

Attachment #1

Nebraska Administrative Code

Title 75, Nebraska Administrative Code, Chapter 1

Nebraska Commission on Law Enforcement and Criminal Justice
Community-based Juvenile Services Aid Program

Rules and Regulations for
Distribution of Community-based Juvenile Services Aid

DRAFT

TITLE 75, COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM

CHAPTER 1, DISTRIBUTION OF COMMUNITY-BASED JUVENILE SERVICES
AID

NEBRASKA COMMISSION ON LAW ENFORCEMENT
AND CRIMINAL JUSTICE

TITLE 75

STATE OF NEBRASKA

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE
COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM

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NEBRASKA ADMINISTRATIVE CODE

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- COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM

CHAPTER 1 - DISTRIBUTION OF COMMUNITY-BASED JUVENILE SERVICES AID

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TITLE 75 – COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM
CHAPTER 1 – DISTRIBUTION OF COMMUNITY-BASED JUVENILE SERVICES AID

001 PURPOSE AND SCOPE

001.01 PURPOSE: To establish procedures governing the distribution and management of Community-based Juvenile Services Aid funds by the Nebraska Commission on Law Enforcement and Criminal Justice.

001.02 SCOPE: Applicable to individual counties, multiple counties, federally recognized or state recognized Indian tribes requesting and receiving funds distributed by the Commission with the intent to provide community-based services to juveniles under programs aligned with evidence-based practices.

002 REFERENCE: Juvenile Services Act, 43-2401 – 43-2413.

003 DEFINITIONS: The following terms and definitions will be utilized for purposes of this chapter:

003.01 APPLICANT refers to individual counties, multiple counties, federally or state recognized Indian tribes within the State of Nebraska that have applied for Community-based Juvenile Services Aid.

003.02 CASH REPORT is a document prepared by the subgrantee that reports quarterly expenditures and may serve as a request for funds.

003.03 COMMISSION is the Nebraska Commission on Law Enforcement and Criminal Justice.

003.04 COMMISSION FUNDING PANEL is a three-person panel that makes final funding decisions. The Commission Funding Panel shall consist of three Commission members approved by the Commission, and shall include the Chair of the Nebraska Coalition for Juvenile Justice so long as he/she does not have a conflict of interest. The Commission Funding Panel members shall be selected by the Commission annually and will include selection of one alternate member.

003.05 COMMUNITY PLANNING ADVISORY SUBCOMMITTEE is a statewide working group of the Nebraska Coalition for Juvenile Justice State Advisory Group pursuant to Nebraska Revised Statute 43-2404.01 tasked with regular strategic planning related to supporting, funding, monitoring, and evaluating the effectiveness of plans and programs receiving funds from the Community-based Juvenile Services Aid Program.

003.06 COMMUNITY PLANNING RESOURCES refers to the Juvenile Services Comprehensive Community Planning User Manual adopted by the Commission, and additional resources and requirements deemed necessary by the Director of the Community-based Juvenile Services Aid Program and Community Planning Advisory Subcommittee. Community planning resources will be posted on the Commission's website and outlined in the Request for Application.

003.07 COMMUNITY PLANNING TEAM is a local community team comprised of members who represent the interests of the county or Indian tribe within the community, and consist of individuals serving the community in the roles listed in the community planning resources, and is formed to oversee the planning and implementation of services developed and provided within each community or region.

003.08 COMMUNITY-BASED JUVENILE SERVICES AID APPORTIONMENT FORMULA is based on the total number of residents per county and federally recognized or state recognized Indian tribe who are twelve years of age through eighteen years of age and other relevant factors as determined by the Commission. The Commission may determine a minimum funding amount for

counties or Indian tribes whose population produces an apportionment below the minimum funding amount.

003.09 COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM provides aid to counties and federally recognized or state recognized Indian tribes as outlined in Nebraska Revised Statute 43-2404.02.

003.10 COMPREHENSIVE JUVENILE SERVICES COMMUNITY PLAN is the document created by the community planning team and approved by their respective county board or tribal council that covers three years of planning for juveniles within the identified community. The comprehensive juvenile services community plan will satisfy the requirements laid out in this chapter and be consistent with instruction found in the community planning resources. Comprehensive juvenile services community plans must be developed every three years, and submitted to the Director of the Community-based Juvenile Services Aid Program for approval. Annual updates are completed with the submission of the application for the Community-based Juvenile Services Aid Program.

003.11 CONFLICT OF INTEREST shall include situations where the individual would be required to take any action or make any decision that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business or organization with which he or she is associated, or a community which he or she represents.

003.12 CONTINGENCY is a condition(s) required by the Commission that must be satisfied prior to the awarding of a grant.

003.13 DIRECTOR OF JUVENILE DIVERSION PROGRAMS is the individual appointed by the Executive Director of the Commission who shall perform duties as provided in Nebraska Revised Statute 81-1427.

003.14 DIRECTOR OF THE COMMUNITY-BASED JUVENILE SERVICES AID PROGRAM is the individual appointed by the Executive Director of the Commission who shall perform duties as provided in Nebraska Revised Statute 43-2404.01.

003.15 EVIDENCE-BASED PRACTICE is a program that can demonstrate that it effectively prevents or deters youth from involvement in the juvenile or criminal justice system as outlined in the Request for Application.

003.16 EXECUTIVE DIRECTOR is the individual who is responsible for the supervision of the policies as established by the Commission and has the powers and duties as outlined in Nebraska Revised Statute 81-1425.

003.17 GRANT AWARD PACKET is an agreement between the Commission and the subgrantee that awards funds; specifies terms; sets conditions on the receipt, usage, and documentation of funds; and specifies other conditions deemed necessary by the Director of the Community-based Juvenile Services Aid Program.

003.18 GRANT REVIEW SUBCOMMITTEE is a subcommittee of the Nebraska Coalition for Juvenile Justice State Advisory Group tasked with reviewing grant applications to the Commission, oversight of the grant review process, and reporting to the Nebraska Coalition for Juvenile Justice.

003.19 MEMORANDUM OF UNDERSTANDING is an agreement between two or more counties or Indian tribes that are applying as a regional group that outlines the commitment to combine their Community-based Juvenile Services Aid funds to accomplish the priorities in their comprehensive juvenile services community plan and project(s) in the grant application.

003.20 NEBRASKA COALITION FOR JUVENILE JUSTICE is the State Advisory Group for the state of Nebraska pursuant to the Juvenile Justice and Delinquency Prevention Act; responsible for advising the Commission on the awarding of grants, identifying and sharing juvenile justice issues, and other duties and powers outlined in Nebraska Revised Statute 43-2412.

003.21 REGIONAL GROUP is a group of counties or Indian tribal communities that have agreed to work together to serve juveniles who reside within their boundaries. A memorandum of understanding must be submitted as outlined in the Request for Application if a regional group jointly applies for grant funding.

003.22 REQUEST FOR APPLICATION is the announcement and solicitation of the Community-based Juvenile Services Aid Program that is apportioned as aid by the Commission as outlined in this chapter. The Request for Application includes, but is not limited to program specifications, application procedures, evidence-based practice requirements, and predetermined allocation amounts. The information included in the Request for Application is subject to change contingent upon statutory requirements, agency requirements, evaluation outcomes, and evidence-based practices and principles.

003.23 STAFF REVIEW TEAM is comprised of members from the Community Planning Advisory Subcommittee, staff from the Commission, research experts, and other individuals deemed necessary to review grant applications for compliance with use of funding restrictions as outlined in Nebraska Revised Statute 43.2404.02 and appropriately determine the effectiveness of the program(s) in the grant applications.

003.24 SUBGRANTEE refers to applicants which have accepted the grant award packet for the Community-based Juvenile Services Aid Program.

004 ELIGIBILITY FOR FUNDING: Individual counties, multiple counties, federally recognized or state recognized Indian tribes, or any combination of these entities, within the state of Nebraska, are eligible for funding so long as they have developed, adopted, and submitted to the Commission an approved comprehensive juvenile services community plan and application for funding as outlined in the annual Request for Application. Counties or Indian tribes may apply individually for funds or apply as a regional group. Should a group of counties or Indian tribes apply, one county or Indian tribe must be the lead applicant and provide memorandums of understanding in the funding application between each participant in the regional group.

005 COMPREHENSIVE JUVENILE SERVICES COMMUNITY PLANNING PROCESS: All applicants shall submit a comprehensive juvenile services community plan to the Commission for approval before submitting an application for funds. Each comprehensive juvenile services plan must be developed by a community planning team and submitted in accordance with the Juvenile Services Act, community planning resources, and requirements of this chapter. Comprehensive juvenile services community plans shall:

005.01 Provide relevant county-level data, including but not limited to, types of data listed within the community planning resources that

supports the existence of the problem that the planning team will address;

005.02 Identify clearly defined community priorities of the community planning team, that includes defining a problem, or set of problems, that affects juveniles at risk or those already involved in the criminal justice system;

005.03 Identify programs and practices for addressing the community's priorities. Such programs and practices shall be supported by evidence-based practice, research, or are standardized and have reliably demonstrated positive outcomes in other areas of juvenile services;

005.04 Identify clear implementation strategies; and

005.05 Identify how the impact of the program will be measured in alignment with evidence-based practices or research.

006 FUNDING APPLICATION PROCESS

006.01 Notification of the availability of funds shall be announced annually by the Director of the Community-based Juvenile Services Aid Program through a Request for Application. Such notification will include application requirements and instructions. Funding amount will be calculated by the community-based juvenile services aid apportionment formula.

006.02 After a community planning team has submitted their comprehensive juvenile services community plan to the Commission and approval has been granted, applicants must also submit an application for funds that shall:

006.02A Align with the priorities identified in the comprehensive juvenile services community plan;

006.02B Be written consistent with the program development strategies outlined in the community planning resources and comprehensive juvenile services community plan;

006.02C Identify how the funds will be used to implement programs identified in the comprehensive juvenile services community plan;

006.02D Demonstrate that the use of funds shall be limited to developing policies and practices that are supported by evidence-based practice, research, or are standardized and have reliably demonstrated positive outcomes in other areas of juvenile aid services;

006.02E Be determined by a majority vote among the community planning team representing the interests of the applicant submitting the grant application for the Community-based Juvenile Services Aid Program; and

006.02F Include the respective county board or tribal council's approval of the grant application. In the event the county board or tribal council does not approve recommendations from the community planning team, the county board or tribal council may submit written justification to the Commission in consideration of a modification of the initial proposal approved by the community planning team.

006.03 If an applicant's community planning team would like to request a determination of whether the use of funds is permissible, they should submit this request for determination to the Director of the Community-based Juvenile Services Aid Program no less than 30 days prior to the grant application due date. The Director of the Community-based Juvenile Services Aid Program shall consult with the Juvenile Justice Institute for assistance in determining alignment with evidence-based practices. The Director of the Community-based Juvenile Services Aid Program will notify the applicant after consultation with the Juvenile Justice Institute.

006.04 Community-based Juvenile Services Aid is awarded on an annual basis. Applicants receiving funds shall be required to reapply annually for funding, pursuant to requirements outlined in the Request for Application and this chapter.

007 FUND MATCHING

007.01 Subgrantees may be required to provide up to a 40% match of the designated Commission award amount. The mandatory match requirement will be outlined in the Request for Application.

007.02 Subgrantees must include documentation of matching funds. Any local county or tribal expenditures for community-based programs,

including funds directly associated with the grant application, may be applied toward the match requirement. Subgrantees must include documentation of these match expenditures in their cash report. Instructions are subject to change and will be outlined in the conditions that are included in the grant award packet.

007.03 Counties or Indian tribes applying as a regional group must each provide their designated portion of the mandatory match requirement.

007.04 Subgrantees contracting with non-profit agencies or service providers cannot require the contracting agency to provide matching funds.

008 REVIEW OF GRANT APPLICATION

008.01 All grant applications that were received by the appropriate deadline outlined in the Request for Application shall receive initial review by the Staff Review Team. Upon completion of staff review, funding recommendations and summary comments will be sent to the Grant Review Subcommittee.

008.02 Evaluation and funding decisions by all reviewing entities will be determined based on the following criteria:

008.02A Eligibility of the applicant;

008.02B Adherence to federal and state requirements and guidelines;

008.02C Completeness, clarity, continuity, and consistency of the written application. The written application shall include all sections and information as outlined in the Request for Application;

008.02D Ability and capacity of the proposed program to make an impact on the identified problem and comprehensive juvenile services community planning priorities;

008.02E Assessment of the relationship between the proposed program and existing models or analyses of evidence-based practices. If the program is not aligned with evidence-based

practices, the review process will consider how the applicant's proposal will move the program closer to such an alignment;

008.02F Other resources available to address the problem including an explanation of how the grant applicant's proposal will work with or coordinate with existing resources;

008.02G Cost effectiveness of the proposed project;

008.02H Amount of funds available; and

008.02I If previously funded, the performance and ability of the applicant to manage a grant program, including the timely submission of required reports to the Commission.

008.03 The Grant Review Subcommittee will conduct a review of the grant applications, taking into consideration the criteria listed in 008.02 of this chapter, and recommendations from the Staff Review Team. The Grant Review Subcommittee will submit a funding recommendation to the Commission Funding Panel.

008.04 The Commission Funding Panel will conduct a final review of the grant applications. The Commission Funding Panel shall take the grant proposal and recommendations from the Staff Review Team and the Grant Review Subcommittee under advisement before issuing a final decision on the grant applications.

008.04A Final funding determinations will be made by a majority vote of the Commission Funding Panel. The Commission Funding Panel may:

008.04A (1) Vote to adopt the funding recommendations and contingencies of the Grant Review Subcommittee;

008.04A (2) Modify the recommendations of the Grant Review Subcommittee which may include additional contingencies or requirements that the applicant must meet in order to receive funding; or

008.04A (3) Reject any recommendation made by the Grant Review Subcommittee and establish its own funding determination. Any funding determinations contrary to the recommendations of the Grant Review Subcommittee shall include a written justification.

008.04B Upon issue of its final decision, the Director of the Community-based Juvenile Services Aid or his or her designee will notify applicants within (10) working days of the final decision in the following manner:

008.04B (1) For applicants who receive funding, the notification will inform the applicant of the final status of the application, the requirement to meet any contingencies, and the steps necessary to obtain the grant award packet.

008.04B (2) For applicants who were denied funding or funding use, the notification will inform the applicant of the final status of the application, the reason(s) for the denial, and the appeal process.

009 ACCEPTANCE OF FUNDS AND CONDITIONS

009.01 Applicants who are approved to receive aid from the Commission will be required to accept the grant award packet subject to the conditions outlined in this chapter and specified by the Commission.

009.02 Applicants who are required to meet contingencies articulated by the Commission will have thirty (30) days from the notification of application approval to satisfy the requirements. Exceptions to the 30 day deadline may be allowed on a case by case basis, approved by the Director of the Community-based Juvenile Services Aid Program.

009.03 After contingencies have been approved by the Director of the Community-based Juvenile Services Aid Program, the applicant will be required to accept the grant award packet within 30 days. Acceptance requires the appropriate signatures of all documents included in the grant award packet and the original documents returned to the Commission. Exceptions to the 30 day deadline may be allowed on a case by case basis, approved by the Director of the Community-based Juvenile Services Aid Program. In the event that the grant award packet is not received by the deadline, three attempts will be made to contact project personnel listed on the application. If contact is unsuccessful, the applicant will be considered to have withdrawn their application for funding. The Director of the Community-based Juvenile Services Aid Program will notify the applicant of said withdraw.

009.04 Once all the steps have been taken to accept the grant award packet and all necessary documents are received by the Commission, the subgrantee will be eligible to receive funds as outlined in the grant award packet.

009.04A Subgrantees receiving funds will adhere to all reporting and monitoring requirements as outlined in this chapter and the grant award packet.

009.04B Failure to satisfactorily meet any of the conditions outlined in the grant award packet or to submit the required reports or documents by the deadlines may result in the suspension of the subgrantee's funds. Such suspension can be rescinded upon resolving the identified deficiencies. Reasonable efforts will be made by the Director of the Community-based Juvenile Services Aid to work with the subgrantee prior to the suspension of funds.

009.05 Funds received from the Commission shall be used exclusively in accordance with the statutory obligations of the Juvenile Services Act.

009.06 Subgrantees who misuse funds for unallowable expenses are subject to suspension or termination by the Commission. The Commission will require the subgrantee to return misused funds.

010 SUSPENSION AND TERMINATION OF FUNDS

010.01 Suspension of funds may occur when the subgrantee is out of compliance with any state or federal laws, guidelines or requirements; or fails to comply with the conditions stated in the grant award packet, or specified by this chapter. In order to suspend funds, the following procedures shall be followed:

010.01A The Director of the Community-based Juvenile Services Aid Program or his or her designee shall notify the subgrantee of the suspension of funds and provide conditions of reinstatement;

010.01B The Director of the Community-based Juvenile Services Aid Program or his or her designee may reinstate a suspension if the subgrantee has taken steps to correct non-compliant activities; and

010.01C If the subgrantee has not taken steps to correct the non-compliant activities within 90 days, the suspended funds shall be considered terminated.

010.02 Termination of funds shall occur for failure to comply with the conditions of reinstatement. A termination of funds may be appealed pursuant to this chapter.

010.03 Subgrantees that have spent money contrary to the grant award packet will be required to repay misspent funds to the Commission. Any funds returned shall be handled in accordance with state and federal law.

011 APPEALS PROCESS

011.01 Applicants or subgrantees may appeal an adverse funding decision to the Commission. Appeals are limited to the following grounds:

011.01A Partial denial of funding amount requested;

011.01B Denial of proposed use of funds;

011.01C Full denial of application that results in refusal of funding; or

011.01D Grant funds have been terminated.

011.02 The basis for an appeal shall be limited to one or more of the following grounds:

011.02A The decision being appealed was biased, arbitrary or prejudiced against the applicant County or Indian tribe;

011.02B The decision being appealed was reached without following procedures outlined in this chapter; or

011.02C The decision being appealed was reached without adherence to statutory requirements as specified in the Juvenile Services Act.

011.03 Notice of an appeal must be made in writing and submitted to the Director of the Community-based Juvenile Services Aid Program or his or her designee within ten (10) working days of receipt of final

funding decision or termination of funding notification. Notice of an appeal shall identify the basis for the appeal, and will inform the Director of the Community-based Juvenile Services Aid Program of the intent to file a full written appeal.

011.04 A full written appeal will detail the basis for the appeal, and include an explanation of why the proposed use of funds satisfies the requirements of this chapter. The full written appeal will be submitted to the Director of Community-based Juvenile Services Aid Program within (20) working days of the notice of appeal.

011.04A All proceedings shall be conducted in accordance with the Administrative Procedures Act, Nebraska Revised Statute 84-901 et seq. and with Title 53 of the Nebraska Administrative Code, Chapter 4, as they relate to the pleadings, notice, ex parte communications, prehearing conferences, discovery and the progression of the actual contested case at hearing.

011.04B The burden of demonstrating that an appealed decision should be reversed is on the party filing the appeal. The burden of proof shall be by a preponderance of the evidence.

011.04C Should the applicant or subgrantee filing the appeal fail to meet deadlines to submit either the notice of appeal or the full written appeal, the appeal will be considered waived and the funding decision shall be final.

011.05 The hearing shall be conducted before the Commission at its next available quarterly meeting. On appeal, the Commission will take into consideration the written appeal of the appellant, all recommendations for funding made during the application review process, and testimony from parties made during the appeal hearing. The final appeal decision shall be determined by a majority vote of the Commission.

012 REPORTING OF FUNDING AWARDS

012.01 REPORTING PROCEDURES

012.01A Subgrantees shall submit reports on program activity, financial expenditures, and individual and programmatic data

that shall be maintained by the Commission. Subgrantees shall report according to requirements outlined in the Request for Application, grant award packet, and Nebraska Revised Statute 43-2404.02.

012.01B Subgrantees may be assisted by the University of Nebraska at Omaha, Juvenile Justice Institute in reporting, as outlined in the Request for Application, grant award packet, and Nebraska Revised Statute 43-2404.01. Community-based Juvenile Services Aid utilization and evaluation data shall be stored and maintained by the Commission.

012.01C If the subgrantee does not submit reports by the required deadlines, or submits a report that demonstrates failure to meet funding requirements, the Director of the Community-based Juvenile Services Aid Program will provide notice to the subgrantee of the steps necessary to correct deficiencies in satisfying reporting requirements.

012.01D The subgrantee will have ten (10) working days from the date of notification from the Director of the Community-based Juvenile Services Aid Program to respond with a plan to correct program deficiencies.

012.01E Should the subgrantee fail to respond to correct the deficiencies in reporting requirements, the matter will be referred to the Commission for possible termination of the funding award.

012.02 FINANCIAL REPORTING REQUIREMENTS

012.02A All subgrantees shall be required to submit financial reports as prescribed by the grant award packet and this chapter.

012.02B Financial reports shall be submitted to the Director of the Community-based Juvenile Services Aid Program. Funding is subject to suspension if:

012.02B (1) The Director of the Community-based Juvenile Services Aid Program does not receive reports by required deadlines.

012.02B (2) The Director of the Community-based Juvenile Services Aid Program finds discrepancies between financial reports and permissible uses of funding described in the grant award packet or this chapter, and the county or Indian tribe fails to provide a plan for corrective action within ten (10) working days of receiving notification of discrepancy.

012.02C If reasonable efforts have been made by the Director of the Community-based Juvenile Services Aid Program to address deficiencies in reporting and the subgrantee continues to be out of compliance with the financial reporting requirements, the funds will be deemed terminated.

012.03 ACTIVITY REPORTING REQUIREMENTS

012.03A All subgrantees shall be required to submit activity reports as prescribed by the grant award packet and this chapter.

012.03B Activity reports shall be submitted to the Director of the Community-based Juvenile Services Aid Program. Activity reports shall include a narrative and data that addresses the following:

012.03B (1) Explanation of each program or process funded by the Community-based Juvenile Services Aid Program. This section will include information on program operation, community staff involvement, and how programs assisted juveniles within the community;

012.03B (2) Explanation of how each program assisted juveniles at the individual level. This section will explain how the program impacts the juveniles who are affected by it;

012.03B (3) Explanation of the program's impact on the community. This section will focus on broad community outcomes such as juvenile arrests, recidivism, and other community issues that the program addresses; and

012.03B (4) Additional information deemed necessary by the Director of the Community-based Juvenile Services Aid Program as outlined in the grant award packet.

012.04 REPORTING PROCESS FOR THE COMMISSION TO THE GOVERNOR AND LEGISLATURE: The Commission shall report annually to the Governor and the Legislature on the distribution and use of funds appropriated under the Community-based Juvenile Services Aid Program pursuant to Nebraska Revised Statute 43-2404.02.

013 PROGRAM EVALUATION

013.01 Evaluation of the use of the funds and the evidence of effectiveness of the programs shall be completed by the University of Nebraska at Omaha, Juvenile Justice Institute; specifically whether juveniles enrolled in community-based programs have reduced recidivism as defined by the Community Planning Advisory Subcommittee.

013.02 Evaluation will examine each Community-based Juvenile Services Aid Program to ensure ongoing alignment with evidence-based practices. A plan for ongoing evaluation of programs shall be developed jointly between the Community Planning Advisory Subcommittee, the University of Nebraska Omaha, Juvenile Justice Institute, and the Commission.

014 CONFLICT OF INTEREST

014.01 COMMISSION CONFLICT OF INTEREST: Recipients of grant awards, recipients of contracts associated with grants, personnel involved in the Staff Review Team, Grant Review Subcommittee, Commission Funding Panel and members of the Commission and staff that have a conflict of interest shall recuse themselves from participating in any discussion or vote regarding the grant application pursuant to section 008 or appeal hearings pursuant to section 011 that directly involve their agency, institution, or personnel.

014.01A In the event that a member of the Commission Funding Panel has a conflict of interest, that member shall remove himself or herself from the panel and an alternate member designated by the Commission shall take that member's position.

014.01B Any member of the Commission may raise the issue of a conflict of interest.

Title 75
Chapter 1

015 IF ANY ONE SECTION OF THIS ACT OR ANY PART OF ANY SECTION SHALL BE DECLARED INVALID OR UNCONSTITUTIONAL, SUCH DECLARATION SHALL NOT AFFECT THE VALIDITY OR CONSTITUTIONALITY OF THE REMAINING PORTIONS THEREOF.

Attachment #2



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
Washington, D.C. 20531

May 28, 2015

Darrell Fisher
Executive Director
Nebraska Commission Cn Law Enforcement And Criminal Justice

RE:

2013-DJ-BX-0021, Nebraska Commission Cn Law Enforcement And Criminal Justice
2011-DJ-BX-0025, Nebraska Commission Cn Law Enforcement And Criminal Justice
2012-DJ-BX-0661, Nebraska Commission Cn Law Enforcement And Criminal Justice

Dear Darrell Fisher:

Thanks to the Nebraska Commission on Law Enforcement And Criminal Justice's time and assistance provided during the Bureau of Justice Assistance (BJA) Enhanced Programmatic Desk Review (EPDR) on April 7-9, 2015. The teleconference provided me with valuable information on the status of your Edward Byrne Memorial Justice Assistance Grant programs. Speaking with the team gave me a greater understanding of the work being accomplished by these JAG grants. I appreciate the team's efforts and Lisa Stamm in making my teleconference educational. Please convey my thanks to everyone who took the time to help increase my understanding of the funded projects.

No programmatic or administrative problems requiring formal resolution were identified during the EPDR. The JAG programs appear to be progressing according to the approved awards and it is in compliance with BJA guidelines for grants. If you have any further questions concerning the EPDR, your program, or available technical assistance, please do not hesitate to contact me at 202-514-6134 and/or Gemee.Joyce@ojp.usdoj.gov. Thank you again for your cooperation during my recent EPDR.

Sincerely,

Gemee Joyce

cc:

Lisa Stamm

Attachment #3

Program Narrative-2015 Application

Proposed Byrne/JAG Program Activities to Be Funded

Introduction

The Governor's Crime Control Commission was created in 1967 by Executive Order. The name was later changed to the Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission) with legislation enacted in 1969 to establish the Crime Commission as an agency of state government. The Crime Commission was established to develop comprehensive plans and coordinate activities related to the improvement of criminal justice administration among state and local agencies. Since its inception, additional statutory responsibilities have been assigned to the Crime Commission, which now serves as an umbrella agency for many criminal and justice programs.

The FY 2014 Justice Assistance Grant (JAG) --offers federal resources to enhance Nebraska's criminal justice system. The Nebraska Commission on Law Enforcement and Criminal Justice (Nebraska Crime Commission) serves as the designated State Administating Agency (SAA) for the Nebraska JAG program, and acts as the governing body in relation to FY 2014 JAG funds. The Nebraska Crime Commission is applying for JAG funds in order for grant funding to be awarded to units of state and local government and private providers of criminal justice services.

Data

Nebraska is primarily an agricultural state with the largest portion of its population residing in the metropolitan areas located in the eastern part of the state. Nebraska consists of 77,334 square miles, 93 counties varying in size from 247 square miles to 6,009 square miles and has a population of 1.8 million. Many of the 93 counties are sparsely populated, but large geographically. Agriculture and ranching are the primary industries, but in recent years there has been a significant increase in various types of industries such as production plants. Nebraska also continues to become more diverse; The overall population was 1,826,341 in 2010 and of that number minorities represented 13.9% of the total population. Hispanics were the largest minority group at 9.2% of the state population, and African Americans were the second largest minority group at 4.5% followed by Two or More Races, Other, Asians, American Indians/Alaska Natives, and Native Hawaiian or other Pacific Islanders. Hispanics also accounted for 40% of the total minority population (420,908) while the other races accounted for the following percentages: African Americans=20%, Other=19%, Two or More Races=9%, Asians=8%, and American Indians/Alaska Natives=4%, and Native Hawaiians/Other Pacific Islanders accounting for less than 1%*.

2010 US Census:

Race	Number	% of Total Population
White	1,572,838	86.1
Black/African American	82,885	4.5
American Indian/ Alaska Native	18,427	1.0
Asian	32,293	1.8
Native Hawaiians/Other Pacific Islanders	1,279	0.1
Two or More Races	39,510	2.2
Other	79,109	4.3
**Total Population	1,826,341	100%
Hispanic or Latino	1,826,341	100%
**Total Population	187,405	9.2
Hispanic or Latino	1,658,936	90.8
Not Hispanic or Latino		

Source: US Census Bureau.
 *Percentages were rounded up for practicality purposes.
 **Total Population-These are the same number.

	2012	2013	% Change
Violent Crimes	4,587	4,517	-2
Murder/Manslaughter	52	56	+8
Forcible Rape	664	592	-11
Robbery	1,120	1,031	-8
Aggravated Assault	2,751	2,838	+3
Property Crimes	40,324	47,251	+17
Burglary	8,326	8,485	+2
Larceny-Theft	36,716	34,211	-7
Motor Vehicle Theft	4,051	4,343	+7
Arson	281	212	-25
Total	53,911	51,768	-4

Information derived from the Crime in Nebraska 2013 report, released on September 30th, 2014, indicates that the number of crimes reported to Nebraska law enforcement agencies decreased 4% in 2013 when compared to 2012. There were 51,768 crimes reported during January through December of 2013, compared to 53,911 reported during the same period of 2012, a decrease of 2,143 crimes. These numbers include only the crimes of Murder-Manslaughter, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Motor Vehicle Theft, and Arson which serve as the *Crime Index* used to measure crime statewide. When these descriptions are categorized:

- Violent crimes (Murder-Manslaughter, Forcible Rape, Robbery, and Aggravated Assault) decreased 2%. There were 4,517 violent crimes reported in 2013 compared to 4,587 reported in 2012, a decrease of 70 crimes.
- Property crimes (Burglary, Larceny-Theft, Motor Vehicle Theft, and Arson) decreased 4% percent. There were 47,251 property crimes reported in 2013 compared to 49,324 reported in 2012, a decrease of 2,073 crimes.

Crime in Omaha experienced an infinitesimal decrease (from 21,736 offenses reported in 2012 to 21,639 offenses in 2013), and Lincoln experienced an 8% decrease (from 11,247 in 2012 to 10,397 in 2013). Cities of 5,000 to 99,999 in population remained virtually the same (from 13,505 in 2012 to 13,191 in 2013) as did cities with a populace under 5,000 (from 1,093 in 2012 to 945 in 2013). County areas reported a slight decrease (from 5,945 to 5,167). Crime occurring on State Property increased 11% (from 385 to 429).

Strategic Planning

In 2012, Nebraska worked on the 2012-2014 JAG Strategic Plan. The Consortium for Crime and Justice Research School of Criminal Criminology, University of Nebraska at Omaha, facilitated the process. Not all priorities indicated in the plan will be addressed with FY 2014 JAG grant funding. A JAG Advisory committee was formed of criminal justice stakeholders. These JAG Advisory stakeholders included: Nebraska Attorney General's Office, Courts, Law Enforcement, Sheriffs, Crime Victims Services, Department of Corrections, Juvenile Justice Services, Administrative Office of the Courts and Probation, Prosecutors, Community Corrections, Nebraska Law Enforcement Training Center, Nebraska State Patrol, Non-Profit organizations, Public Defense, and the Office of Violence Prevention. *It should be noted that at the May 2013 Crime Commission Board meeting it was decided to re-vise and make changes to the 2012-2015 JAG Strategic Plan. These changes were documented in the Strategic Plan Addendum.

Several themes emerged during the stakeholder meetings that affect all of the needs:

1. Priorities should lessen the State's dependency on federal funding to maintain programs;
2. Priorities should support systemic changes that improve the overall criminal justice system and set the stage for continued reductions in funding;
3. Improvements in data collection and sharing and program evaluation should support the implementation and sustainment of evidence-based practices;
4. Improved communication and connectivity between the various organizations and services within communities and the criminal justice system to improve efficiency and outcome; and
5. Criminal Justice strategies should not focus solely on law enforcement and prosecution. Professionals throughout the criminal justice system need to be aware of validating and motivating individuals to change their behaviors. If efforts focus solely on crime

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suppression and neglect, community-based programming and support, the cycle of crime will continue.

Funding priority for FY 2014 may be given to applicants who propose new initiatives grounded in evidence/research based, and data driven philosophy within the priority areas listed in the 3 year State-wide Strategic Plan.

Training Analysis

As part of the JAG strategic planning process, training needs were identified. There is a great amount of variation in the types of trainings received and the types of trainings desired. Several commonalities appeared, such as cross-training on evidence-based or best practices, as well as cross-training on treatment and services targeting a variety of populations such as ethnic communities. Furthermore, multiple requests were made to have cross-training across law enforcement agencies, such as probation, parole and community corrections, on issue such as client support, intelligence networking, behavioral health and the utilization of technology in information sharing.

SAA Administrative Funding- The Nebraska Crime Commission will serve as the State Administrating Agency for the 2014 JAG grant program. Nebraska Crime Commission is requesting 10% of the total 2014 award for administrative costs. JAG administrative funds pay for salaries, training, travel, equipment, supplies and operating expenses. In the event that remaining administrative funds exist, these remaining funds are awarded to eligible programs.

Sub-grantee Award Process and Subgrantees

Grant applications will be posted on the Nebraska's Crime Commission website for all eligible parties to apply. The application announcement is sent to various agencies and personnel throughout the State of Nebraska, consisting of criminal justice agencies/personnel, community groups, past and current sub-grantees of all our funds, and all other relevant personnel. The grant process allows for competitive requests, and all recommendations are made on the written grant application.

The grant applications will be due to our office by a designated date, and the review process will start. All applications submitted by the deadline will be considered for funding. The first phase of the review process consists of a staff review that is made up of Crime Commission staff and if needed, can also include volunteer grant readers that have expertise in the field. Each grant is critiqued based upon our operating instructions and federal guidelines for the program. Each recommendation is based upon written grant application and past grant management performance by the applicant. Comments and recommendations are recorded on a summary comment sheet and shared with the second level of review, the Grant Review Committee. The Grant Review Committee is made up of appointed individuals who serve on the Nebraska Crime Commission Board. The applicants are reviewed by this committee, and additional comments or recommendations are made then, and captured on the summary comment sheet. The additional comments and recommendations are recorded on the summary comment sheet and shared with the final approval, the Nebraska Crime Commission Board. The applicant will

receive notice prior to the final approval phase what amount they were recommended for, or if the grant was denied. Those that are denied can appeal, and instructions are provided to the applicant how to do so. The appeals are handled in writing and provided to the committee for review prior to any final votes of approval on the grants. Once the recommendations are made, final award or denied letters of notification will be sent to all applications. This then allows those approved for funding to follow the process to accept the award.

Anticipated Expenditures for the JAG Purpose Areas

At this time it is unknown what the exact number of applicants requesting funds will be due to the competitive process. As explained in the Program's Narrative, certain priorities are expected in order to fit within the seven JAG purpose areas. Priority may be given to evidence based programs, enhancement of data collection; sharing across state agencies; enhancing community coordinative efforts; and efforts to link all state Law Enforcement data systems.

Collection of performance measure data

Currently, each program is required to submit a report on a quarterly basis on the current data points required by BJA. This will remain to be a requirement, and changes have been made to the performance measures due to the new Performance Measure Tool. In addition to the Performance Measure Tool, all subgrantees will be required to submit predetermined performance measures and objectives. The Crime Commission has contracted with the University of Nebraska at Omaha to determine the most effective performance measures for all JAG subgrantees. The goal is to improve the quantity of evidence the Crime Commission generates; integrate evidence into programs, practice and policy decisions within Crime Commission grant funding; and improve the translation of evidence into practice. We will continue to keep our reporting current and express the importance of reporting to our subgrantees.

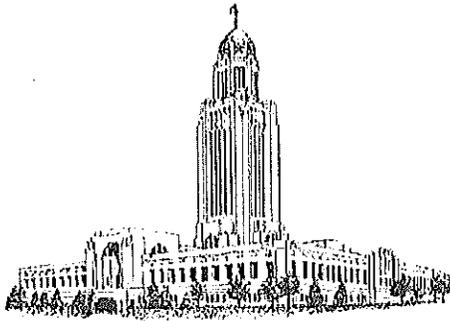
Handout #1

Nebraska State Legislature

SENATOR BOB KRIST

District 10
7365 North 122nd Avenue Circle
Omaha, Nebraska 68142

Legislative Address:
State Capitol
PO Box 94604
Lincoln, Nebraska 68509-4604
(402) 471-2718
bkrist@leg.ne.gov



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July 23, 2015

Darrell Fisher, Executive Director
Nebraska Commission on Law Enforcement and Criminal Justice
P.O. BOX 94946
Lincoln, NE 68509-4946
darrell.fisher@nebraska.gov

RE: Proposed Regulation Title 75 Chapter 1
Distribution of Community-Based Juvenile Services Aid

Dear Director Fisher:

Please accept my written statement on proposed regulation Title 75 Chapter 1, Distribution of Community-Based Juvenile Services Aid. I respectfully request that this letter be read into the record at the public hearing.

The proposed regulation is being adopted pursuant to *Neb. Rev. Stat.* § 43-2404.02(6) and the distribution of funds under the Community-Based Juvenile Services Aid Program is governed by § 43-2404.02(3). The current language of § 43-2404.02(3) was included in AM2163, an amendment I introduced in 2014 to LB464. Senator Ashford introduced LB464 in 2013 and the amended version was passed by the Legislature and approved by the Governor in 2014.

Subsection (3)(a) requires aid recipients to “prioritize programs and services that will divert juveniles from the juvenile justice system, reduce the population of juveniles in juvenile detention and secure confinement, and assist in transitioning juveniles from out-of-home placements.” Subsection (3)(b) provides a list of programs and services that are eligible for program funds, including planning, coordination, screening, assessment, evaluation, treatment, transportation, personnel and “other services that will positively impact juveniles and families *in the juvenile justice system.*” (emphasis added).

The excluded uses of program funds in subsection (3)(c) include facility construction and acquisition, office equipment and supplies and programs, services, treatment and evaluation that are not based on evidence-based practices, principles and research.

The proposed regulations contain definitions and restrictions on the use of funds that are unsupported and inconsistent with the plain language and legislative intent of § 43-2404.02(3).

The definition of evidence-based practice in proposed rule 003.15 does not require any data or research to demonstrate the effectiveness of a program. The definition also inappropriately restricts the definition to programs that prevent or deter youth from involvement in the juvenile justice system. The purpose of the program has no bearing on whether it is evidence-based.

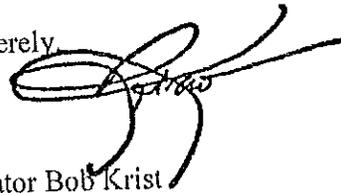
Proposed rule 006.02D would restrict the use of funds to developing policies and procedures supported by evidence-based practice. As noted above, the statute explicitly allows the use of funds for services that positively impact juveniles and families already in the juvenile justice system. By excluding any practice from the definition of evidence-based practice that does not involve prevention or deterrence, the definition inappropriately excludes the use of funds for the express priorities enumerated by the Legislature.

Proposed rule 006.02D is also inconsistent with the statute because it limits the use of funds to developing the policies and procedures and excludes the operation of programs and provision of services specifically allowed in subsection (3)(b).

Under LB265, passed by the Legislature and approved by the Governor in 2015, § 43-2404.02(4)(c) requires the evaluation of the use of funds and evidence of effectiveness of programs by the Juvenile Justice Institute at the University of Nebraska at Omaha. Subsection (4)(c)(i) specifically identifies the "varying rates of recidivism" as a subject of the evaluation. This passage would be rendered meaningless if the program funds are limited to prevention and deterrence. It is not clear how any useful information could be obtained by studying the rate of reoffending for juveniles that have been prevented or deterred from offending in the first place.

The proposed regulations are based on a misinterpretation of law that is not supported by the plain language or the legislative intent of the applicable statute and should not be adopted as currently written. The regulations, and in particular the definition of "evidence-based practice" in proposed rule 003.15 should be revised to accurately reflect the law and current research standards. If the proposed regulation is adopted without appropriate revisions, I will seek to amend *Neb. Rev. Stat.* § 43-2404.02 in the next session of the Legislature to ensure that the misinterpretation and misapplication of this statute does not continue.

Sincerely,



Senator Bob Krist

Copy to:

David Stolz, david.stolz@nebraska.gov
Ann Bauers, ann.bauers@nebraska.gov
Cindy Kennedy, cynthia.kennedy@nebraska.gov

Handout #2



Telling the whole story.

7521 Main Street, Suite 103
Ralston, Nebraska 68127

(402) 597-3100 P
(402) 597-2705 F

<http://voicesforchildren.com>

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July 24, 2015

To: The Nebraska Commission on Crime and Law Enforcement
From: Juliet Summers, Policy Coordinator – Child Welfare & Juvenile Justice
RE: Proposed Rule Change to Title 75, Ch. 1 of Nebraska Administrative Code (Community Based Juvenile Services Aid Program)

Three years ago, a report named Nebraska the third worst state in the nation for out-of-home placement of children. Since then, we have seen our state Legislature, agencies, courts, and other stakeholders make a remarkable commitment to reversing that statistic, taking necessary steps toward keeping at-risk youth safely in their own homes and communities. The Community Based Juvenile Services Aid fund is perhaps the best example of this commitment in juvenile justice: we're putting our money where our mouth is. Voices for Children strongly supports the purpose and function of the program and its potential to bolster local programming that may keep kids out of detention centers, in school, and at home where they belong.

Believing so strongly in the program, I am here today to comment on the proposed rule changes to 75 N.A.C. Ch. 1. Specifically:

- **003.15: The definition of "evidence-based" should be content-neutral.** Tying "evidence-based" to the particular outcome of "effectively prevent[ing] or deter[ing] youth from involvement in the juvenile or criminal justice system" may inadvertently tie the Grant Review Subcommittee's hands, eliminating possible funding for promising programs as described later in sections 006 and 008. A content-neutral definition, such as the following, would conform with legislative intent that funded programs be able to demonstrate results, without limiting the Subcommittee's discretion:
 - "Evidence-Based" means a program with strong evidence to indicate it achieves or will achieve its intended outcomes. Such evidence may include randomized field experiments, clinical or non-clinical research, quasi-experimental research designs, or other forms of ~~assessment that~~ demonstrate program success. *measured*
- **13.01: Evaluation of the use of funds by the Juvenile Justice Institute should examine more than one measure of success.** The data set created by LB 265 (described in *Neb. Rev. Stat. 43-2404.02*) was intended to allow for the evaluation of the use of funds and the effectiveness of programs, and explicitly requires the Commission to work with other agencies on the data set "to ensure [the set] permits evaluation of recidivism and other measures." The plain language expects evaluation of more than the lone measure. Some possibilities include:
 - School success and graduation rates
 - Successful completion of diversion or probation, or decreased lengths of time on probation or in diversion
 - Prevention of short-term detention or long-term removal from the home
 I am not necessarily advocating for any one or all of the foregoing. However, an evaluation that only measures recidivism may lead to the eventual exclusion of programs that target at-risk but nonoffending populations, offer effective educational supports, or are short-term alternatives to detention, etc.

Thank you to the Commission, the Subcommittee, and of course to Cynthia Kennedy for your hard work and dedication to Nebraska's youth, as well as for your consideration of these comments. I would welcome any questions, as well as any further opportunity to assist.