



Pete Ricketts  
Governor

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

Darrell Fisher, Executive Director

301 Centennial Mall South

P.O. Box 94946

Lincoln, Nebraska 68509-4946

Phone (402) 471-2194

FAX (402) 471-2837

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

July 22, 2016

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, July 22, 2016 at 9:30 AM in the Lower Level A Conference Room, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published July 8, 2016 in the Lincoln Journal Star.

As amended by LB 898, 2005 Legislature, a copy of the Nebraska Open Meetings Act was available for public review.

I. CALL TO ORDER

The meeting was called to order at 9:33 AM by Acting Chairman John Freudenberg. The following members were **in attendance**: Acting Chair John Freudenberg, Candice Batton (Left at 10:57 AM), Weysan Dun, Scott Frakes, Joe Hewgley, Joe Kelly, Matthew McCarthy, Ray Norris, Doug Peterson (Left at 10:30 AM), Brad Rice, Michelle Schindler, Todd Schmaderer (Arrived 9:37 AM, Left at 11:20 AM) (Returned at 11:22 AM via phone, Left at 11:26 AM via phone), and Mike Swain. **Members excused**: Cassie Blakely, Jeff Davis, Tim Dempsey, Don Overman, Rita Sanders, and Fred Ruiz); **Staff present**: Darrell Fisher, Dave Stolz, Bill Muldoon, Jeanette Greer, Linda Krutz, Lisa Stamm, Mike Overton, Merry Wills, Laurie Holman, and Ann Bauers. Others: Brent Lottman, Project Response Board member; Michelle Feldman, Innocence Project; Spike Eickholt; ACLU; and Mike Jones, Sarpy County Jail.

II. APPROVAL OF MINUTES

*Motion*

*A motion was made by Frakes and seconded by Dun to approve the minutes of the Crime Commission meeting of May 6, 2016; Police Standards Advisory Council meeting of April 20, 2016; Nebraska Coalition for Juvenile Justice meeting of March 7, 2016;; and Jail Standards Board meeting of January 15, 2016. Motion passed by acclamation.*

III. OLD BUSINESS

There was no old business

#### IV. NEW BUSINESS

##### A. Possible Termination of Grant #15-VA-0210

#### ATTACHMENT VIA EMAIL

Wills gave a very detailed summary of past dealings with Grant #15-VA-0210 and why the Grant Division was considering possible termination of funds due to alleged misuse of monies and lack of documentation of expenses. There was a lengthy discussion regarding how to monitor the remaining funds, and whether all funds should merely be suspended or the grant terminated.

Several suggestions were made as to whether this should be a suspension or termination, and what should happen moving forward. Stamm suggested four possible solutions. (a) Suspension and all payments held for additional time to resolve the issues; (b) Suspend all payments except for reimbursement of 1 payment of pre-audited and approved expenses of \$5,764.60; (c) No suspension and let the Administrator continue to handle investigating charges; and (d) Terminate the grant and use the remaining \$42,559.15 for redistribution.

Brent Lottman, Project Response Board member gave a brief update on the board activities and the steps that have been taken to address the issues, which include the resignation of the Executive Director, and adoption of auditing procedures to prevent future fraud. There was a short discussion regarding the checks and balances currently in place and what is needed to improve them going forward. Concerns were voiced regarding the fact that these issues have been ongoing for the last 4 years.

Dun asked if there was any way to determine if the expenses submitted were true and not fraudulent. Greer stated that all expenses were itemized, reviewed and authenticated before payment is authorized.

Batton suggested that over the next month and a half measures be put in place by the Project Response Board which gives them an opportunity to be prepared when they come up for the next proposal application. The Grant review committee can then look over the application very carefully and would expect to see active action that has taken place and would expect to see confirmation they are working from our staff recommendations. By then there may be additional information from the County Attorney.

#### *Motion*

*A motion was made by Hewgley and seconded by Dun to delegate Darrell Fisher and Lisa Stamm to hold all funds for Project Response until they can make a determination that all matters of remedial action are in place and authorize them to reimburse any expenses as they deem appropriate at the time. This is a suspension, not a termination. Voting in favor: Batton, Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Peterson, Rice, Schmaderer, and Swain. Voting Against: Schindler Motion Carried*

Dun suggested this should be referred to the U.S. Attorney General and Freudenberg volunteered to follow up and report back to the Board at the next meeting.

## **B. LB1000 Eye Witness Identification Procedures – Model Policy**

### **ATTACHMENT #1**

Fisher gave a brief summary of the Eye Witness Identification Procedures Model Policy and why it was necessary to implement them. Michelle Feldman from Innocence Project spoke in support of the policy.

#### *Motion*

*A motion was made by Batton and seconded by Peterson to approve the Eye Witness Identification Model Policy. Voting in favor: Batton, Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Peterson, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

## **C. LB1000 Body Worn Cameras, Model Policy**

### **ATTACHMENT #2**

Fisher gave a brief summary of the Body Worn Camera Model Policy and stated that it has to go into effect January 1, 2017. Spike Eickholt from ACLU of Nebraska testified on needed changes to the proposed policy. There was a short discussion regarding changes and when the policy needed to go into effect, as well as how to change the policy in the future if the best practice changes. Fisher stated that by statute this policy must be functioning by January 1, 2017, and there needed to be time to notify all law enforcement agencies in Nebraska that this was now mandated and give them a chance to adopt the model policy.

Freudenberg suggested that he chair a group comprised of Spike Eickholt, Dave Stolz, someone from Omaha Police Department, a member of the Nebraska State Patrol and himself to go over the suggestions and return to the next meeting with a revised policy.

#### *Motion*

*A motion was made by Schindler and seconded by McCarthy to table until October 22, 2016 meeting. Voting in favor: Batton, Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

## **D. Revocation of Law Enforcement Certificate for Randy L. Brown – LR-118-15**

Matt McCarthy, Police Standards Advisory Council President gave a procedural overview of the revocation process. He informed the Board that the case file contains the following information: the informal complaint, notice to the officer of the informal complaint, the officer's informal answer (if any is filed), the Executive Director's correspondence, and the formal complaint filed.

McCarthy stated that the case before the Board today was uncontested and there is an affidavit showing publishing of the notice to revoke. McCarthy reviewed the case with the Board and offered the file into evidence. He then asked for a motion from the Board to either approve or deny revocation of Mr. Brown's law enforcement certification.

Randy L. Brown did not attend, nor did he send a representative on his behalf.

*Motion*

*A motion was made by Kelly and seconded by Schindler to approve the revocation of Law Enforcement Certificate for Randy L. Brown – LR-118.15. Voting in favor: Batton, Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

**E. Dismissal of Complaint against Terry Wagner – LR-119-16**

**F. Dismissal of Complaint against Joe Lefler – LR-120-16**

Fisher suggested that the Board go into Executive Session for the prevention of needless injury to the reputation of Terry Wagner and Joe Lefler. For the purposes of Executive Session besides the Board members, Darrell Fisher, Dave Stolz and Ann Bauers will remain in the room, as well as John Freudenberg, Acting Chairman.

Freudenberg reminded all those present in the Executive Session that they must restrict their discussion in closed session to the issue that is currently before the Board.

*Motion*

*A motion was made by Schindler and seconded by Dun to go into Executive Session. For the purposes of Executive Session besides the Board members, Darrell Fisher, Dave Stolz and Ann Bauers will remain in the room, as well as John Freudenberg, Acting Chairman. Voting in favor: Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

**EXECUTIVE SESSION BEGINS AT 10:48 AM**

**COME OUT OF EXECUTIVE SESSION AT 10:58 AM**

*Motion*

*A motion was made by Norris and seconded by Schindler to come out of Executive Session. Voting in favor: Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

Freudenberg called the meeting to order after Executive Session at 10:58 AM

Because we were close to losing a quorum, Freudenberg skipped to Agenda Item L.

**L. Approval of Title 74, Chapter 1 – County Justice Reinvestment Grant Program.**

**ATTACHMENT #7**

Holman gave a brief summary of Title 74, Chapter 1 – County Justice Reinvestment Grant Program. Mike Jones, Director Sarpy County Corrections spoke on how these new rules and regulations will affect Sarpy County Jail. There was a short discussion on how to compile data that doesn't exist from the past.

*Motion*

*A motion was made by Schindler and seconded by Hewgley to approve Title 74, Chapter 1 – County Justice Reinvestment Grant Program. Voting in favor: Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer, and Swain. Motion Carried*

**M. Approval of Federal Application #2016-H3122-NE-DJ**

**ATTACHMENT #8**

Chief Schmaderer had just left, therefore Freudenberg called him on the phone to participate in this last action item via phone so there was a quorum. Stamm gave a summary of the application and there was little discussion.

*Motion*

*A motion was made by Schindler and seconded by Dun to approve Federal Application #2016-H3122-NE-DJ. Voting in favor: Dun, Frakes, Hewgley, Kelly, McCarthy, Norris, Rice, Schindler, Schmaderer (via phone), and Swain. Motion Carried*

**N. Grant Review committee members/Chair request**

Stamm requested volunteers to serve on the Grant Review Committee. A brief history was given regarding members who no longer serve on the committee due to perceived bias. Ray Norris and Tim Dempsey volunteered to serve on the committee.

Freudenberg noted that we no longer had a quorum so items H, I, J and K on the agenda would be postponed until the October 22, 2016 meeting.

**V. OTHER BUSINESS**

There was no other business

**VI. PUBLIC COMMENT**

There was no public comment.

**VII. ADJOURNMENT**

**VIII NEXT MEETING**

The next scheduled meeting of the Commission will be:

**Friday, October 14, 2016 at 9:30 AM  
Nebraska State Office Building  
Lower Level Conference Room A  
Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 11:30 AM.

Respectfully Submitted,



Ann Bauers  
Administrative Assistant