



Dave Heineman
Governor

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

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NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

January 23, 2009

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, January 23, 2009 at 9:30 AM at the Nebraska Law Enforcement Training Center, 3600 North Academy Road, Grand Island, Nebraska. Legal notice of the meeting was published January 9, 2009 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.

As per Nebraska Revised State Statute §81-1419, Chief Deputy Attorney General, David Cookson, delegated his duties as chairman to the Executive Director of the Crime Commission, Michael Behm.

I. CALL TO ORDER

The meeting was called to order at 9:40 AM by Acting Chairman Michael Behm. The following members were **in attendance**: Scott Arnold, Bill Brueggemann, Scot Ford, Robert Houston, Susan Jacobs, Mark Montgomery, Fred Ruiz, Bryan Tuma, Derek Vaughn and William White. **Members excused**: David Cookson, Eric Buske, Gary Lacey, Kathy Moore, Mike Moser, Don Overman and James Riskowski. **Staff present**: Michael Behm, William Muldoon, David Stolz, Bruce Ayers, Michael Overton, Jennifer Kirkpatrick, Jamie Rivera, Diane Wotipka, Kay Fielding and Sarah Schoen. **Others present**: Elizabeth Jeanette, Nebraska Department of Correctional Services.

Mike Behm next welcomed and introduced Mark Montgomery to the Board. Mark is the new chairman for the Police Standards Advisory Council and replaced Sheriff Terry Wagner on the Crime Commission Board.

II. APPROVAL OF MINUTES

Motion

A motion was made by White and seconded by Ford to approve the minutes of the Crime Commission meeting of October 24, 2008; Nebraska Coalition for Juvenile Justice meeting of December 5, 2008; Crime Commission Grant Review Committee meeting of December 2, 2008; and the Police Standards Advisory Council meetings of September 25,

October 22, November 19 and December 17, 2008. The motion passed unanimously by acclamation.

III. EXECUTIVE DIRECTOR'S REPORT

Mike Behm presented his Executive Director's report noting the following:

- Jamie Rivera has been serving as the Interim Federal Aid Administrator for Juvenile Justice in addition to her Juvenile Compliance Monitor duties until a new Federal Aid Administrator is hired for the Grants Division.
- On November 18, 2008, he attended the Project Safe Neighborhoods executive planning session regarding gang activity in Omaha.

IV. OLD BUSINESS

A. No Old Business

V. NEW BUSINESS

A. Nebraska Law Enforcement Training Center

1. Instructor Certifications

The Crime Commission next considered *one* request for **Professional Instructor Certification** and *one* request for **Professional Instructor Recertification**. The Police Standards Advisory Council's recommendations were reported by Mark Montgomery.

Motion

A motion was made by Arnold and seconded by Vaughn to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Instructor Certification to Wesley G. Elkins, Omaha Police Department; and Professional Instructor Recertification to Kerry D. Crosby, Attorney General's Office. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Montgomery, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

2. Annual Review – Training Center Tuition Requirement; Operating Instruction 50-21

Montgomery informed the Board that tuition has remained at the rate of \$40.00 per day as mandated with an increase in dorm room fees from \$15.00 to \$18.00. He reported that there has not been an increase in dorm room fees since 1991 with the exception of a \$1.00 increase in 2001. The tuition for 2009 will remain at \$4,000 for basic tuition students with an

increase in basic student material fees from \$75.00 to \$80.00 plus sales tax effective May 3, 2009. The carrier vehicle rental fee was reduced from \$150.00 to \$75.00.

Motion

A motion was made by White and seconded by Ruiz to approve the Training Center Tuition Requirements as per Operating Instruction 50-21. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Montgomery, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

B. Dallas Helms and Patrick Stewart Case Report

Behm next provided the information below to the Board members as to why and how he decided the decertification case against Dallas Helms and Patrick Stewart should be considered closed with no further action taken against Helms or Stewart by the Crime Commission.

- On March 17, 2008, a complaint was received from NLETC Director William Muldoon, requesting cases be reviewed for revocation against former Furnas County Deputies Dallas Helms and Patrick Stewart. Both men had been convicted in Buffalo County Court on January 12, 2008, for misdemeanor charges of 'Procuring alcohol for minors.'
- On March 20, 2008, Informal complaint letters were sent from the Crime Commission office to Helms and Stewart.
- On April 3, 2008, Patrick Stewart's response was received at the Crime Commission office.
- On April 9, 2008, Dallas Helms' response was received at the Crime Commission office.
- Helms and Stewart filed appeals of their misdemeanor convictions.
- On August 28, 2008, District Court of Buffalo County reversed County Court convictions of Helms and Stewart, citing evidence presented was not sufficient to justify the conviction as a matter of law.
- State of Nebraska, Buffalo County Attorney, appealed decision to Nebraska Court of Appeals.
- On September 12, 2008, Executive Director Behm requested police reports from Buffalo County Attorney regarding Helms and Stewart.

- On September 17, 2008, Executive Director Behm received copies of police reports from the incident involving Helms and Stewart and reviewed same.
- The Nebraska Court of Appeals denied leave to the State of Nebraska to docket the error proceeding and sent matter back to the District Court of Buffalo County.
- On October 16, 2008, District Court ordered conviction of trial court to be vacated, a finding of not guilty was to be entered and the instant matter was to be dismissed with costs taxed to the State of Nebraska. By the Court: District Judge Icenogle.

Per Title 79, Chap. 9, sec.006.04, after reviewing court documents, Behm requested the matter of revocation be considered closed with no further action being taken against Helms or Stewart by the Crime Commission.

Susan Jacobs asked if an individual could still have their law enforcement certificate revoked even if there is no criminal cases against them or the criminal charges are dropped, as in this situation.

The answer to her question is yes; their law enforcement certificates could still be revoked. Even though the criminal charges were dropped in this situation, there was a thorough investigation conducted in order to help aid the Executive Director in his decision to have these cases dismissed.

Motion

A motion was made by White and seconded by Arnold to approve the Dallas Helms and Patrick Stewart cases be closed with no further action to be taken by the Crime Commission. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Montgomery, Ruiz, Vaughn and White. Abstaining from the motion: Tuma. Motion carried unanimously.

C. Recommendation and Final Approval of the 2008 JAG Supplemental Funds

Jennifer Kirkpatrick stated they were awarded these funds in October 2008 and had to wait for clarification from the Federal Office as to whether or not the state and local formula that normally applies to the block grant would also apply to these supplemental funds. The answer was yes, it does. As a result, \$37,282.00 must be put towards local programs, and \$22,734.00 must be put towards state programs. The total amount, with both local and state programs, to be disbursed is \$60,016.00.

Kirkpatrick stated that each program was evaluated in order to see how much JAG 2008 money was received in addition to the Meth 2008 earmarked dollars, which was a special amount that the Crime Commission and Nebraska State

Patrol partnered on to help sustain the local drug task forces. The result of this evaluation is as follows:

Local Programs

SNARE, Metro, Linc, WING, III Corps and SEADE received the largest reduction in Byrne monies. As a result, the supplemental funds were divided equally amongst these six programs, which resulted in each program receiving either \$6,214.00 or \$6,213.00. CODE, RAP and CANDO (withdrew) were all eligible for the Meth 2008 ear marked dollars with the Nebraska State Patrol, and therefore, were not concerned about receiving a portion of the supplemental funds.

State Programs

The state programs were evaluated the same way as the local programs. CJIS and the NLETC had a low decrease in Byrne monies which resulted in these two programs not being considered for these supplemental funds. The Nebraska State Patrol and the Attorney General's Office had the largest reductions in Byrne monies, and therefore, these supplemental funds were divided evenly between these two programs, with \$11,367.00 being awarded.

Motion

A motion was made by Vaughn and seconded by Ford to approve the recommendation and final approval of the 2008 JAG supplemental funds. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Montgomery, Ruiz, Tuma, Vaughn and White. Abstaining from the motion: Jacobs. Motion carried unanimously.

SEE ATTACHMENT #1

D. The 2009 Edward Byrne Law Enforcement Memorial Justice Assistance Block Grant Application

Jennifer Kirkpatrick reported that this grant application must be available for review by the governing body, which is met by this meeting, before it can be submitted to the federal office. In 2008, Kirkpatrick reported the Federal application was available for the January Crime Commission meeting; however, this year, the Federal application has not been received as of yet. Kirkpatrick prepared a draft of what will be included in the application, and should any changes be necessary, they will be presented to the Board at the May meeting.

After questioning, Kirkpatrick explained the timeline of events in receiving and awarding of Byrne monies.

Bryan Tuma informed the Board that the Obama Administration is very favorable in restoring both Byrne and COPS monies. The Administration is in the process of reviewing this program, which is most likely the reasoning behind the delay.

Behm reported he received a survey from BJJJA asking him that if they received money for the State of Nebraska how would this money be used? It mainly focused on personnel and what would be restored. To restore our Byrne monies back to where it is needed, it would take approximately \$3 million dollars.

Motion

A motion was made by Ruiz and seconded by Ford to approve the 2009 Edward Byrne Law Enforcement Memorial Justice Assistance Block Grant Application. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Montgomery, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

E. Approval of the Nebraska Crime Victims Coalition Grant Funding Request to Help with the 2009 Victim's of Crime Annual Conference

Jennifer Kirkpatrick informed the Board that the Nebraska Crime Victims Coalition (NCVC) submitted a grant requesting \$8,000.00 for use to support the 5th Annual Crime Victims Rights Week Conference. The conference will be held from April 23-24, 2009, and the theme is "25 Years of Rebuilding Lives: Celebrating the Victims of Crime Act." The grant request will help cover the cost of the facility for the two day conference. NCVC is required to provide a 20% match for these funds, and they are able to do so. Kirkpatrick recommended the Board approve NCVC receiving \$8,000.00 to support this annual conference.

Motion

A motion was made by Jacobs and seconded by Ruiz to accept the Nebraska Crime Victims Coalition funding request of \$8,000.00 for use to support the 2009 Victim's of Crime Annual Conference. Voting in favor of the motion: Arnold, Brueggemann, Ford, Houston, Jacobs, Montgomery, Ruiz, Tuma, Vaughn and White. Motion carried unanimously.

F. VOCA Update on Turn Back Funds from 2008 Programs

Jennifer Kirkpatrick reported that two programs did not respond to their contingencies of the grant within 30 days. After continued notification and trying to work with them, no response was received by either program which results in these programs being withdrawn. These funds are considered turn back funds which will be put into the funds that are being announced in February. One of the programs funds that were turned back was for \$30,202.00, and the other was for \$96,825.00 for a total of \$127,027.00 that will be re-announced in February.

VI. OTHER BUSINESS

A. Behm informed the Board that a copy of the 2009 meetings that involves the Crime Commission was included in their mailout.

- B. Director William Muldoon had all the Training Center Staff introduce themselves to the Board members and explain their role at the Training Center.
- C. The Nebraska State Patrol Staff next introduced themselves to the Board members and their role at the Training Academy.
- D. Director Muldoon next took the Board members to a Training Class in session and had the students introduce themselves to the Board, and next, had the Board and Staff introduce themselves to the Class.

VII. PLANNING MEETING

The planning meeting began at 10:54 AM in the Fishbowl Room at the Training Center.

- A. Bruce Ayers reviewed the Legislative Bills that may impact the Crime Commission if passed by the Legislature.
- B. Mike Behm gave a brief overview of his meeting with Senator Ashford regarding Legislative Bill 35, which would create the "Office of Violence Prevention".
- C. Behm spoke to the Board that he plans to have representatives from the Crime Commission Staff and Board (if so desired) to attend community input meetings in four separate communities outside of Omaha and Lincoln during 2009. More information regarding these meetings will follow as they are planned.
- D. Other Plans
 - 1. Fred Ruiz spoke regarding the lack of standardized jail training across the state. Because jail employment is an area with a large amount of turnover, it is very difficult to get new employees trained within the one year requirement. A lengthy discussion ensued amongst the Board members regarding standardizing the jail training. It was suggested that Ruiz involve Bob Houston, Dave Stolz, Jail Standards Staff and others interested to begin working on the process of standardizing jail training across the state.
 - 2. Colonel Tuma inquired as to the status of the decertification/revocation process.

Behm responded that there are currently 21 pending cases, and there will be more cases to take action on at the May 2009 meeting. Behm stated we try to get through them as quickly as possible.
 - 3. Scot Ford brought up how CVR needs to still be a concern because money is needed. A lengthy discussion ensued about various solutions, but ultimately, it is a waiting game to see what takes place during this years' legislative session.

4. Derek Vaughn asked if there is a name for continuing education for law enforcement officers. He spoke of how he, as a deputy county attorney, is mandated by statute to complete 20 hours of continuing legal education annually.

A lengthy discussion took place regarding the requirements and issues with law enforcement continuing education.

VIII. ADJOURNMENT

The next scheduled meeting of the Commission will be **Friday, May 8, 2009 at 9:30 AM in Lower Level Conference Room "A" of the Nebraska State Office Building, Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 12:17 PM.

Respectfully Submitted,



Sarah J. Schoen
Administrative Assistant

Attachment #1

2008 Byrne Justice Assistance Grants (JAG)

Available to award \$622,909*

Over in requests \$2,106,885

*based up on the estimate rcvd at the federal level and turnback funds for state

Number	Agency—City(Program Title) (2007 Award)	Amount Requested	Amount Recomm Grnt. Rvw.	Meth/Funds Rcv'd	Total Rcv'd	Recomm 08 JAG Supp.
08-DA-300*	City of North Platte P.D. (CODE) (\$139,915)	\$ 141,190.00	\$0.00	\$91,300.00	\$91,300.00	
08-DA-301	City of Norfolk (SNARE) (\$80,000)	\$ 106,200.00	\$31,097.00		\$31,097.00	\$6,214.00
08-DA-302	City of Omaha (Metro Drug Task Force) (197,350)	\$ 204,560.00	\$78,037.00		\$78,037.00	\$6,214.00
08-DA-303*	City of Seward (RAP) (136,950)	\$ 91,300.00	\$0.00	\$91,300.00	\$91,300.00	
08-DA-304*	NE Crime Commission (CJIS) (55,774)	\$ 68,729.00	\$23,145.00	\$31,640.00	\$54,785.00	
08-DA-305	Lincoln Police Dept. (Linc./Lancaster Co. Investigative Narcotics Coop.) (171,856)	\$ 619,753.00	\$67,839.00		\$67,839.00	\$6,214.00
08-DA-306	NE Crime Commission (Drug Enforc & Violent Crime Trng) (0)	\$ 78,392.00	\$40,713.00		\$40,713.00	
08-DA-307	Scotts Bluff Co. (WING) (163,442)	\$ 249,036.00	\$64,474.00		\$64,474.00	\$6,213.00
08-DA-308	City of Fremont (Ill Corps) (177,322)	\$ 183,619.00	\$70,026.00		\$70,026.00	\$6,214.00
08-DA-309*	City of Minden (CANDO) (75,000)	\$ 105,135.00	\$1,051.00	Withdrew	Withdrew	Withdrew
08-DA-310	NE Atty General's Office (Drug & Violent Crime Unit) (102,087)	\$ 143,850.00	\$66,757.00		\$66,757.00	\$11,367.00
08-DA-311	City of Beatrice (SEADE) (50,000)	\$ 109,990.00	\$19,097.00		\$19,097.00	\$6,213.00
08-DA-312*	NE State Patrol (MULE XVIII) (542,959)	\$ 615,522.00	\$148,155.00	\$101,483.00	\$249,638.00	\$11,367.00
08-DA-313	NE Dept. of Corrections (Intelligence Sharing Initiative) (12,618)	\$ 12,518.25	\$12,518.00		\$12,518.00	

TOTAL \$ 2,729,794.25 \$ 622,909.00 \$ 315,723.00 \$ 937,581.00 \$ 60,016.00

* Eligible for ear marked dollars with Nebraska State Patrol