

MINUTES
LINCOLN-LANCASTER COUNTY CONSOLIDATION TASK FORCE
COUNTY-CITY BUILDING
555 SOUTH 10TH STREET, ROOM 303
FRIDAY, JULY 12, 2013
8:30 A.M.

Committee Members Present: Ann Post, Chair; Dick Campbell; Mike DeKalb; Jan Gauger; Dale Gruntorad; James Jeffers; Larry Lewis; Jean Lovell; Larry Melichar; Kerry Eagan (Ex-Officio); and Trish Owen (Ex-Officio)

Committee Members Absent: Russ Bayer; Amanda McGill; Darl Naumann; and W. Don Nelson

Others Present: Karen Amen, Facilitator; Laurie Holman, Representing Senator Amanda McGill; Deb Schorr, County Commissioner; and Cori Beattie, Lancaster County Clerk's Office

The Chair called the meeting to order at 8:31 a.m.

1 APPROVAL OF MINUTES OF JUNE 28, 2013 MEETING

MOTION: DeKalb moved and Lovell seconded approval of the minutes. Campbell, DeKalb, Gauger, Gruntorad, Lewis, Lovell and Post voted aye. Bayer, Jeffers, Melichar, McGill, Naumann and Nelson were absent from voting. Motion carried 7-0.

2 REVIEW OF MEETING OF JUNE 28, 2013

Amen distributed a chart showing a subject analysis of prior meetings (**Exhibit A**) and a handout on the Dynamics of Group Decision-Making (*The Facilitator's Guide to Participatory Decision-Making by Sam Kaner © 1996*) (**Exhibit B**).

Jeffers and Melichar arrived at 8:34 a.m.

Amen explained the five words of classic group dynamics: form, norms, storm, perform and transform and indicated the group is still in the "performing" stage of the process.

3 CONSOLIDATION/COOPERATION OPPORTUNITIES BETWEEN LANCASTER COUNTY ATTORNEY AND LINCOLN CITY ATTORNEY: (A) JUVENILE DIVISION; AND (B) CRIMINAL DIVISION - Joe Kelly, Lancaster County Attorney; and Rod Confer, Lincoln City Attorney

Amen solicited questions from Task Force members prior to the presentations.

Lovell said she is specifically interested in knowing if the County and City Attorneys could combine forces in Juvenile Court cases.

Campbell thought it would be helpful to know of any potential difficulties in consolidation, such as the different retirement programs, and how they might be overcome.

Jeffers noted that "bigger doesn't mean better."

DeKalb said the Task Force previously recognized that there is already a lot of cooperation between the two departments and encouraged them to continue this practice and better formalize those areas not previously addressed in writing.

(A) JUVENILE DIVISION

Present for the discussion were Rod Confer, Lincoln City Attorney; John McQuinn, Chief Assistant City Prosecutor; Terri Storer, Executive Assistant, City Attorney's Office; Joe Kelly, Lancaster County Attorney; and Alicia Henderson, Chief Deputy County Attorney, Juvenile Division.

McQuinn provided an overview of a handout addressing the City's prosecution role in Juvenile Court (**Exhibit C**). Of the six City prosecutors, he noted two primarily handle juvenile cases, along with their County Court caseload, although all six may end up in Juvenile Court. In 2012, the juvenile misdemeanor caseload of 1,027 citations represented 2.8% of the total prosecutorial workload.

DeKalb questioned whether 1,000 citations per year is average. McQuinn said it is usually around 1,200, although, there have been years with over 1,500. He reminded the group that the City Attorney's Office really has no control over this number.

Lovell pointed out that while juvenile cases accounted for 2.8% of the City's workload, they likely took up more than 2.8% of the prosecutors' time. McQuinn said while it is difficult to quantify this time in terms of "full-time equivalents" (FTEs) since all six City prosecutors may work on Juvenile Court cases, he estimated these cases take 20% more time than others.

McQuinn explained the difference between City and County cases, noting one distinction is whether it is a City ordinance versus State Statute violation. Another is whether the violation occurred inside the City limits. He added an Executive Order is currently in place which allows the County Attorney's Office to handle City ordinance violations.

Melichar questioned whether or not there has been an increase in staff or caseload over the last five years. McQuinn said while staff has remained the same, the caseload has fluctuated. The recent high was 6,500 cases per year per prosecutor. Confer pointed out that many of these cases never go to court.

Gruntorad inquired about potential obstacles of consolidation. McQuinn said there may not be anything statutorily inhibiting consolidation but obstacles would include such things as benefits (different pension plans), the budget and the classified service (Assistant City Attorneys are classified employees while Deputy County Attorneys are at-will employees).

Lovell asked if there is anything prohibiting the City Attorney from accepting no more juvenile cases. McQuinn said while there may not be a legal impediment to doing so, there would be the idea of fundamental fairness in shifting this workload to the County Attorney as both offices are stretched to capacity. Lovell questioned what the City Attorney would do with the extra resources if all juvenile cases were taken over by the County. McQuinn said those attorneys would cover for others on vacation or sick leave. Confer stated that they would not layoff a person.

Kelly noted the County Attorney's Office has six full-time attorneys fully engaged in Juvenile Court. He explained that while there are some instances whereby a City ordinance violation is not covered in State Statute, many include the same language. Therefore, police officers oftentimes have the choice of citing someone under City ordinance (vandalism) versus State Statute (criminal mischief).

Henderson distributed a handout on 2012 and 2013 Juvenile Court statistics (**Exhibit D**). She explained the three types of Juvenile Court jurisdiction: abuse/neglect cases (3a), including termination of parental rights (TPR); ungovernable/truancy cases (3b); and law violations (1s=misdemeanors/infractions and 2s= felonies). She said the majority of County Attorney time is spent on abuse/neglect cases and explained the difference between Juvenile Court and criminal court jurisdiction noting that the intent of criminal court is to punish while Juvenile Court is to rehabilitate the family when appropriate.

Henderson commented that while it makes sense for the County Attorney to take over all juvenile law violations as there would be some degree of consistency since staff may already be familiar with families, there is currently not enough attorneys to handle the additional caseload. She noted in Douglas County there are five (5) Juvenile Court Judges and sixteen (16) Juvenile Court County Attorneys. In comparison, Lancaster County has four (4) judges and six (6) attorneys.

The following handouts were distributed: Statistics (**Exhibit E**) and Costs of County Attorney assuming all City Juvenile Court law violations (**Exhibit F**).

Kelly said, when considering the issue of consolidation, not only is cost a factor but also what is in the best interest of the children. He estimated the cost to take on the

additional juvenile cases at \$122,000 (cost of an attorney and a legal secretary). He also noted his 2014-15 budget request will include an additional attorney.

Henderson said the additional statistics (Exhibit E) are monthly case averages, as well as those cases transferred to diversion programs.

In response to Campbell's inquiry, Henderson felt there would be efficiencies in taking over the City's juvenile law violations especially on those cases whereby the County Attorney is already familiar with the family/child dynamics. She said she would also want to retain the ability to charge juveniles under City ordinance versus State Statute when appropriate.

DeKalb concluded that it would probably work better with regard to institutional knowledge if juvenile cases were all handled by one office with continued access to local and state resources. He added it appears no cost savings would be realized as two positions would be "shifted" to the County Attorney's Office with the goal of achieving a better process for the children and families. Kelly clarified that the new Deputy County Attorney proposed for fiscal year 2014-15 would be doing more than just juvenile cases.

Campbell questioned whether an interlocal agreement with the County for funding could be developed. Confer said yes, but he cannot layoff anyone. He reiterated that two of his attorneys are currently doing juvenile work which takes up about half of their caseload. If their time were freed up, they would be used to cover other areas. Campbell agreed that the Task Force must also consider what is the best way to do things, knowing there may be additional costs. Confer said transferring the juvenile cases to the County Attorney would be more efficient but, ultimately, it would be more expensive.

(A) CRIMINAL DIVISION

Kelly noted there are 32 County prosecutors including himself and the juvenile division.

Confer felt there is no duplication between the two offices other than in Juvenile Court cases. He noted there may some instances whereby the County reviews a ticket prior to forwarding it to the City for consideration. Gruntorad inquired if this information is paperless. Kelly said paper tickets are still issued by all law enforcement agencies except the State Patrol. It was noted that all law enforcement agencies do have access to the State's Criminal Justice Information System (CJIS) database.

Confer said the resources of both offices are stretched, thus, there are no real opportunities to save money. The question comes down to if one side can do it cheaper but there is no data available to support this. He added the offices do things differently. The City Attorney handles only misdemeanors and can typically process these cases quickly.

Campbell questioned the misdemeanor distinction between City and County. Kelly said if the violation is in the City it depends on what the officer cites (ordinance or statute). Additionally, if it is a Class I or II misdemeanor there is no counterpart in City ordinance so these, along with all felonies, will go to the County. Confer said 2/3 of County Court misdemeanors are filed by the City.

Kelly said the County Attorney files about 5,400 misdemeanors, 1,200 felonies, 550 infractions and 5,700 traffic cases in County Court each year. He added other important topics for the Task Force to consider are: (1) Driving Under the Influence (DUIs); and (2) if total/partial consolidation would allow the County Court Judges to be more efficient.

With regard to DUIs, Kelly said if the County Attorney files a 1st offense, 1st offense - aggravated or 2nd offense DUI case, the defendant, under State Statute, has the right to a jury trial. He noted these trials can become very time consuming. On the flip side, if the City Attorney files on these same charges under a City ordinance, which mirrors State Statute, there is no jury trial. McQuinn added that Nebraska State Statute specifies that there is no right to a jury trial when violating municipal ordinances. He said approximately 1,200 DUI cases (1st offense, 1st offense - aggravated and 2nd offense) were filed last year by the City Attorney. Kelly said the County Attorney filed roughly 475. Confer said, theoretically, if the offices consolidated the County's number of jury trials would increase dramatically.

Eagan questioned whether an interlocal agreement transferring the City prosecution function to the County Attorney could include a deputized component so DUIs filed under City ordinance could be prosecuted with juryless trials. He also suggested seeking a legislative amendment to eliminate the reference to jury trials under State Statute since they are not required under municipal ordinance. Confer said the latter would likely conflict with the 5th Amendment.

Amen asked the attorneys whether they had any recommendations on a possible merger or additional cooperative efforts. Confer reiterated that there would be unintended consequences of consolidation (more jury trials) and likely no cost savings.

4 FUTURE MEETINGS

It was noted scheduling conflicts have arisen with the law enforcement agencies and clerks and neither group would be available to meet on July 26th. With regard to that meeting date, Campbell asked Lovell to instead present an overview of the judges' perspectives on potential consolidation opportunities of the County Attorney/City Attorney. Lovell said she would contact the presiding County Court and Juvenile Court Judges to see if they would like to participate in that discussion. The consensus of the Task Force was to try to come up with a "draft" recommendation on the County Attorney/City Attorney at this meeting.

Owen noted law enforcement will be preparing a couple consolidation models, as well as a list of all current informal agreements. She said they would not be available to meet until August 16th at the earliest. Post said this meeting would be in place of the August 9th meeting. A follow-up meeting could then be held on August 23rd. Lovell noted she had a conflict on both of those dates. Amen suggested she provide her input in writing.

Owen said the County Clerk and City Clerk are meeting later this month to discuss their offices and could meet with the Task Force anytime thereafter.

Post said she would email the Task Force members and, if two-thirds are available, there would be a meeting on August 16th (law enforcement) and on August 23rd (law enforcement wrap-up). The clerks were tentatively scheduled to present on September 13th.

Amen said she may distribute a questionnaire to allow those members who cannot be present at future meetings to provide written comments. She added that she would also like to schedule a four-hour meeting prior to December to allow the Task Force to better move through the decision-making steps.

Eagan said he spoke with the director of the combined police department in Riley County, Kansas, and could provide a report at the August 16th meeting. He said this consolidation was done by statutory amendment which applied only to police/sheriff mergers in Kansas. He added if anyone was interested in a field trip, to let him know.

5 ADJOURNMENT

MOTION: Campbell moved and DeKalb seconded to adjourn the meeting at 10:30 a.m. Campbell, DeKalb, Gauger, Gruntorad, Jeffers, Lewis, Lovell, Melichar and Post voted aye. Bayer, McGill, Naumann and Nelson were absent. Motion carried 9-0.

Submitted by Cori Beattie, Lancaster County Clerk's Office.



March 8

Introductions and Organization

Charge to Task Force
"Explore and make recommendations on possible merger or additional cooperative efforts between . . ."

Review of relevant Nebr statutes

History of consolidation initiatives in Lincoln and Lanc Co.

Set schedule

March 22 – May 10

Presentations and Info Gathering:

3/22: Public Works and County Engineer

4/12: LPD & LSO

4/26: Clerk's offices, City and County Attorneys offices

5/10: Public Works/Co Engineer (cont)

Intro to Facilitation and Group Process

May 24

Process Decision:
Address one grouping at a time to completion; Begin with public safety orgs

Activities:

Defining Key Issues:
Operational, legal, financial political, accountability and accessibility, champions

Designing Structural options: One broad umbrella organization or various other combinations?

Next Steps: Invite public safety people to next meeting for further information and thoughts on possible structural approaches

June 14

Further Information from and discussion with:
Ahlberg, Bliemeister, Casady, Huff, Peschong, Wagner. Broad discussion included:

- Financial data
- Dashboard indicators
- Co-location plans
- Existing interlocals

First Test of Level of Support for Structural Options:
Both Task Force members and Department heads indicated their current thinking
Diversity of opinions within each group and overall.

June 28

Discussion of results from June 14th Level of Support activity

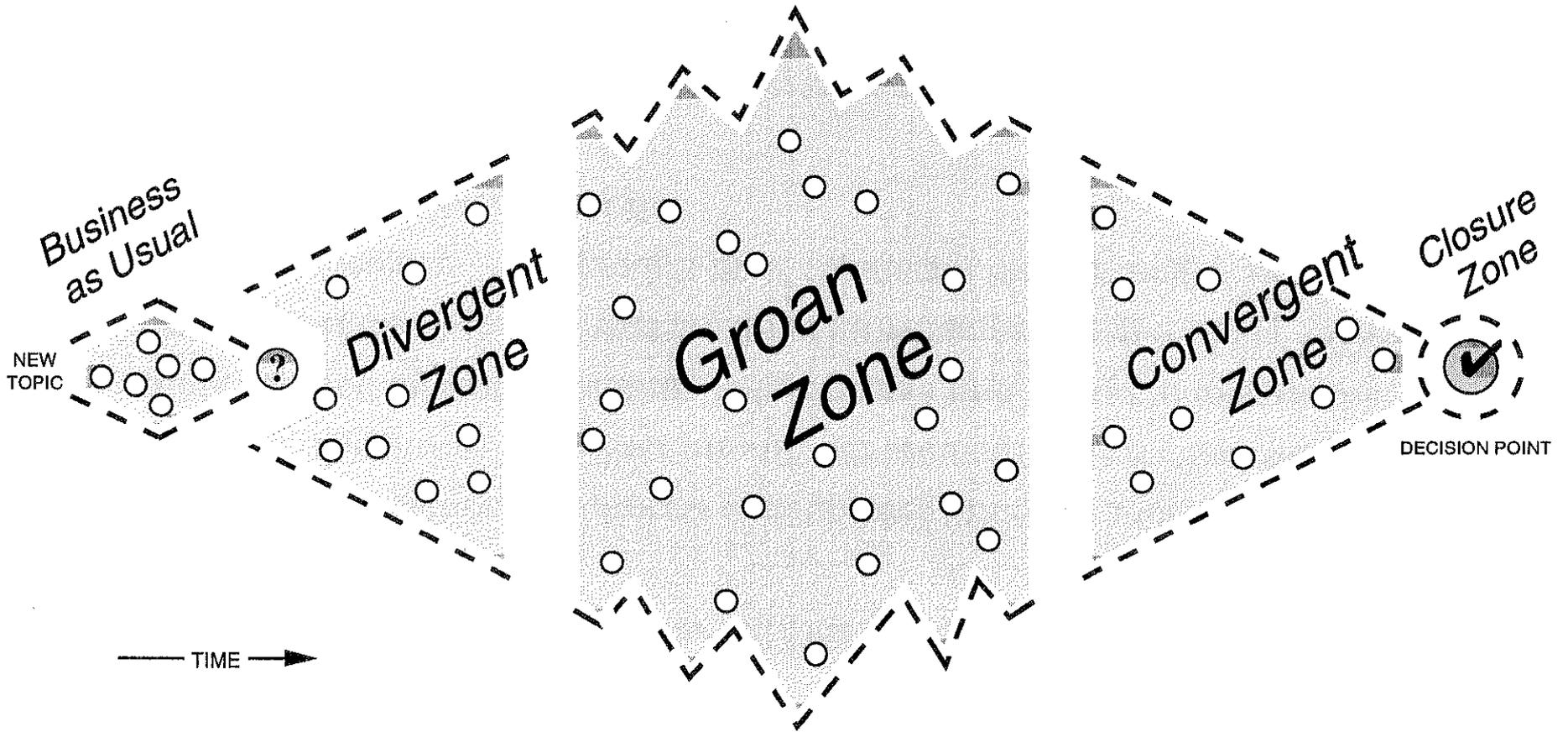
Two motions passed unanimously:

1. Recommend formalization of agreements between LPD and LSO
2. Ask public safety leaders to "present a plan" for how an umbrella organization might work.

Continue use of neutral facilitation methods

DYNAMICS OF GROUP DECISION-MAKING

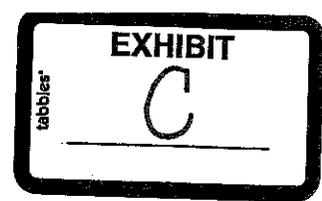
THE DIAMOND OF PARTICIPATORY DECISION-MAKING



This is the *Diamond of Participatory Decision-Making*.

The *Diamond* describes the process a group goes through to solve a difficult problem. The process is neither smooth nor sequential. It is characterised by confusion and misunderstanding. Most people find it hard to tolerate the ambiguity and the conflict that are inherent when people don't have shared frames of reference. Yet a group's most significant breakthroughs are often preceded by a period of struggle.

By legitimizing the awkward, uncomfortable, yet entirely normal dynamics of diversity, the *Diamond of Participatory Decision-Making* helps facilitators give their groups more meaningful support during difficult times. This in turn enables all parties to tap the enormous potential of group decision-making.

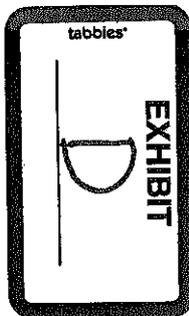


**City Attorney's Office - Prosecution Division
Presentation to Consolidation Task Force
July 12, 2013**

City Prosecution Role in Juvenile Court

- City Attorney's Office does not have a separate juvenile division. Juvenile cases are assimilated into the Prosecution Division primarily handled by two prosecutors and a paralegal in addition to their County Court caseload.
- The City Prosecution Division receives all traffic and misdemeanor citations issued to 16 and 17 year old juveniles for violation of the Lincoln Municipal Code.
- Misdemeanor citations issued to juveniles are separated as soon as they are received by our office, primarily from the Lincoln Police Department. The prosecutors review each citation and an assessment is made determining which of six options is most suitable. The six options are as follows:
 - Sending the juvenile a warning letter,
 - Referring the case to Juvenile Diversion,
 - Filing a petition in Juvenile Court,
 - Filing the citation in County Court,
 - Referring the citation to the County Attorney's Office, or
 - Declining to prosecute the citation.
- In 2012, the juvenile misdemeanor caseload represented 2.8% of our total prosecutorial workload.
- In 2012, the Prosecution Division reviewed 1,027 citations per our internal count. These were handled as follows:
 - 11% received warning letters
 - 31% were referred to Juvenile Diversion
 - 35% were filed in Juvenile Court
 - 8% were filed in County Court, which may transfer the case to the Juvenile Court
 - 4% referred to County Attorney
 - 5% were declined
- During 2012, the Juvenile Court reported the following numbers in their annual report:
 - 1,170 misdemeanor, infraction, or felony petitions were filed
 - 313 abuse, neglect, or parental terminations were filed
 - 400 status offender petitions were filed, including mentally ill and dangerous cases
 - This office filed 19% of the total cases filed in Juvenile Court.
- The City Prosecution Division has no jurisdiction to file abuse, neglect, or parental termination cases, nor status offender or mentally ill and dangerous petitions. As previously mentioned, the City Prosecution Division does not have the authority to file cases based on state statutes.
- Current cooperative effort between County Attorney's Office and the City Attorney's Office
 - Executive Order 84860, dated 03/22/2012, allows the County Attorney's Office to handle City ordinance violations.

2012	January	February	March	April	May	June	July	August	September	October	November	December	Total	Average
City (1)	41	12	20	15	25	24	2	18	23	17	17	37	251	20.9
City Sup (1)	9	3	7	6	11	9	2	15	14	7	9	15	107	8.9
County (1)	22	29	29	27	55	27	35	43	16	47	20	39	389	32.4
County Sup (1)	13	19	21	17	17	21	14	18	17	19	16	32	224	18.7
County (2)	6	4	6	3	8	5	7	4	5	4	2	2	56	4.7
County Sup (2)	2	3	4	3	4	8	2	4	2	4	1	2	39	3.3
County (4)	2	1	0	0	0	0	0	0	0	0	1	2	6	0.5
County Sup (4)	0	0	0	0	0	0	0	0	0	2	0	0	2	0.2
Transfer LV	1	3	0	1	3	2	3	1	1	5	2	1	23	1.9
sub	96	74	87	72	123	96	65	103	78	105	68	130	1097	91.4
3a	30	32	28	27	20	33	16	21	7	28	17	18	277	23.1
Transfer 3a	1	2	1	0	1	2	2	2	1	1	1	1	15	1.3
Sup 3A	0	0	0	1	1	4	5	4	3	5	6	2		2.6
8	0	0	0	0	0	0	0	0	0	0	0	1	1	0.1
9	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Adoption	2	1	4	8	7	4	7	4	8	5	26	1	77	6.4
Guardianship	1	0	2	1	0	1	0	0	0	0	0	0	5	0.4
Paternity	0	3	8	2	4	0	2	0	2	1	0	0	22	1.8
sub	34	38	43	39	33	44	32	31	21	40	50	23	397	35.7
3b	25	53	97	66	55	41	2	2	3	20	6	27	397	33.1
Transfer 3b	0	1	0	0	0	0	0	1	0	0	2	0	4	0.3
3c	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
Transfer 3c	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
TOTAL	155	166	227	177	211	181	99	137	102	165	126	180	1926	160.5
City MRP	1	9	4	2	3	2	4	1	4	6	3	3	42	3.5
City Sup MRP	0	0	0	0	0	0	3	0	0	0	0	0	3	0.3
County MRP	7	7	7	4	5	10	5	4	9	5	4	5	72	6.0
County Sup MRP	1	2	1	4	5	1	1	3	0	2	0	0	20	1.7
Transfer MRP	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
TPR	11	18	13	19	7	23	13	17	10	6	7	12	156	13.0
Sup TPR	0	0	0	0	1	0	0	1	0	0	0	0	2	0.2
Complaint	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0
TOTAL	20	36	25	29	21	36	26	26	23	19	14	20	295	24.6



2013	January	February	March	April	May	June	July	August	September	October	November	December	Total	Average
City (1)	17	14	7	16	22	27							103	17.2
City Sup (1)	12	5	6	12	12	16							63	10.5
County (1)	35	26	23	40	32	32							188	31.3
County Sup (1)	20	22	14	20	29	14							119	19.8
County (2)	6	1	3	6	7	4							27	4.5
County Sup (2)	7	4	2	1	4	1							19	3.2
County (4)	0	0	0	2	0	1							3	0.5
County Sup (4)	0	1	1	0	0	0							2	0.3
Transfer LV	4	3	4	3	4	2							20	3.3
sub	101	76	60	100	110	97	0	0	0	0	0	0	544	45.3
3a	17	17	24	34	35	24							151	25.2
Transfer 3a	0	1	0	2	0	0							3	0.5
Sup 3A	6	8	9	3	11	9							46	7.7
8	0	0	0	0	0	0							0	0.0
9	0	0	0	0	0	0							0	0.0
Adoption	3	4	2	10	9	9							37	6.2
Guardianship	1	2	2	1	1	0							7	1.2
Paternity	1	11	3	6	1	6							28	4.7
sub	28	43	40	56	57	48	0	0	0	0	0	0	272	22.7
3b	34	55	69	87	69	55							369	61.5
Transfer 3b	0	1	0	0	0	0							1	0.2
Sup 3b	0	0	0	1	0	0							1	0.3
3c	1	0	0	0	0	0							1	0.2
TOTAL	164	175	169	244	236	200	0	0	0	0	0	0	1188	99.0
City MRP	5	0	2	1	3	0							12	2.0
City Sup MRP	0	0	0	0	0	0							0	0.0
County MRP	8	5	3	2	2	5							25	4.2
County Sup MRP	4	0	0	1	3	2							10	1.7
Transfer MRP	0	0	0	0	0	0							0	0.0
TPR	16	6	7	11	17	8							65	10.8
Sup TPR	1	0	1	1	0	0							3	0.5
Complaint	0	0	0	0	0	2							2	0.3
TOTAL	35	11	13	16	25	17	0	0	0	0	0	0	117	9.8



STATISTICS

Abuse/Neglect/TPR (3a Docket):

Average Monthly 2012:

No-Charge: 8 cases

Filed: 42 cases

Average Monthly 2013 (Jan-June):

No-Charge: 10 cases

Filed: 54 cases

Ungovernable/Truancy (3b Docket):

Average Monthly 2012:

No-Charge: 18 cases

Filed: 33 cases

Average Monthly 2013 (Jan-June):

No-Charge: 30 cases

Filed: 62 cases

Juvenile Law Violations Referred to County Attorney (1, 2 and MRP):

Average Monthly 2012:

No-Charge: 65 cases

Filed: 69 cases

Average Monthly 2013 (Jan-June):

No-Charge: 58 cases

Filed: 68 cases

Juvenile Law Violation Filings—County and City:

Average Monthly 2012:

Filed by City Attorney: 34 cases

Filed by County Attorney: 69 cases

Average Monthly 2013 (Jan-June):

Filed by City Attorney: 34 cases

Filed by County Attorney: 69 cases

Referrals to Pretrial Diversion—County and City:

Average Monthly 2012:

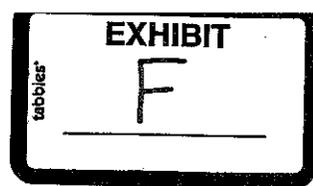
Referred by City Attorney: 25 youth

Referred by County Attorney: 43 youth

Average Monthly 2013 (Jan to June):

Referred by City Attorney: 20 youth

Referred by County Attorney: 37 youth



Costs of the County Attorney's Office assuming all of the City's Juvenile Court law violations:

Attorney I	\$56,000, plus FICA, pension, insurance = \$72,000
Legal Secretary II	\$37,402, plus . . . = \$50,000
	Total = \$122,000

- We have **2 fewer attorneys** on staff than in 2010
- Put off any establishing any **new attorney positions** until at least 2014/2015
- We have also given up a key, staff **management position** since 2010
- New **truancy** law in 2011
- New juvenile court HHS/Probation alignment in 2013
- **Increasing caseloads** for neglect, truancy and law violations

Bottom line: Can't fit the work into our existing staff resources.