



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Charlie Janssen
State Auditor

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Lincoln, Nebraska 68509
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December 14, 2018

Rebecca Harling, County Attorney
Lincoln County
301 N. Jeffers, Room 101A
North Platte, NE 69101

Dear Ms. Harling:

As you may know, the Nebraska Auditor of Public Accounts (APA) received concerns regarding the Lincoln County Attorney's Juvenile Diversion Program (Program). As a result, the APA began limited preliminary planning work to determine if a full financial audit or attestation would be warranted. Pursuant thereto, the APA requested certain information from the Village. Based upon the outcome of the preliminary planning work, the APA has determined that it is unnecessary for this office to perform a separate financial audit or attestation at this time.

During the course of the preliminary planning work, we noted certain internal control or compliance matters, or other operational matters, that are presented below. The following information is intended to improve internal controls or result in other operational efficiencies.

To start, Neb. Rev. Stat. § 43-260.02 (Reissue 2016) authorizes a county attorney "to establish a juvenile pretrial diversion program with the concurrence of the county board." When asked, however, your office was unable to provide us with documentation of the County Board's approval for the Program.

Initially, you stated that you did not have a formal, written contract with Family Skill Building Services, which administers the Program. Without such a legal instrument, the terms and conditions of the agreement, including the rights and responsibilities of the parties, as well as other important considerations, such as access to records, funding of the program, etc., are not adequately documented. Not until we issued a draft report to you on December 6, 2018, did you provide an agreement from 2011.

Additionally, we have received complaints that your office responds to inquiries regarding the juvenile diversion program by denying responsibility for it. As noted above, § 43-260.02 authorizes the county attorney to implement a juvenile diversion program, meaning that your office retains ultimate responsibility for the Program – as indicated also by other statutes governing such undertakings.

Others have complained that information regarding the specific services provided to their sons or daughters under the Program is not shared with them. This appears to be inconsistent with the provisions of the "Nebraska Juvenile Pretrial Diversion Guidelines" (May 2015) ("Guidelines"), published by the Nebraska Commission on Law Enforcement and Criminal Justice ("Commission"). Page 17 of that document, which contains best practice recommendations for these programs, says the following:

Active parental involvement

Parental involvement in juvenile pretrial diversion is vital. The involvement of the parents will provide interaction between the juvenile and the parents outside of the home and in a positive environment. Parental support encourages the juvenile to complete the program requirements. Chaotic home life and parental use of alcohol and other drugs may contribute to youth becoming involved in the juvenile justice system. Parents need to understand how ineffective parenting of youth with difficult temperaments and conduct disorders contributes to involvement in the juvenile justice system. Offer parent education classes to assist parents in developing stronger communication and discipline skills.

The diversion agreement signed by the juvenile should also be signed by the parent or legal guardian for legal purposes and to ensure the parents are aware of the juvenile's activities.

Page 20 of the Guidelines adds the following:

Best practice: When families or support systems are required to participate, the youth and family will have better outcomes in diversion.

On page 25 of the Guidelines, "family engagement" is defined as follows:

Actively engaging families in decision-making, setting goals, and other meaningful ways to support their child's ongoing development. Family engagement is both motivating and empowering for families as their working towards positive change.

We recommend you implement procedures to ensure that the County's juvenile diversion program is carried out in accordance with applicable statutes and the Commission's Guidelines.

County Attorney's Response: See attached for written agreement and County Board approval dated after the APA's draft letter.

* * * * *

The preliminary planning work that resulted in this letter was designed primarily on a test basis; therefore, it may not bring to light all existing weaknesses in the County Attorney's policies or procedures. Nevertheless, our objective is to use the knowledge of the entity to make comments and recommendations that we hope will prove useful to the County Attorney.

Draft copies of this letter were furnished to the County Attorney to provide her with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into the letter.

This communication is intended solely for the information and use of the County Attorney and her office's management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions regarding the above information, please contact our office.

Sincerely,



Mary Avery
Special Audits and Finance Manager
Phone: 402-471-3686
Mary.avery@nebraska.gov

cc: Duane Deterding, Lincoln County Board Chair

Family Skill Building Services, LLC

403 East C Street
P.O. BOX 655
North Platte, NE 69103-0655

PHONE: 308-696-0033
FAX: 308-696-0034
E-Mail fsbservices01@hotmail.com

LETTER OF AGREEMENT

This serves as a Letter of Agreement between Family Skill Building Services, LLC and the Lincoln County Attorneys office.

The Juvenile Diversion Program of Family Skill Building Services, LLC will offer the opportunity for the first-time juvenile offender to be diverted from the court system, and still be under supervision for a designated period of time. Only juveniles involved in non-violent and misdemeanor offenses are eligible for this program.

A juvenile is defined as anyone under the age of eighteen. The program is not available to juveniles who are currently on Probation or Parole.

Each case will be examined and referred by the County Attorney or a representative of that office, based on reports and/or citations issued by a law enforcement agency. The juvenile and parent (s) or guardian will be contacted by mail or meeting, informing them of the existence of such a program. The juvenile will be responsible for contacting the office of Family Skill Building Services within the time period specified in the cover letter.

Upon contact with that office, the program will be explained and the juvenile may set an appointment so that he/she and the parent (s) or guardian can be interviewed.

At the initial interview, the Case Supervisor will answer any questions and explain the program plan, based on the information gained through the interviewing process. When accepted, the juvenile will be expected to pay the program fee. This fee is non-refundable.

The normal length of time in the program is three to six months. The juvenile will be required to report to his/her Case Supervisor as prescribed. Should the juvenile, parent (s) or guardian decide to withdraw from the program, court action will be taken. Participants are expected to meet with

the Case Supervisor at the times agreed upon and to be on time for these appointments. Missing appointments could result in the County Attorney taking formal action.

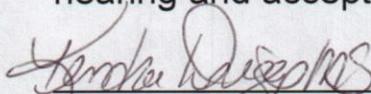
The Lincoln County Attorney has authority over the Juvenile Diversion Program. While Family Skill Building Services, LLC will share information with agencies and schools only with a signed release of information on file, the Lincoln County Attorney, however, may exercise his/her authority to inform the schools of a juvenile's participation in the program. When the program is successfully completed, the case is terminated, the file closed and the juvenile will not have a juvenile record with the courts.

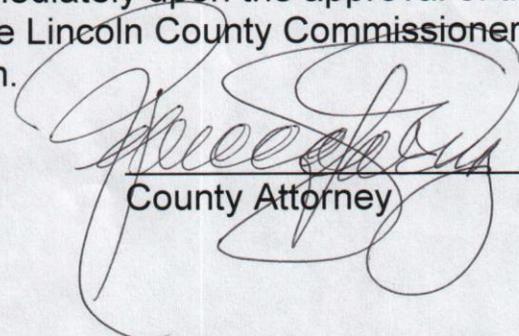
The primary objective of the Juvenile Diversion Program is to aid the juvenile in taking responsibility for his/her behavior in a positive manner that is beneficial to the juvenile, the victim and the community. Other objectives are to help the family evaluate and identify any problems and be referred to an agency that is qualified to assist in making the needed changes, thus avoiding further law enforcement contact.

PROGRAM IMMUNITY

Lincoln County, or any department thereof, Family Skill Building Services LLC, or any employee thereof, shall not be held liable as an employer for any injury to the accused by reason of any accident suffered in the course of the Juvenile Diversion Program, and any occasioned simply because the accused was working on a requirement of the program. The same shall not be considered to be an employer of the accused in regard to determining liability for the torts of the accused committed in the course of performing a program requirement. The opportunity to participate in this program is not a right. It is a privilege extended by the County Attorney and should be considered as such.

This agreement shall go into effect immediately upon the approval of the Lincoln County Attorney's office and the Lincoln County Commissioners hearing and acceptance of the program.


Kendra Driggs, M.S. 3-28-11
Date


County Attorney 4-4-11
Date

COPY

RESOLUTION NO. 2018- 33

Whereas the power of "The county of Lincoln, in the State of Nebraska," hereinafter referred to as Lincoln County, is exercised by the Lincoln County Board of Commissioners, hereinafter referred to as the Board.

Whereas the Board received a letter from the Lincoln County Attorney, Rebecca Harling, requesting the Board's concurrence in establishing a Juvenile Diversion Program for Lincoln County; and a copy of the aforementioned letter is attached hereto.

Whereas the Board desires to concur with the Lincoln County Attorney, Rebecca Harling, in the reaffirmation of the establishment of the Juvenile Diversion Program.

NOW, THEREFORE, BE IT RESOLVED BY THE LINCOLN COUNTY BOARD OF COMMISSIONERS, THAT:

(1) The Board concurs with the Lincoln County Attorney, Rebecca Harling, in the reaffirmation of the establishment of the Juvenile Diversion Program for Lincoln County.

A motion was made by County Board member Hawesley, seconded by County Board member Henry to approve and adopt this herein Resolution (Resolution No. 2018- 33).

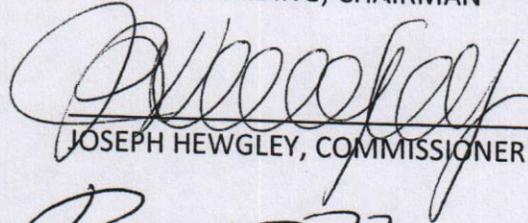
Upon roll call Hawesley, Henry, and Retarding voted "aye." Nays 0
_____, and _____.

MOTION CARRIED BY VOTE OF 3 to 0 on this 10th day of December, 2018.

WHEREUPON the Chairman declared this herein Resolution (Resolution No. 2018-
33) duly adopted, passed and approved this 10th day of December, 2018.

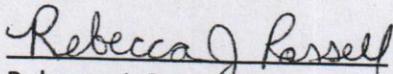
THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN,
IN THE STATE OF NEBRASKA


DUANE DETERDING, CHAIRMAN


JOSEPH HEWGLEY, COMMISSIONER


BILL HENRY, COMMISSIONER

ATTEST:


Rebecca J. Rossell
Lincoln County Clerk



Resolution –Juvenile Pretrial Diversion Program

LINCOLN COUNTY ATTORNEY REBECCA HARLING

301 NORTH JEFFERS SUITE 101A

• NORTH PLATTE, NEBRASKA 69101-3997

• (308) 534-4350, Ext. 320
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TANYA ROBERTS-CONNICK, CHIEF DEPUTY
JOE W. WRIGHT, DEPUTY
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ANGELA FRANZ, DEPUTY
KORTNEI HOEFT, DEPUTY
KERRI DEIBERT, OFFICE MANAGER
CINDY L. KORF, VICTIM/WITNESS UNIT

TO: Lincoln County Board of Commissioners

FROM: Rebecca Harling
Lincoln County Attorney

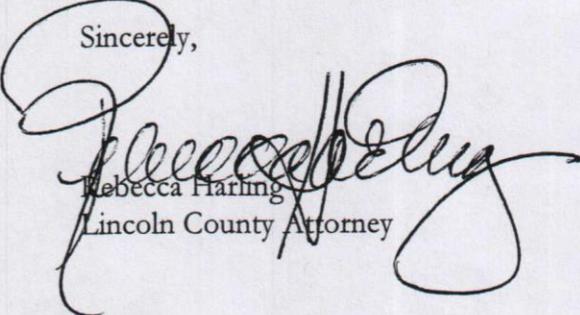
DATE: December 6, 2018

RE: Juvenile Pretrial Diversion Program

Dear Commissioners:

I am hereby reaffirming the establishment of the Juvenile Diversion Program for "The county of Lincoln, in the State of Nebraska," subject to the Lincoln County Board of Commissioners' concurrence. Therefore, I am requesting the concurrence of the Board in the reaffirmation of the establishment of the Juvenile Diversion Program.

Sincerely,



Rebecca Harling
Lincoln County Attorney

Letter – Commissioners, Juvenile Pretrial Diversion Program