2006, Douglas County Commissioner Kyle Hutchings and Omaha Mayor Mike Fahey signed the Supreme Court's final *Juror Appreciation Week* proclamation in Omaha. The ceremony marks the end of a year-long campaign across Nebraska to raise awareness of the need to increase juror participation, particularly from minority communities. The proclamation was presented to District Court Judge Sandra Dougherty and County Court Judge Jeffrey Marcuzzo who spoke during the event. The ceremony was hosted by Judge James Gleason. In addition to thanking jurors for their contribution to the justice system, Douglas County announced the implementation of the One-day/One-trial system for jurors serving in Douglas County.

Douglas County: One Day/One Trial System

Douglas County is the first county in Nebraska to implement the One-day/One-trial system for jurors in Nebraska although over 40% of the U.S. population lives in a jurisdiction with this type of program. Rather than requiring jurors to attend an orientation day and then staying on-call for a two-week period, citizens of Douglas County will now be summoned for either a Monday or a Wednesday. All individuals summoned are instructed to call the courts' recorded message telephone number on the night before their reporting date, and, if they are not required to appear, their service will be complete without ever having to come to the courthouse. Individuals who are required to appear will either be assigned to a trial by the end of that day or be excused from any further jury service. Those selected to be on a jury that day will only serve on one jury. When a single case has concluded, the jury service is over. Thus the name: "One-Day or One-Trial." Judges believe the One-day/One-trial will make the court system more efficient, will save money, and will be more user-friendly to the citizens of Douglas County.

Lincoln County Established Teen Court, Dawson County Adds Diversion Program

Community Connections of Lincoln County has established a teen court in the county courthouse using Judge Kent Turnbull's courtroom. The court, established by the Boys and Girls Club, accepts first-time; non-violent offenders aged 11-18 who have admitted their crime. Offenses include minor in possession, criminal mischief, shoplifting and tobacco violations. Each case is reviewed by the County Attorney before referral to Teen Court.

Dawson County has approved a juvenile diversion program in order to give students a change to correct their behavior without going to court. The program is supported by the county attorney and the Boys and Girls Home of Grand Island.

For information on Lincoln County program, contact Judge Kent Turnbull at 308-534-4350. For the Dawson County program, contact Judge Carlton Clark at 308-324-5606.

Guardian Ad Litem Training

Supreme Court sponsored GAL training is anticipated to be provided in February and March in all judicial districts. Specific information regarding scheduling and registration will be provided on the Supreme Court Web site and to all judges with juvenile jurisdiction as soon as it is available.

The Supreme Court's new rule states that beginning April 1, 2007, an attorney appointed by the courts as a guardian ad litem for a juvenile in a proceeding brought under Neb. Rev. Stat. § 43-247(3)(a) of the Nebraska Juvenile Code shall have completed six (6) hours of specialized training provided by the Administrative Office of the Court. Thereafter, in order to maintain eligibility to be appointed and to serve as a guardian ad litem, an attorney shall complete three (3) hours of specialized training per year as provided by the Administrative Office of the Court. Courts shall appoint attorneys trained under this rule in all § 43-247(3)(a) cases when available; provided, however, that if the judge determines that an attorney with the training required herein is unavailable within the county, he or she may appoint an attorney without such training.

Guardianship Education Classes

Guardianship Education Classes provided by UNL Extension are **\$15.00 per person**, not per case. This is to cover the cost of materials and expenses associated with the number of attendees at the classes. Your assistance in conveying this information to guardians and conservators is appreciated.

PEOPLE

JUSTICE Business Analyst Selected for Drug Court Working Group

Judy Anderson, a Business Analyst with the JUSTICE team, was selected by the National Center for State Courts to participate in a Drug Court Working Group (Bureau of Justice Assistance grant funded). She will be attending meetings in Denver, Colorado and Williamsburg, Virginia while working with this project. The group will be working on the following:

Review and finalize checklist drafts initially prepared by NCSC staff for:

- Use by courts in planning, developing, and assessing gaps in Drug Court management information systems, including security requirements; and,
- BJA to evaluate management information components in grant applications.

Review and finalize drafts initially prepared by NCSC staff and develop and two IEPDs (Information Exchange Package Documentation) for:

- Exchange of data between Drug Court information systems, treatment provider information systems, and general court case management systems; and,
- Exchange of program evaluation data with program performance monitors.

New Judicial Branch Education Director Hired

Lincoln lawyer Carol McMahon-Boies began her position as the Supreme Court's Director of Judicial Branch Education in October. McMahon-Boies has been involved in many levels of adult education and training over the last 20 years coupled with vast amount of trial court experience through her private practice. Although her primary occupation has been that of a civil litigation practitioner, her teaching experience began in 1985 and has included teaching courses in Business Law, Forensic Sciences and seminars in employment law. Following the judges' fall meeting November 1 - 2, Ms. McMahon-Boies will begin meeting with all education committees to plan training for 2007 and beyond.

Child Support Referee Hired

Susan Symonds has been hired as the Statewide Child Support Referee. Ms. Symonds was previously employed as the Supreme Court's contract child support referee. This position is now a permanent full-time position. Ms. Symonds brings over nine years experience as a child support referee in counties other than Lancaster and Douglas including Hall, Buffalo, Madison, Sarpy, Adams, Platte and Cass.

Research Attorney Hired

Nicole Miller has been hired as Research Attorney to replace Anne Landis. Ms. Miller grew up in Aurora, Nebraska, practiced law in Texas, and has recently returned to Nebraska. The Research Attorney performs legal research at the request and direction of district judges. She is located in the State Library on the third floor of the Capitol. She can be reached on-line or by phone at 402-471-3465 after November 6, 2006.

Judge Gendler to Lead Nebraska's Juvenile Court Reform Movement

The Nebraska Children's Summit concluded with a new initiative chaired by Sarpy County Separate Juvenile Court Judge Larry Gendler called "Through the Eyes of the Child." There are currently over 25 teams chosen to lead their jurisdictions in the implementation of the national 'best practices' resource guidelines for children involved in abuse/neglect juvenile court cases.

New Court Personnel

Carole McMahon-Boies, Director of Judicial Branch Education, effective October 2, 2006.

Nicole Miller, Research Attorney, effective November 6, 2006.

Susan Symonds, Statewide Child Support Referee, effective November 1, 2006.

Diana L. Wehrman, Clerk Magistrate, Nuckolls County, effective October 2, 2006.

New Probation Personnel

Andre Smith, Probation Officer, District #20, effective September 6, 2006.

Sally Hess, Probation Officer, District #4, effective September 14, 2006.

Brian Bencker, Senior Probation Officer, transferred from District #18 to District #4, effective October 2, 2006.

Forrest Roper, Jr., Senior Probation Officer, transferred from District #18 to District #4, effective October 9, 2006.

Steve Ortmeier, appointed Chief Deputy, District #16, effective 10-16-06.

PERSONNEL

Open Enrollment 2007: October 30 – November 20, 2006

If you haven't received your open enrollment packet by now, please contact your HR payroll person.

- Kathy Moore – kmoores@nsc.state.ne.us (court)
- Eileen Janssen – ejanssen@nsc.state.ne.us (court)
- Patricia Langer – planger@nsc.state.ne.us (probation)
- Thelma Smith – tsmith@nsc.state.ne.us (probation)

Due to the volume of judges and employees, and the significant changes in the health insurance, we request that everyone have their choices entered in the NIS Employee Self-Service System and print a confirmation statement by Wednesday, November 15, 2006. No exceptions, please.

TECHNOLOGY UPDATES

Sanctions Against Nebraska Attorneys on Web

The Nebraska Counsel for Discipline has added a major feature to their section on the Nebraska Judicial Branch Web Site – a page listing **public orders imposed against Nebraska lawyers** for conduct occurring in and after 1986. You may view the listing at: <http://court.nol.org/ethics/lawyers/DisciplinaryOrders/ATTYSanctions.htm> or go to the main web site, select “Professional Ethics” and “Ethics for Lawyers”.

Contact *Dennis Carlson*, Counsel for Discipline, 402-471-1040, dcarlson@nsc.state.ne.us

Three Sites for E-Filing

The E-filing subcommittee of the Supreme Court Technology Committee is pursuing a pilot project in Lancaster County District Court, as well as the County Courts in Hall and Sarpy Counties. E-filing will begin January 2007 in Lincoln and move to Papillion and Grand Island as installation schedules permit. Please feel free to update the lawyers in your area about the project. The subcommittee is also researching the use of credit cards for payment of traffic citations.

Contact *Bill Miller*, Deputy State Court Administrator, 402-471-3049, bmiller@nsc.state.ne.us

POLICY AND RULE CHANGES

Judgment Interest Rate

Effective October 19, 2006, the judgment interest rate will be 7.014%. <http://court.nol.org/community/interestrates.htm>

REVISION -- Sex Offender Registration Notice, Form 6:9 revised and mailed

By now, judges should have received the newly revised Sex Offender Registration Notice (Form 6:9). The new language added: for a conviction where the victim was a minor or a vulnerable adult. Please discard all previous versions and begin using the enclosed form immediately.

Contact *Kenneth A. Wade*, Associate Administrator, 402-471-2671, kwade@nsc.state.ne.us

Interim Rule for Electronic Filing and System Service (Pilot Project)

Adopted September 27, 2006, defines E-filing for purposes of the pilot project.

<http://court.nol.org/rules/amendments/ElectronicFiling.htm>

County Court General Rules, Rule 63 and Appendix 5

Adopted September 27, 2006, the Uniform Traffic Citation Rule is now available via the Web site. Samples of traffic citations, both paper and electronic are attached to the end of the rule.

<http://court.nol.org/rules/amendments/CC63.htm>

Contact Bill Miller, Deputy State Court Administrator, 402-471-3049, bmiller@nsc.state.ne.us

Rules can be found on the Judicial Branch Web site, www.nebraskacourt.com under "Supreme Court Rules."

PROBATION

Office of Probation Administration ~ Operations Divisions

The Operations Division of the Office of Probation Administration has placed Probation's Vision as the number one priority in developing its goals and objectives. The Vision states: "Be a nationally recognized leader in the field of justice committed to excellence and safe communities." This vision has assisted the Operations Division in developing the Strategic Plan for Information Technology and especially in the modification of the Nebraska Probation Management Information System (NPMIS) which is the Probation System's case management and data processing system. Considerable effort has been placed on designing requirements and programming of these modifications during the last three months. These modifications support numerous programmatic changes within the Probation System such as the Specialized Substance Abuse Supervision Program (SSAS), the Standardized Model, and the Fee for Service Program. All of these modifications are being completed in partnership with the Parole Administration, the Community Corrections Council, and the Nebraska Crime Commission. Phase One of these modifications will be brought into production on April 29, 2007.

The above identified project is not the only effort of the Operations Division. Associated projects will be discussed in the future. Emphasis is placed on this and other projects as being "committed to excellence" as we support the architecture of the Probation System which is based on Evidence Based Principles along with being "committed to excellence and safe communities."

Contact David L. Wegner, Deputy Administrator, Operations Division, 402-471-4190, dwegner@dwegner.state.ne.us

Examining Delivery of Services and Program Fidelity ~ Intensive Supervision Probation Under Review

The Vera Institute of Justice's Center on Sentencing and Corrections has agreed to assist the Office of Probation Administration's Community Corrections Division in completing an evaluation on Intensive Supervision Probation. Intensive Supervision Probation was implemented in 1999 and serves the state with 52 officers in 6 regions. Originally designed as an intermediate sanction, offenders sentenced to ISP were those who in lieu of incarceration, could be safely managed in the community, but were considered too high risk for traditional supervision. ISP officers are expected to provide intense intervention and supervision to this high risk offender population. Between January 1, 2006 and June 30, 2006, two thousand and thirty-nine (2039) offenders (adult and juvenile) were under the supervision of ISP officers. On the eastern side of the state, officer's caseloads have at times exceeded sixty to seventy, which is three times the nationally recommended caseload size of one to twenty for adults and one to fifteen for juveniles.

Consistent with Probation's commitment to evidence-based practice, this evaluation is intended to serve as a building block for program enhancements. An evidence-based principle emphasizes the need for monitoring the delivery of services and fidelity to procedures to build accountability and maintain integrity to our agency's mission. The evaluation will examine among other things, recidivism rates and short-term probation outcomes compared to offenders receiving other probation or prison sentences. Findings will also be analyzed against best-practice in community supervision.

Intensive Supervision is the second highest budget priority for Administration after staff salaries. An earlier study completed by the National Center for State Courts, identified ISP officer's salary as 55% below comparable officers in other states. With the assistance of the information provided from the Vera Institute, in conjunction with the National Center's study, Probation Administration intends to make its case before the legislature this up coming session.

Contact Deb Minardi, Deputy Administrator, Community Corrections Programs, 402-471-3525, dminardi@nsc.state.ne.us

Training Conference for Probation Officers

The Nebraska Probation System Training Committee and those staff members associated with training have been exceptionally busy during the last few months. This is because, for the first time in 6 years, Probation is sponsoring a training conference for all probation officers in the state.

This training's focus of evidence-based practices will provide new and innovative information to a system evolving to those concepts and practices.

Nationally recognized speakers will present on such topics as 'Moving Nebraska Forward as a National Model for Evidence-based Practices in Field Supervision', 'Motivational Interviewing', 'What Works with DUI Offenders', 'How to Develop and Conduct Groups', "Making Supervision Contacts Count", and 'What Works with Juveniles.'

In addition to offering this training to Nebraska Probation Officers, Nebraska Parole Officers, Drug Court Coordinators and officers, as well as Federal Probation Officers have been invited. The topics are such that they apply to all levels of supervision within the Community Corrections field.

Contact Frank Jenson, Deputy Administrator, Organizational Development & Training, 402-471-2798, fjenson@nsc.state.ne.us

OFFICE OF DISPUTE RESOLUTION

Supreme Court ODR-approved Mediation Centers: An Effective, Strategic Resource to Help Implement Children's Summit Child Welfare Recommendations

(A) Pre-Hearing Facilitation: At the September 06 Children's Summit, County Judges and Juvenile Court Judges were introduced to Pre-Hearing Facilitation (PHF) being used by Judge Doug Johnson and other juvenile court judges in Douglas County as a way to "front-load" the system to expedite services to the children and family and to reduce children's time in the system. Judge Johnson partnered with Concord Center, an ODR-approved mediation center to provide Pre-Hearing Facilitation immediately prior to the Preliminary Protective Custody Hearing. Concord Center facilitators are on-site every Wednesday morning to facilitate brief 45 minute meetings with families, their attorneys, GALs, county attorneys. In this brief facilitated meeting, four immediate, front-loading issues are addressed: (1) identify whether it is safe, or safety measures can be put in place for the children to return home; (2) if children stay out of home, develop a temporary visitation plan; (3) identify and develop a plan to immediately initiate services; and (4) determine whether the Indian Child Welfare Act applies.

PHF in Douglas County Juvenile Court is currently being funded by a contract with Health and Human Services. PHF is listed as a best practices item in the [Initial Team Action Plan Best Practices Guide, FL6](#), page 4, which states: "County has a non-adversarial process in place available for use from pre-petition filing to permanent resolution of the matter to resolve issues related to child's safety, permanency and well-being...."

(B) Family Group Conferencing (FGC) and Expedited Family Group Conferencing (EFGC), are best-practices strategies for children and families and are provided by the ODR-approved mediation centers. These assist the courts and HHSS to engage the child's extended family in the safety and permanency of child welfare cases. In the last fiscal year (05-06), the ODR-approved mediation centers conducted 364 FGCs.

Suggested Practice Application for Courts: An Expedited Family Group Conference (EFGC) can be recommended by the judge at the preliminary protective custody hearing to take place within 5 days to 3 weeks, in order to accomplish an immediate interim placement plan for the children, and developed by the child's extended family, legal, and other professionals at the EFGC session.

Contact Debora Brownyard, Dispute Resolution Services/Rural Court Services Director, 402-471-2766, dbrownyard@nsc.state.ne.us

CALENDAR ITEMS

Judicial Branch Education Meetings/Trainings

November 1 – November 3, NSBA Annual Meeting and Judges' Fall Education Seminars, Omaha
December 1, Judges and Journalists Workshop, Lincoln

2007 Meetings/Trainings

June 6 - 8, Official Court Reporters' Meeting, Norfolk

June 6 - 8, District Judges' Meeting, Norfolk

June 26 - 28, County Judges' Meeting, South Sioux City

Sept 19 - 21, Clerk Magistrates' Meeting, North Platte

October 17 - 19, NSBA Annual Meeting and Judges' Fall Education Seminars, Lincoln

Contact Carole McMahon-Boies, Director, Judicial Branch Education, 402-471-3072, cmcmahonboies@nsc.state.ne.us

JUSTICE Training

2007 training dates have not yet been determined. Once they have been set, all courts will be notified.

Contact Marcie Brush, Administrative Assistant, 402-471-2249, mbrush@nsc.state.ne.us

2007 Court Holidays

January 1, New Year's Day

January 15, Martin Luther King, Jr. Day

February 19, President's Day

April 27, Arbor Day

May 28, Memorial Day

July 4, Independence Day

September 3, Labor Day

October 8, Columbus Day

November 12, Veterans Day

November 22 - 23, Thanksgiving Day & Friday following

December 25, Christmas Day

Probation Meetings/Trainings

December 4 - 8, New Probation Officer Training, Kearney

Contact Linda Zabel, Administrative Support Specialist, 402-471-4140, lzabel@nsc.state.ne.us

ENCLOSURES

[Judicial News Special Edition: Constitution Day](#)