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UM/UWC Linkage Program

Project Title: Training Lawyers and Social Workers in Abuse and Neglect Cases in the United States and South Africa

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This project was designed as a collaborative effort between professionals in the United States and in South Africa who train social workers and lawyers involved in the child protection systems in each country. The principal investigator from UMKC, Mary Kay Kisthardt conducted a study to identify some of the obstacles to collaboration between social workers and lawyers in abuse and neglect cases in the United States and developed training materials designed to overcome these obstacles. In South Africa, the government recently adopted the Children's Act, to promote the rights of children. The regulations implementing the Act became effective in April 2010. The Community Law Centre at the University of the Western Cape has been involved in training those social workers, attorneys and other professionals responsible for implementation of the Act. Lorenzo Wakefield is the person responsible for that effort and is Prof. Kisthardt's partner in the project.

The purpose of this study was to determine what obstacles were being encountered by lawyers and social workers in the implementation of the Children's Act (Act) after two years of experience; second, to determine whether the experiences of lawyers and social workers in the South African system were similar to those in the United States; and finally, to determine to what extent our collective experiences and development of materials could be mutually beneficial.

Because of difficulty encountered in the scheduling of interviews with social workers employed by the government, the study was extended to an examination of the practical changes that have occurred regarding access to the legal system as a result of the Children's Act. In order to ascertain what changes occurred Prof. Kisthardt interviewed Legal Aid attorneys throughout the Western Cape. These interviews

were conducted at Legal Aid offices that were both urban and rural. They provided a unique insight into how the Children's Act is being implemented "on the ground".

The first interview was with Heinrich Jonck, a legal aid attorney in Calendon, approximately 2 hours from Cape Town. This interview was very productive in terms of an understanding of how lawyers and social workers interact with each other in the implementation of the Act. This conversation affirmed that many of the difficulties in communication that exists between lawyers and social workers in Juvenile or Family Court here in the United States also exist in Children's Court in South Africa. Additional information concerning the use in South Africa was also gained through the conversation.

The next interview was conducted with Verity Lakey at the Worcester Justice Centre. Worcester is a semi-rural town approximately one hour from Cape Town. The information provided by Verity was consistent with much of what we had heard from Heinrich. The Children's Act provides for easier access to the court for both unmarried fathers and grandparents seeking rights regarding children. The number of individuals who take advantage of this easier access varies depending upon their awareness of this opportunity. This was a theme mentioned by several of the attorneys.

A somewhat different view of the implementation of the Act was gained by interviewing two Legal Aid attorneys who work at the Cape Town Justice Centre. There we interviewed both Nistehasha Sewporsadh and Leonardo Goosen . Their clients are generally urban dwellers who have had some exposure to education regarding changes in the law. These educational programs particularly affected men who wished to assert some rights vis-à-vis their children who were born outside of marriage.

A common problem mentioned by all the attorneys that we spoke with was the inadequate number of social workers necessary to implement the Act. This was confirmed for us by an interview with members of the faculty of the School of Social Work at the University of the Western Cape. The government has

asked the School to increase admissions in order to provide a sufficient number of social workers to implement the Children's Act.

One of the most fascinating aspects of our interviews was the impression of many of the Legal Aid attorneys that the shift under the Children's Act towards one of both rights and responsibilities was occurring slowly. The other prominent observation was that in spite of the fact that the Children's Act allowed for legal representation for all children, this particular aspect of the Act was not being implemented in many locations.

We also interviewed Tonya Lombaard of the Malmesbury Justice Centre. Tonya's impression of the implementation of the Children's Act was similar to that which we had previously heard. She indicated that a shortage of social workers was an impediment as was the unwillingness of some judges to appoint attorneys to represent children.

As part of the project Prof. Kisthardt had several meetings with the Dean of the Law School, Julia Sloth-Nielsen. Prof. Sloth-Nielsen is an internationally recognized expert on children's rights. She was instrumental in the drafting of the original Children's Act and is currently being asked to assist with amendments to the Act. She was particularly interested in the reports that we received from the Legal Aid attorneys who had a first-hand view of the implementation of the Act. She will use that information to assist her in making recommendations regarding the amendments. This was perhaps the most valuable outcome of the research project.

Dean Sloth-Nielsen was also very interested in the way in which the courts have now finally begun to interpret the Children's Act. There have been two major decisions regarding grandparents' rights as well as rights for same-sex parents. After meeting with her it was determined that the study's final product will be an article co-authored by Prof. Kisthardt and Lorenzo Wakefield relating to visitation issues for same-sex parents under the new Children's Act.