



An Alternative Response to Child Protection in Nebraska

Families and communities are the foundation of healthy development in children. Schools, neighbors, and relatives play an important role in creating a positive environment for children. Out of a collective responsibility for the well-being of children, social institutions emerged long ago to intervene when circumstances affect the ability of a family to ensure the health and welfare of their children. Child protection in the United States has evolved substantially from private orphanages to a centralized system shaped by decades of policy reform.

Today, child welfare services in Nebraska represent a shared interest in protecting the safety and well-being of all children in the state. The child welfare system is responsible for addressing immediate safety concerns by providing a safe placement when necessary, but is also tasked with supporting children in their own homes by strengthening family capacity when possible. Historically, the majority of child abuse or neglect cases in Nebraska have been identified for physical neglect—the inability to provide for a child’s basic needs, often a symptom of poverty. In both policy and practice, the state system has relied heavily on removing children from their family homes for many years, oftentimes at a greater financial cost and without harnessing and building upon family strengths whenever possible. Amidst a period of significant reforms, the Nebraska Legislature sought to bring more flexibility to the state response to child maltreatment in 2014 through an approach called Alternative Response (AR). The pilot heralds a new era for child protection in Nebraska by allowing for a more collaborative response that meets the individual needs of families when the risk to children is deemed to be low to moderate.

1. CHILD PROTECTION: ONE SIZE FITS ALL?

Nationally and in Nebraska, child protective services (CPS) systems first came about to protect children from serious abuse and neglect. It was not until 1974 that a centralized system for child protection emerged from a patchwork of private and local organizations across states through the federal Child Abuse Prevention and Treatment Act (CAPTA), which authorized federal funds for the support of a nationwide response to child abuse and neglect. The passage of CAPTA established reporting and investigation in all states. By then, the use of foster care placements replaced the orphanages and almshouses of the nineteenth century.¹

1. John E.B. Myers, “A Short History of Child Protection in America,” *Family Law Quarterly* 42, no. 3 (2008): 456.



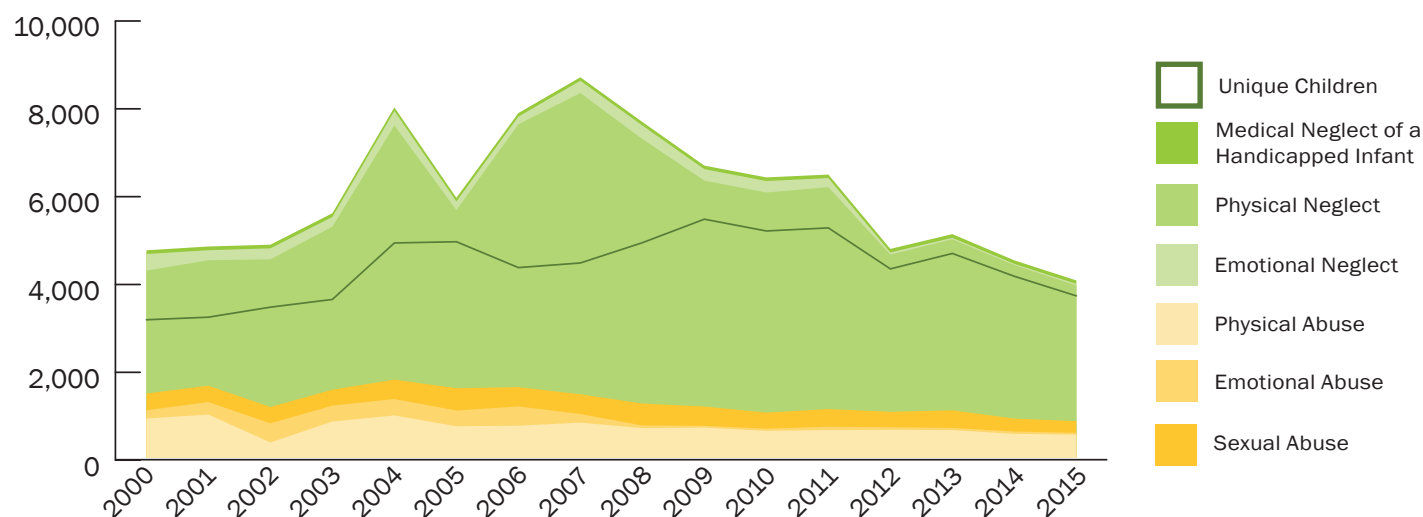
Federal and state policy have long reflected a singular focus on protection and safety. In Nebraska, allegations of child maltreatment are screened at the state hotline for initial assessment, or an investigation. Through the investigation, the agency gathers evidence to determine whether the allegation is substantiated or unfounded, with substantiated reports requiring an entry into the state Child Abuse and Neglect Central Registry.² The nature of this traditional response has often been described as adversarial—caseworkers may interview children without the consent or knowledge of their parent, while the risk of removal creates an implicit and oftentimes, explicit, sense of coercion on parents in interacting with caseworkers.³

Since 1974, child welfare legislation has often swung between two poles of child protection philosophies: a family-based model that sought to keep children with their biological families whenever possible, and a model that viewed child safety as primarily achievable through the state’s actions in finding a new home.⁴ Hanging in the balance of this policy pendulum are children and families in unique circumstances with vastly different needs.

1.1. CHILD MALTREATMENT IN NEBRASKA, BY THE NUMBERS

Although policy and practice dictates an investigatory approach to child maltreatment, the data show that families come to the attention of CPS in a wide range of circumstances. The majority of child maltreatment in the state is due to physical neglect, which is often related to poverty and financial stress (Figure 1). Cases of severe maltreatment, which are most appropriately served by actions that address immediate safety concerns, such as removal, actually represent a minority of cases in the state child welfare system. Many of the recent reforms in Nebraska have sought to strengthen in-home supports when children are assessed to be safe in their own homes. In such cases, in-home services build parental capacity without disrupting family routines and relationships. Children rely on stable and loving relationships, and the uprooting of familiar caregivers and surroundings in the process of removal is a serious form of traumatic stress with long-term consequences in proper functioning, leaving children vulnerable to continued trauma and victimization.⁵

Figure 1. Types of Substantiated Reports of Child Maltreatment in Nebraska, 2000-2015⁶



2. Neb. Rev. Stat. §28-713.01; 390 Neb. Admin. Code 4-008.01. In addition to agency substantiation, child abuse or neglect reports can also be substantiated through the courts.

3. 390 Neb. Admin. Code 4-004.02. See also: Quality Improvement Center on Differential Response in Child Protective Services, “Differential Response in Child Protective Services: A Legal Analysis,” September 2009, <http://www.ucdenver.edu/academics/colleges/medicalschoo/departments/pediatrics/subs/can/DR/qicdr/General%20Resources/General%20Resources/docs/differential-response-in.pdf>.

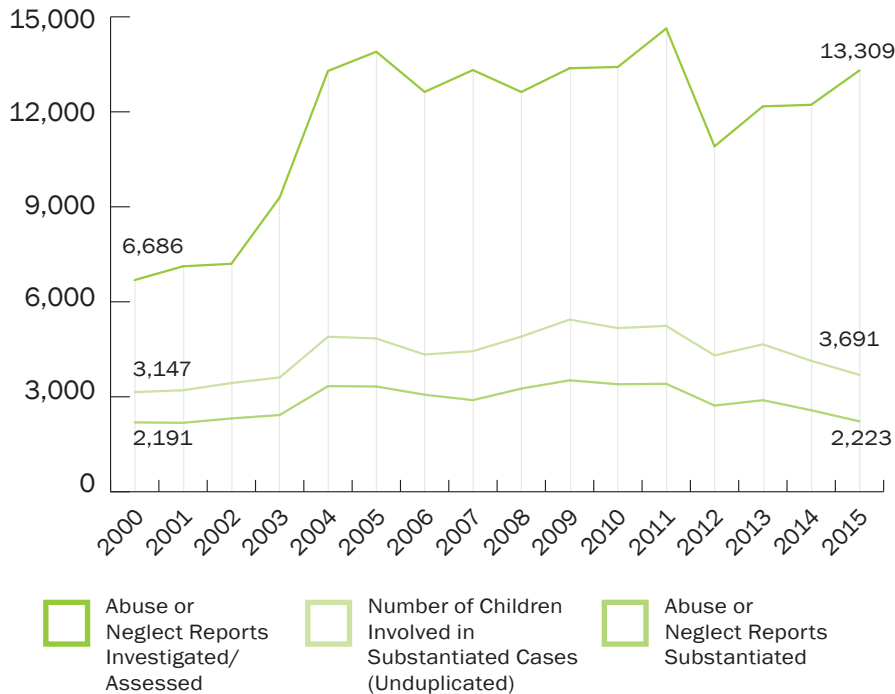
4. Cris Beam, *To the End of June: The Intimate Life of American Foster Care* (New York: Houghton Mifflin Harcourt Publishing Company, 2013), 52.

5. Janet S. Walker and Aaron Weaver, “Traumatic Stress and the Child Welfare System,” *Focal Point: Research, Policy, & Practice in Children’s Mental Health* 21, no. 1 (2007):3, <https://www.pathwaysrtc.pdx.edu/pdf/fpW07.pdf>.

6. Data obtained from the Department of Health and Human Services. Multiple types may be included in a single substantiated report, which accounts for the discrepancy between “unique child victims” and the number of substantiated reports.

While the number of intakes accepted for an investigation has increased at a dramatic pace over the years, the number of investigations that resulted in a finding of substantiated maltreatment has remained relatively stable (Figure 2). This discrepancy suggests that a significant amount of resources are expended on investigations of low-risk families that may have been better served with access to supports and services.

Figure 2. Child Abuse and Neglect Investigations and Subsequent Substantiations, 2000-2015⁷



These figures from the “front door” of our child welfare system suggest an opportunity for improvement that would build upon recent progress in reducing an overreliance on out-of-home placement. Nebraska removed children at twice the national average in 2005, with 14 out-of-home placements per 1,000 children, in spite of its higher-than-average rate of physical neglect. A decade later, the rate of removal in Nebraska was eight per 1,000 children, compared to the national average of five per 1,000 in 2014.⁸ Most parents want to do the best for their children and most children do best in their own homes, but some may find themselves in circumstances that interfere with their ability to do so. We can continue to improve our child welfare system by ensuring that policy and practice meets the needs of individual families and builds positive outcomes.

2. ALTERNATIVE RESPONSE: A NEW APPROACH FOR NEBRASKA

Alternative Response (AR), also known as Differential Response or Family Assessment Response in other states, first appeared in Florida and Missouri in 1993 as both states sought to better meet the individual needs and risks of families and children that came to the attention of CPS officials.⁹ The approach was eventually replicated in a number of other states and jurisdictions, alongside quasi-experimental and randomized control trial evaluations. Generally, AR introduced a second approach to serving families, where investigations are reserved for referrals involving severe physical or sexual abuse, or when imminent risk for severe maltreatment exists. The second non-investigatory track has been applied to families that are identified as low- or moderate-risk, unless subsequent information reveals the need for an investigatory approach.

The distinction between AR and traditional response (TR) may seem slight, but AR represents a momentous culture shift for systems. Investigations and quick action to ensure a safe environment will always be necessary in some cases. Nevertheless, many families in Nebraska and nationally come to the attention of CPS for less severe reasons, often related to poverty or mental health issues.

8. Annie E. Casey Foundation, “Children 0 to 17 in Foster Care,” Kids Count Data Center, available at: <http://datacenter.kidscount.org/>.

9. Gary L. Siegel, “Lessons from the Beginning of Differential Response: Why it Works and When it Doesn’t,” Institute of Applied Research, January 2012, <http://www.iarstl.org/papers/DRLessons.pdf>, 3-4.

With a primary focus on safety, child welfare systems are proficient in minimizing danger to children, but lacking in mechanisms that allow caseworkers to recalibrate their response in cases where information indicates a low risk to child safety. Reports of alleged neglect in family often represent a symptom of a much broader issue with family functioning.¹⁰ The objective of the AR caseworker is to remedy the underlying problem with solutions that put the family on the path to long-term stability. Most importantly, the approach expands the existing toolkit available to CPS caseworkers but does not preclude necessary actions if an imminent risk to safety is presented in the course of the case.

2.1. THE ALTERNATIVE RESPONSE PILOT PROJECT IN NEBRASKA

Federal dollars account for the majority of child welfare spending, and the federal policies tied to such funds have long reflected an investigation-only approach in the system. The U.S. Administration for Children & Families (ACF), which administers federal child welfare programs, offers states the ability to utilize federal funds more flexibly through demonstration projects, namely through a waiver for the largest source of child welfare funding authorized by Title IV-E of the Social Security Act. The waivers allow the federal government to “test” innovative approaches in service delivery and financing through projects and evaluations in waiver states.

After a lengthy planning process with stakeholders and lawmakers, the Division of Children and Family Services (DCFS) of the Nebraska Department of Health and Human Services (DHHS) submitted an application for a Title IV-E waiver demonstration project allowing DCFS to implement an AR pilot project. Federal approval of the waiver was granted in 2013, and in 2014 the Nebraska Legislature authorized the pilot and appropriated state funds for training and service costs.

State statute outlines legislative intent and certain definitions pertaining to the AR pilot in the state, and after the bill’s passage in the Unicameral, DCFS adopted and promulgated rules and regulations that govern eligibility for the pilot and procedural guidelines.¹¹ The final rules and regulations were the product of a lengthy process of intensive collaboration with stakeholders and members of the Nebraska Children’s Commission.

2.1.1. Eligibility and Reassignment

Current administrative code details circumstances in which families would be categorically ineligible from participating in the pilot. The presence of at least one of the 22 exclusionary criteria automatically excludes a family from participation in the pilot. The exclusionary criteria were intended to represent high-risk indicators that stakeholders viewed as inappropriate for the new AR approach, particularly in the pilot’s initial years. The criteria include certain cases of physical abuse, sexual abuse, domestic violence, child fatality, drug or alcohol exposure in newborns, presence of controlled substances in the household, and some types of prior or current involvement with CPS.

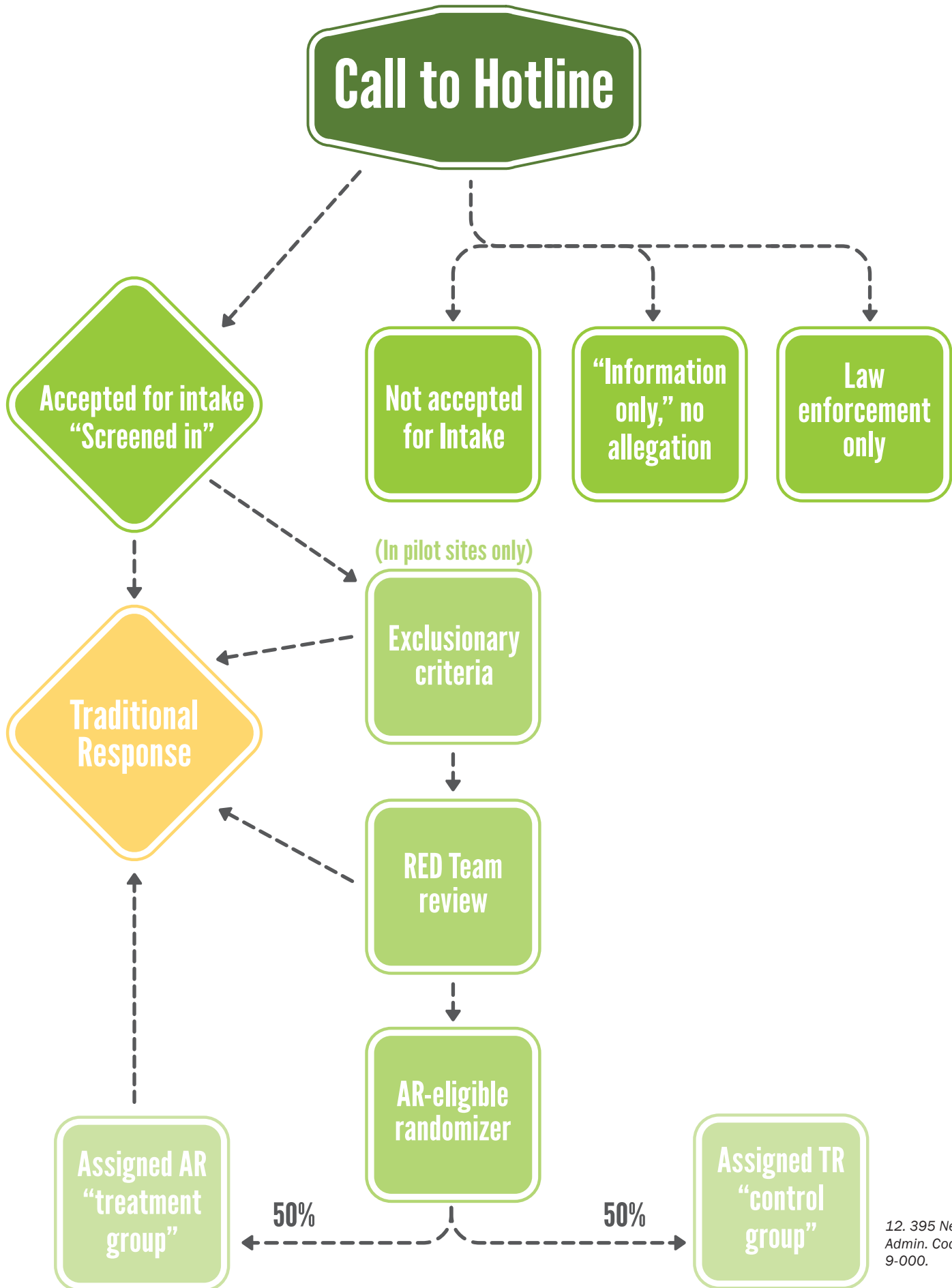
Statutory changes also created a Review, Evaluate, Decide (RED) Team within DCFS to provide a more discretionary evaluation for other cases with other high-risk indicators. Intakes that have “passed” the exclusionary criteria will be assessed by the RED team on a case-by-case basis if the information collected presents other risk indicators. With the information provided, the RED Team must determine AR eligibility within one business day by a unanimous decision. Cases can be accepted as AR-eligible at the hotline if no exclusionary or RED team criterion are present, or after a RED team determination.

Determination of eligibility for AR is based on information made available through the hotline in Omaha. Like many other states that have implemented the approach, current policy ensures that DCFS is able to reassign a family receiving AR to TR based on any subsequent information. Specifically, families will be reassigned if information indicates that a safety threat is present that cannot be addressed in the current in-home safety plan, if child safety cannot be assessed, if a law enforcement agency notifies DCFS that it will continue investigation of the accepted intake, if the caretaker requests reassignment, or if there is an allegation that a member of the household caused a child fatality.

¹⁰. *Ibid.*, 14.

¹¹. *Neb. Rev. Stat. §28-712.*

Figure 3. The Alternative Response Pilot Project¹²



12. 395 Neb. Admin. Code 9-000.

2.1.2. Independent Evaluation of Outcomes

As a federal demonstration project, a central component of the pilot is the completion of a third party and independent evaluation, to be conducted by the Center on Children, Families, and the Law (CCFL) within the University of Nebraska-Lincoln over a 60-month period. The authorization of the project requires a randomized control trial, which will allow researchers to compare a “treatment” (AR) group with a “control” (TR) group to answer key research questions about the effectiveness of the approach. To this end, all AR-eligible cases that meet the exclusionary criteria and complete any RED Team reviews are assigned at random to AR or TR at a 1:1 ratio.

The CCFL published a preliminary report of its findings in November 2016, summarizing data from October 2014 through June 2016. The findings from the first two years of implementation are drawn from administrative data and from surveys of workers and families. Though early, the analyses conducted generally confirm expectations that the more flexible approach offered through AR is resulting in better outcomes for children and families.¹³ Final evaluations completed in other states offer some insight into long-term outcomes that have yet to be measured in Nebraska. Some studies have demonstrated statistically significant positive results for AR families in rates of re-referral to the system, rates of removal from the home,¹⁴ family perceptions of well-being,¹⁵ caseworker job satisfaction, and caseworker perception of AR.¹⁶

Cost analyses in Nebraska’s evaluation report show that AR families’ total service costs were \$4,343 per family, while TR families’ total service costs were \$3,105 per family, but found no statistical significance in average case cost.¹⁷ This appearance of higher cost for AR cases may shift as time passes, if AR proves more effective in preventing deeper system involvement. Final cost analyses of AR were conducted in Minnesota, finding an average savings of nearly \$1,300 per family over three to five years. A similar analysis of Ohio, which was in an earlier stage of AR implementation, found that the cost of AR families was about \$100 more than TR families, with the expectation that costs would level as the evaluation continued due to a reduction in placements.¹⁸ It has been hypothesized that the upfront costs of AR service delivery would be higher than usual, representing a greater investment in time and resources on the front end, but would ultimately yield cost savings to child welfare systems in the long-term. Foster care placements are costly, and efforts to reduce removals are almost certain to produce a reduction in child welfare expenditures.

What do we know about Alternative Response in Nebraska?

The interim evaluation report issued by the Center on Children, Families, and the Law of the University of Nebraska-Lincoln discusses intermediate outcome analyses from the first two years of implementation. While still early in the process, the report suggests a promising path forward for the front door of our child welfare system.

Among the findings were:

- More timely receipt of services for AR families
- Better match between services and family needs for AR families
- Higher family buy-in and overall engagement for AR families
- Higher level of mistrust for TR families
- Lower hyperactivity for children in AR families at case closure
- Fewer peer relationship problems for children in AR families at case closure
- Improved pro-social behavior for children in AR families at case closure

13. Department of Health and Human Services Division of Children and Family Services, “Legislative Report: Alternative Response Implementation Pursuant to Neb. Rev. Stat. 28-712,” November 15, 2016, http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Health_and_Human_Services_Department_of/548_20161114-143259.pdf.

14. Casey Family Programs, “Comparison of Experiences in Differential Response (DR) Implementation: 10 Child Welfare Jurisdictions Implementing DR,” April 2012, 10.

15. Julie Murphy, Linda Newton-Curtis, Madeleine Kimmich, “Ohio SOAR Project: Final Report,” National Quality Improvement Center on Differential Response in Child Protective Services, November 2013, <http://www.ucdenver.edu/academics/colleges/medicalschoo/departments/pediatrics/subs/can/QIC-DR/Documents/OHIO%20SOAR%20Final%20Report%20%20December%202013.pdf>, 119.

16. *Ibid.*, 122-123.

17. Department of Health and Human Services Division of Children and Family Services, 29.

18. Casey Family Programs, “Comparison of Experiences in Differential Response (DR) Implementation,” 11.

2.1.3. Implementation Feedback and Oversight

The approach represents a significant paradigm shift in policy, practice, and agency culture. The careful planning and implementation process reflects the measured pace of change at which many members of the child welfare community agreed would be necessary to ensure that child safety remained the first priority of our system. The pilot, therefore, includes a number of measures to provide feedback and oversight as the project continues to expand across the state.

This structure implemented by DCFS includes monthly continuous quality improvement (CQI) reports that are utilized to provide regular analysis of programmatic performance, as well as internal and external case reviews to identify systemic areas for improvement. Additionally, DCFS convenes the AR Internal Workgroup, the AR Director's Steering Committee, and the AR Statewide Advisory Committee regularly to gather feedback and recommendations for continued implementation. Legislative changes also tasked the Office of the Inspector General of Child Welfare of Nebraska with authority to investigate complaints and incidents of cases receiving AR.¹⁹

2.1.4. A New Beginning for Child Welfare in Nebraska

The AR pilot began serving families in five initial sites within each of the five DCFS service areas across the state in October 2014: Scotts Bluff, Hall, Dodge, Lancaster, and Sarpy Counties. The pilot expanded to 20 additional counties in March 2016, and four others in the following month. Staggered implementation took place in Douglas County from August 2016 through January 2017. Pending legislative reauthorization in 2017, the pilot will expand to the remaining counties in the state by mid-2017.

Change takes time—particularly in a system charged with the safety and welfare of young children. The current AR pilot in Nebraska is not an approach that is intended to replace traditional CPS procedures, but rather, represents an important opportunity to reassess and reform the system to respond more flexibly to the unique needs of families. The continued implementation of AR can only be successful if it exists in the context of continued investment in services and supports at the broader system level, from prevention through post-permanency, and into young adulthood.

3. RECOMMENDATIONS

3.1. REAUTHORIZATION

The Nebraska Legislature must reauthorize the AR pilot project in its 2017 session in order for the pilot to continue its implementation. As the pilot expands into Douglas County, the most populous in the state, a robust investment in training and service costs will be necessary to produce the greatest impact on children and families in the state. In the short two years that the pilot has been implemented, a substantial amount of careful planning, training, and development has occurred to ensure that the approach is executed with fidelity and without compromise to child safety. A number of accountability and oversight measures are in place to monitor progress and safety. The continued implementation of the pilot project is an unprecedented opportunity to ensure that the front door of our child welfare system adequately meets individual needs and builds family strengths. Additionally, tied as it is to Nebraska's federal Title IV-E funding waiver, loss of the pilot could threaten millions in federal funding.

19. As of its most recent annual report issued in September 2016, the OIG has not received any such reports since the pilot began in 2014.

3.2. RE-EXAMINATION OF ELIGIBILITY CRITERIA

The exclusionary criteria created in Nebraska’s administrative code represent some of the most restrictive of states and jurisdictions nationally that have adopted AR. Thus far, AR-eligible families represent a relatively small proportion of all families served by DCFS in the pilot sites—only 7.3% of all accepted intakes in the pilot’s first eight months.²⁰ Expansive exclusionary criteria allowed the pilot to continue at a safe and deliberate pace through the programmatic and training learning curves, but nevertheless limited the impact of the project. An examination of current eligibility processes should consider a more nuanced approach to exclusions, such as requiring certain services or procedures for particular criteria to mitigate risk, or shifting certain criterion to the purview of the RED Team.

3.3. LEVERAGING COMMUNITY SUPPORTS FOR PREVENTION EFFORTS

Many states that have adopted AR have developed a third CPS track that allows the state to formally respond to screened-out reports of families that do not meet maltreatment criteria, but may benefit from services and supports. This approach, typically including referrals to service options, sought to maximize contact at the hotline to prevent subsequent screened-in intakes. An evaluation of Minnesota’s third-track response revealed the cyclical nature of CPS involvement, where 65% of families with allegations that were screened out had previously been investigated by CPS.²¹ In Nebraska, community-based efforts to serve families without unnecessary involvement in the child welfare system are already underway across the state through Community Response (CR), an initiative of the Nebraska Children and Families Foundation. The CR sites draw on the collaboration of community agencies, organizations, and individuals to develop a broad system of prevention services and resources for individual families in a time of crisis. Creating a formal response to screened-out reports at the statewide hotline could allow for a more coordinated effort to prevent child maltreatment by leveraging existing community supports.

20. Nebraska Department of Health and Human Services, Division of Children and Family Services, “Legislative Report: Alternative Response Implementation Pursuant to Neb. Rev. Stat. 28-712(3),” November 2015, 8.

21. Tony Loman, et al, “Minnesota Parent Support Outreach Program Evaluation Final Report,” Institute of Applied Research, March 2009, 26.

