

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

January 26, 2007

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, January 26, 2007 at 9:30 a.m. in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published January 12, 2007 in the Lincoln Journal Star.

I. CALL TO ORDER

The meeting was called to order at 9:45 a.m. by Acting Chairman Matt McNair. The following members were **in attendance**: Acting Chair Matt McNair, Scott Arnold, Charles Brewster, Bill Brueggemann, Dean Chase, Scot Ford, Robert Houston, Susan Jacobs, Gary Lacey, Mike Moser, Don Overman, James Riskowski (arrived at 10:22 a.m.), Bryan Tuma and William White. **Members excused**: Kathy Moore and Thomas Warren. **Staff present**: Mike Behm, William Muldoon, Bruce Ayers, Mike Overton, Nancy Steeves, Jennifer Kirkpatrick, Sonja Dooley and Sarah Schoen. **Others present**: Charles Lowe (Attorney General's Office) and Stephanie Ortiz-Cidlik (Homestead Girl Scout Council).

II. APPROVAL OF MINUTES

Motion

A motion was made by White and seconded by Overman to approve the minutes of the Crime Commission meeting of October 27, 2006; Criminal Justice Information Systems Advisory Committee of November 30, 2006; Nebraska Coalition for Juvenile Justice meeting of December 8, 2006; and the Police Standards Advisory Council meetings of October 18 and November 15, 2006. The motion passed unanimously by acclamation.

The minutes of the Jail Standards Board meeting of October 13, 2006, and the Community Corrections Council meetings of October 20 and December 15, 2006 were provided for the member's review.

III. PUBLIC HEARING FOR THE REVOCATION OF LAW ENFORCEMENT CERTIFICATION OF MICHAEL T. EDWARDS, #LR-042-05, CREIGHTON POLICE DEPARTMENT

Charles Lowe, Assistant Attorney General, represented the State of Nebraska in the revocation of Michael Edwards' Law Enforcement certification. No counsel was present for Mr. Edwards. Lowe stated that the purpose of today's hearing is to review and consider approval of the Police Standards Advisory Council's (PSAC) decision to revoke the Law Enforcement certificate of Michael Edwards. The PSAC arrived at this decision at their November 15, 2006 meeting.

Lowe provided the following information about the incident leading to this action: Michael Edwards was a certified Law Enforcement Officer as a full or part-time police officer with the Creighton, Nebraska Police Department from October 1, 2000 until July 23, 2001. On or about June 23, 2001, the Creighton Police Chief found sexually explicit pornographic materials on computer disks that Mr. Edwards had apparently had at the police station and viewed on the department's computer. These disks were found at the police department's office where Mr. Edwards had left them. Reports were made to the county attorney, and on July 23, 2001, Mr. Edwards resigned his position with the department. Subsequently, on January 24, 2002, a criminal complaint was filed against Mr. Edwards in Knox County Court accusing him of two counts of possession of visual depictions of sexually explicit conduct of a child. At the time, these were Class II misdemeanors. Ultimately after several delays, trial was held with the County Judge, who on October 12, 2005 found Mr. Edwards guilty of the charges and sentenced him to a term of probation. The sentence included a 30 day stay in jail at the end of the probationary period unless the terms of probation were met and the probation officer waived the jail term. Mr. Edwards was also ordered, among other things, to have no contact with any child under the age of 18 except family members or as allowed by the probation officer. Mr. Edwards appealed the decision to the District Court. The conviction and sentence were, however, affirmed by the District Court, and there was no further appeal to the Nebraska Court of Appeals. This action was then commenced before the Police Standards Advisory Council to revoke Mr. Edwards' Law Enforcement certificate. The PSAC held a hearing on November 15, 2006, received evidence in the form of exhibits and issued its decision to revoke Mr. Edwards' certificate. This decision is now before the Commission for its review and approval.

Lowe explained that he would like to add some documents pre-marked as exhibits and offer them in as evidence with a brief description of each exhibit. Exhibit one is an Affidavit of Notice, prepared by David Stolz (Legal Advisor for the PSAC). This notice, and the attached documents, shows the attempts to notify Mr. Edwards of this particular meeting, and that this hearing was on the agenda. Apparently, he has moved from place to place, and we have been unable to track him down and have never received notification that these notices were delivered to him. Exhibit two is the Affidavit of Publication showing the decertification hearing was being held at this meeting, and that this information was published in the Lincoln Journal Star on January 12, 2007. Exhibit three is the Administrative Transcript which primarily shows what occurred, the formal complaint that was filed, and the findings, facts and conclusions of the PSAC. Exhibit four is the Administrative Bill of Exceptions which includes the PSAC hearing minutes, five exhibits presented at the hearing and agency records pertaining to the revocation process. Lowe next offered exhibits 1-4 to be admitted into the administrative record. This was completed.

Motion

A motion was made by White and seconded by Brewster to revoke the Law Enforcement certification of Michael T. Edwards. Voting in favor of the motion: Arnold, Brewster, Brueggemann, Chase, Ford, Houston, Jacobs, Moser, Overman, Tuma and White. Gary Lacey had stepped out of the room when this motion took place. Motion carried unanimously.

IV. EXECUTIVE DIRECTOR'S REPORT

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

- On December 18, 2006, the Task Force Ad-Hoc Committee and I met with the Governor to discuss the Task Force.
- As of January 1, 2007, there are currently 21 pending revocations. Of these 21 pending revocations, 10 of them have been requested since May 2006.
- Sonja Dooley has been hired as the secretary for the Grants Division within the Crime Commission.
- After over seven years with the Crime Commission, Monica Miles-Steffens, the Juvenile Justice Federal Aid Administrator, has taken a job with Probation as their Training Manager.

V. OLD BUSINESS

A. Task Force Resolution

Mike Behm reminded the Board that at our July 28, 2006 meeting, the Board voted to accept the Task Force Resolution, and following the November elections, the Board voted that a copy of this Resolution be sent to the members of the Legislature, the five members of the Federal Delegation and that it be posted to the Crime Commission website.

Behm stated that per the Board's vote, this was completed on January 10, 2007. A copy of the Task Force Resolution was sent to the individuals listed above and posted to the Crime Commission website.

VI. NEW BUSINESS

A. Nebraska Law Enforcement Training Center

1. Instructor Certifications

The Crime Commission next considered *one* request for **Professional Instructor Certification**, *thirteen* requests for **Professional Instructor Recertification** and *one* request for **Legal Recertification**. PSAC's recommendations were reported by Dean Chase.

Motion

A motion was made by Overman and seconded by Houston to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Instructor Certification to Shannon Karl, Lincoln Police Department; Professional Instructor Recertifications to David Anderson, Nebraska Law Enforcement Training Center, Larry Bakker, Omaha Police Department, R. Bruce Bombeck, Nebraska Law Enforcement Training Center, Timothy Branstiter, Nebraska Law Enforcement Training Center, Chad Bryant, Nebraska Law Enforcement Training Center, Todd Groves, Lincoln Police Department, David Harnly, Nebraska Law Enforcement Training Center, Marlan Hohnstein, Lincoln Police Department, John T. McGahan, Lincoln Police Department, James Sydik, Lincoln Police Department, David Thome, Nebraska Law Enforcement Training Center, Brenda Urbanek, Nebraska Law Enforcement Training Center and Brian Ward, Lincoln Police Department; Legal Recertification to David Stolz, Nebraska Law Enforcement Training Center. Voting in favor of the motion: Arnold, Brewster, Brueggemann, Chase, Ford, Houston, Jacobs, Lacey, Moser, Overman, Tuma and White. Motion carried unanimously.

B. The 2007 Edward Byrne Law Enforcement Memorial Justice Assistance Block Grant Application will be presented for Review and Approval.

Nancy Steeves reported that the Bureau of Justice Assistance changed the titles of their priorities. However, our state funding priorities still fit within the new titles. She stated that to date, we still do not have an appropriation for the BYRNE/JAG program. Senator Dianne Feinstein from California did present an amendment to the appropriation to continue to fund the BYRNE/JAG program at last year's level through 2012. Steeves stated this is not a good deal because the program was cut significantly last year. Last year, there was only approximately \$650,000 available for local task force operations. Normally we have \$1.2 million. To continue funding this program is great; however, the appropriation that Senator Feinstein is recommending is not great. The Ad Hoc Task Force Committee is working on presenting information to the Federal Delegation, as well as to our State Senators in trying to accomplish something through this avenue.

Steeves covered the priorities of our application, with the top priority being the continued funding of the nine local Multi-jurisdictional task forces and our one State Patrol task force.

A new priority listed in the new application is Gang Enforcement and Prevention. Normally, this is part of our drug and violent crime task force efforts. In the past, gang officers have been funded as part of the task forces. Steeves did say "if sufficient JAG funds were available, we would address projects specifically for gangs, gang enforcement and gang prevention."

In regards to community prosecutorial activities, again, Steeves said "if sufficient funds are available, we will utilize those dollars to support local and state prosecutorial efforts across the state for drug and violent crime cases."

Steeves again stated that "if sufficient funds are available, we will look at enhancing offender treatment across the state at both local and state levels if possible. This is technically called Prisoner Reentry Initiatives; however, after reading their instructions, what we are doing still qualifies."

Steeves stated that one of our priorities is the Criminal Justice Information Systems. They call it Justice Information Sharing, Planning and Implementation. The application asked how we would use our administration dollars and how much we were using. Steeves reported she based all the information on last year's amounts and said it would be used to pay salaries for individuals administering the funds, travel and any other operational costs. The Review Narrative asks how the application information was presented for review. The application must be presented for review and approved in an open public meeting. This meeting qualifies as such. This is a short application; however, Steeves recommends that once our strategy expires next year, a new strategy should be developed if funding is available. This will allow us to stay focused. Steeves stated that we are one of the states that uses our money in a very focused manner and actually accomplishes what we set out to accomplish.

Overman asked that since Steeves spoke about how the Congressional Delegation is the key to this, is there a plan as to "when you are going to present this information to them and is there a timeframe of when they need to have the presentation made to them prior to the Congress taking action?"

Steeves responded by stating that all of our Federal Delegation is very much aware of this program, and in fact, Congressman Lee Terry has been at the helm pushing to increase the dollars for this program. It is Steeves' understanding that Senator Nelson and Senator Hagel fully supports this program as well. Steeves stated that the Ad Hoc Committee has taken this effort over to ensure all the task force members across the state continue to have contact with their Federal Delegation and keep this issue before them. Steeves reported that Mike Behm sent an email to all our task force members across the state with the information from NCJA as to the status of the Federal appropriation. Basically, they have to really push this issue. Mike Behm then reported that last fall, Nancy and himself met with a representative from Congressman Lee Terry's office, and they specifically wanted an outline as to what we are doing here in Nebraska and what would happen if these funds went away. Behm said that he is confident that Congressman Terry's office understands how critical this fund is.

Overman said that with Senator Nelson being on appropriations, this should be a huge advantage for us, and we really need to get to him because he has been very supportive in the past, and they need to understand just how important this truly is. Steeves responded that anything anyone can do to push this along would be very helpful.

Gary Lacey then posed the question, "What is the state going to do?" Mike Behm responded by saying that last year, the Ad Hoc Committee began having meetings because we knew the funding was dropping. Through the success of Senator Flood, now Speaker Flood, he was able to obtain some monies through appropriations. As of today, Behm is aware of a bill by the Speaker that was introduced as a Constitutional Amendment which would give us 3% of the lottery funds that would be put toward the task forces. The approximate amount of this would be \$800,000.

Due to the lengthy discussion that ensued and its contents, the following discussion has been transcribed word for word:

- Gary Lacey: What about all these settlements that the Attorney General has been making with Yahoo and all that? Can any of that money be used for drug enforcement?
- Matt McNair: The Governor's proposal gives \$1.05 Million, I think, that we have gotten most of it from Yahoo or a good portion of it. \$700,000 is going to go to the Patrol for the ICAC (Internet Crimes Against Children) task force, and the rest of the money has been earmarked, at least in the Governor's proposal, for a prosecutor in our office.
- Lacey: For Internet Crimes Against Children?
- McNair: Right
- Lacey: Well, it seems to me, that this Meth problem and the drug problem is a whole lot more pervasive than the Internet Crimes Against Children. Can that decision be revisited?
- McNair: That is something you can talk to the Governor about. Obviously, the Yahoo settlement came specifically because we had found a lot of people trolling for predators in Nebraska. So we feel like it is a pretty big problem too. It is tough to necessarily say one is worse than the other, but you can certainly talk to the Governor about it.
- Lacey: You don't think that, you think that Internet Crimes Against Children is causing more problems than, than?
- McNair: I don't want to have to quantify which is worse, I mean I think a kid getting molested by an internet predator is pretty bad, and I am not saying that meth isn't.
- Lacey: I'm saying, I'm thinking that's bad too, but 10,000 kids being devastated by varying forms of methamphetamine use from casual to very serious, it seems to me it covers a whole lot more people.
- Scott Arnold: I would have to agree with Mr. Lacey that the risk of a child being a victim of a sex crime is greater if their parents are meth users, the people that, their caregivers are meth users than there is in the internet, no doubt that the internet is a problem area, but certainly the meth, the collateral damage from meth abuse is tremendous and not really noticed because of the obvious meth use problems from the user themselves.
- McNair: That is obviously a prioritization of resources. We obviously don't control it. Between the Governor and the Appropriations Committee, that's where the decisions are made.

Lacey: Is it appropriate to make a motion now, or are we in that mode?

McNair: You can make a motion anytime.

Lacey: I'm moving that the Crime Commission recommend to the Governor through an appropriate document, whether it be a resolution or letter or whatever, that the money that was obtained from the Yahoo settlement in excess of well, at around \$700,000 be used to fund the drug task forces because that seems to be a problem because the Crime Commission feels that that is more of a problem by the number of people that drugs, especially methamphetamine affect than the children who are being victimized by Internet Crimes Against Children, and I'm not downplaying that that's a problem too, and maybe we could, maybe the Governor could negotiate so there would be some money for that, but I think to let a program, and I think this should be expressed in the letter, to let a program of drug task forces, which has been in effect in the State of Nebraska for 25 years go down the tubes because we don't have any money to fund the task forces would be a terrible thing. With the lids that have been placed upon local governments, counties and cities, there really isn't money that can come up the other way, except maybe in the largest jurisdictions, Douglas, Sarpy and Lancaster County, and I see that programs like WING in the Western part of the state which got at least several hundred thousand dollars a year to combat drugs out there, they are all going to go down the tubes. I as a prosecutor and a law enforcement official, and as someone who sees what happens to kids as a result of the methamphetamine that their parents take, I just can't imagine that we would want to subject our children to the kind of abuse that would ensue if we lost all our task forces.

William White: So what's the motion Gary?

Lacey: That's it. The letter expressing the views that I've set forth, plus others be sent to the Governor or resolution containing those assertions be sent to the Governor so the Crime Commission, which is really an advisory group for a lot of things to the Governor, would make him aware that this is a big problem. Eight, how many task forces do we have, eight?

Steeves: Nine local.

Lacey: Nine task forces are going to go down the tubes, and I know we've talked in Lincoln; we have some drug forfeiture money that is available in Lincoln maybe to continue at a reduced rate the task force here in Lincoln, but that's only going to happen one more year. After that, well you know what, people that live in Lincoln know what the City of Lincoln's budget looks like. It's like, it's ravage. There's no money there for anything except pensions for city employees it looks like. So, I think that this is all going down the tubes if somebody doesn't do something about it.

Charles Brewster: Well, I do criminal defense work. I am on the other side of the bar from Gary, and I agree with him 100%. He is absolutely right.

Don Overman: I agree as well.

Arnold: I would like to second your motion, but I'm thinking that maybe we can, I'm taking some notes here, if we make the motion to be a letter to the Governor because meth is such a pervasive problem and that he not overlook the potential for child victims as a result of the meth problem including sexual crimes victims, and that given the shortfall in the funding of the drug task forces across the state that consideration be given to the drug task force need when distributing the settlement money for Internet Crimes Against Children.

Bryan Tuma: I'm just going to jump in here. I'm not trying to minimize methamphetamine, don't get me wrong, but there is also Internet Crimes Against Children. I think the viewpoint of the budget people was the Yahoo money is only a pot of money that's going to be there for, it's not a continued funding source. So if you deplete the Yahoo settlement fund to support task forces for one more year, and we get further federal cuts, then we're back, I mean the issue here is to look at sustained funding. The Yahoo settlement is only one pot of money good for one year or short period of time if we use it for drug task forces. So I'm thinking the logic here is the Yahoo settlement money was obtained through Internet Crimes Against Children investigations. That money came back from an internet provider, and; therefore, the logic there is to use it for those types of crimes, which the federal funding is slipping away for that too. So you are going to eliminate one program at the expense of another.

Arnold: Can I ask you this? Is there an intent, then, to use that money to fund an ongoing, multi-year investigation?

Tuma: Well, the ICAC program is evolving. It's not just a Patrol program any longer. There are other agencies that have received training, and we have had discussions with the Attorney Generals Office and others about trying to bring other officers into the fold, utilize task force operations to affect internet crimes.

Arnold: My question is, you say it's a one time settlement, does that mean we're going to hold this back and give \$200,000 a year at a time at this program for six years? Is there any of that intent? Because the argument if we put it to the task force, it's only there for one year. If there not doing the same thing for the internet sex crimes, it's the same argument.

Tuma: Well, we are looking at the training and equipment necessary to sustain the ICAC effort. So that infrastructure would be put in place to help support not just the Patrol ICAC investigations, but other agencies as well who are expressing a greater interest in trying to do those types of investigations. So, that's the perspective of using that money. Yes, it's only there for one time. If you deplete the fund, there is no more Yahoo settlement money that's going to come back into the State of Nebraska. I know there have been discussions with the Governor, I know there have been discussions with Senator Flood, and I think with the effort here is to identify a sustained funding source. Everybody is looking for a pot of money.

Lacey: I think it's a matter of long term policy, as you say. Even if all the \$700,000 went to Internet Crimes Against Children that would only sustain an investigatory capability for two or three years, and then that would be over. I guess what we really need here is a firm assertion by the Crime Commission that we want to make it through this lean period from the federal government, if that's going to happen, and we can do that by using the money, the \$700,000, and then putting the emphasis on this constitutional amendment. Between now and 2008, which is the first time any money can be gotten from the constitutional amendment, because I understand the earliest it can go on the ballot is 2008, we ought to make the effort to bridge this gap, and work like the devil to get permanent funding from the lottery or whatever, the constitutional amendment. If we put ourselves to the task, at least we will have saved and propitiated the drug task forces. Whereas if we give some to Internet Crimes Against Children and that goes away because it isn't a steady source of money and we abandon all hope of funding the task forces at the state level, which I think we have to do, then we have lost both things. I think we have a real opportunity to persuade the Governor that saving the drug task forces is important.

Michael Behm: I have some comments. I was invited into the meeting with the Ad Hoc Committee. Originally, they were going to meet by themselves with the Governor, but the Governor's office chose to invite me, which I did, and not as a participant but more as a resource person. During that meeting, it was stressed by the Governor how he appreciated the actions of the drug task forces and the work and wished them to continue their efforts. In saying that, I also wanted to commend the efforts of Senator Flood who took on the leadership role last session who has identified, like you have talked here, the sustainability of these funds. Like it's been said here by numerous people, the one-time funding is not going to fix this problem each year of \$800,000 to a million dollars. The federal monies that we've identified, unless something changes, however, the Senator from California wants to fund it until 2012 I believe if that goes through, at the same level that we received last year which was what, \$1.2 million?

Steeves: Yes

Behm: And it works down to \$800,000 by the time all the breakouts go down. I'm encouraged by Senator Flood's actions with the constitutional amendment, but as Mr. Lacey said, it doesn't take affect until the November election. I believe we had sustainability funds, Nancy, I don't want to put you on the spot here, but what would be the worse case scenario right now with our funding for the task forces? When would the monies run out?

Steeves: I haven't looked at where everybody is financially recently, but I am thinking, lets say we receive no funding next year, I am guessing by December of 2007, the majority of task forces are going to be out of money. If that happens, now it may trickle in, they may be able to stay afloat for a little bit, but I would say by June of next year, you are going to have three task forces that have folded for sure.

Behm: Ok, if we receive the \$1.2 million, which equals \$800,000, what's the impact there?

Steeves: Some are going to be reduced to a point. We are going to have to make some tough decisions, this group is, as to who continues to be funded. We can't fund them all, and I see at least two that are probably in jeopardy of continuation. The majority of the three task forces, you are going to have the center of the state not covered.

Dean Chase: Mr. Chairman, what's the recommendation again of the Governor on the breakdown of the Yahoo monies?

McNair: It's \$700,000 to go the Patrol for the Internet Crimes Against Children, and the rest of it would come to our office for prosecution. To put it in context just a little bit, we think this is an important problem. We can do a demonstration and show you how many internet predators there are. If you pose as a 14 year old girl right now, within 15 seconds you will have several men offering to do nasty things, either to come visit or to do them on the internet web cams. So we think it is a pretty serious problem, and it's not, like Gary says, we don't want to subject kids to meth abuse, nobody wants to do that. We could dedicate all of our resources to one or the other, but there is not a whole lot of resources going to the Internet Crimes Against Children right now, and that's why the Patrol wanted to get this unit up and going; whereas, even if the task forces go away, and obviously we don't want to see that, we fought like crazy last year to make sure that didn't happen, we were out in the rotunda, we had four people from our office in the rotunda making sure that didn't happen, but there are still a great deal of resources being dedicated to fighting meth at the local and state law enforcement levels. I don't mean to suggest that we want, and I have never and would never suggest that we want any sort of funding for meth fighting to go away, but there are, it's just a matter of

allocation of resources, and do you say whoa, move all of it towards what we consider the most serious problem and put everything else aside. That's the context and that's why we had talked about dedicating that money, in addition to the fact that it actually came from Yahoo as a result of that investigation.

Chase: But that isn't in stone. That could be adjusted one way or the other?

McNair: That is correct, and that's why I say you are welcome to talk to the Governor about it, and if the Commission wants to send a letter recommending that, obviously, that is the prerogative of the Commission.

Bill Brueggemann: Just to remind everybody, the mandates and what's required by law, we have these task forces that are expected by the people for us to enforce the laws, and then we have the internet crimes. We also have one that keeps getting swept underneath the rug, and that is the Crime Victims Reparations Committee, which is mandated by law. It was cut 90%. We have this big pie out there, and we keep cutting it into pieces for these other programs. We shouldn't be so concerned about how we are going to split up that money when ourselves or our Senators don't care how stuff that is mandated gets funded. I think we should, if we are going to write letters, we should concentrate on what's mandated by law instead of what we would like to continue going. We need to do what's required first, and then do what's necessary after that. That's my opinion.

Lacey: I agree totally with that. I looked into this before I gave a speech in the Governor's mansion last year. Nebraska appropriated had available, in the last fiscal year, about \$220,000 for Crime Victims Reparations. So I started looking around to the states around us. Colorado had \$12 million, and that was state money. So this Legislature could give a crap about crime victims. I just feel very strongly that these drug task forces are such a bulwark of our investigatory capability that smelling the flower at some temporary or some thing that is in vogue currently, shouldn't supplant an ability to fight drugs. I know that I belong to a task force from the National District Attorneys Association, and I know that there is a lot going on nationally and internationally. Microsoft forged an alliance with the police in Toronto, Canada, and they developed a computer program that is loved by the Canadian Police in various provinces up there because it helps them identify people that are preying against children. I question whether our own Government in Washington, D.C., because of financial constraints right now, has the current wherewithal, maybe not wherewithal, but the current desire to join in these efforts on Crimes Against Children. I know from attending a meeting last fall in Palm Springs that Microsoft contacted the United States Justice Department asking them if people in the United States or the Federal Government in the United States would like to take advantage of this computer program that was developed between Microsoft and Canada, and our Government referred it to the Justice Department. As far as I know, and I talked to the

lady from Microsoft who is heading up this program internationally and she basically said it's lost in the Bureau of Justice Assistance, and she had no idea if America was going to be joining in this effort. I can tell you that I asked her to come down to Florida to talk to the National District Attorneys Association Board of Directors to try to apply some pressure to get this thing started in the United States, and she was going to be in Italy during that particular point and time, and Italy has joined with Canada and Microsoft, and there is other European Nations that are doing the same. So I don't know, it just seems to me that we ought to fund what we got and not go branching off into things that would be very nice to branch off into. But, my lord, if the task force in Omaha, Lincoln, Scottsbluff, Hastings and Kearney, if those things die, it's going to take a monumental task to reconstitute them. I think we will have lost a lot of cooperation between state, local and federal authorities in prosecuting these drug cases. I can tell you that the local prosecution of drug cases is like pounding sand down a rat hole. These people, the judges and the state court judges in Nebraska could give, for the most part in my view, could give a crap less about what happens to a drug dealer, but if you prosecute them in Federal Court, they get 30 and 40 year sentences. Sometimes they get life sentences, and that takes those people off the streets for a good long time, and I just hope that we don't let this kind of thing go down the tubes.

McNair: Gary, would you like to clarify or repeat the motion?

Brewster: I think we have a comment here.

Mike Moser: I was going to ask about his motion, but before that, what percentage cut is this funding? I mean is it a 50% cut from what we were getting before? Or?

Steeves: Yes, easy.

Lacey: Every year, they decide. Every year, the Congress passes these continuing resolutions, and every year, they fail to decide back in Washington and appropriate money for these various things. So they come down to the end of the fiscal year, and they pass a continuing resolution to fund that X amount last year or something like that, and then along about a year and a half when they are supposed to make a funding decision, they cut it some more. The Bush administration, and I'm a Republican, the Bush administration has said they want to zero these funds out. It's up to the states to do this kind of thing. Well, I think that's horseshit because the Federal Government has been funding these things, both under Republican and Democratic Administrations. I think they have to continue funding it, and just because we have a war in Iraq or we have a new thing, a new funding thing that they want to do, doesn't mean that they can just abandon these drug efforts.

Moser: If you want to have some hope of getting some of this money, my guess would be is that you should make your motion more specific about how you might see proportioning that \$700,000 because if you ask to get the whole \$700,000 to support the drug task forces, I doubt if that is going to fly. If you would say you want some percentage of it, 25%, 50% or whatever, I think you would have a better chance of getting somewhere because I doubt, if it's coming from an internet type environment, that they are going to want to transfer that over to drugs.

McNair: I was going to mention that I would need to go back and review the agreement as we signed it with Yahoo. The intent of the agreement, obviously, was to promote the education of internet crimes against children.

Moser: So maybe that money has to be spent on that.

McNair: Right, I would have to check on that because I can't remember how it is written, but it may be binding.

White: It would seem Gary, to me, that it would be more appropriate that with the passion that you have for this drug task force, that maybe you would want to frame some kind of a resolution here from the Commission supporting the task force, and saying that even though we realize the internet problem is a problem, our most important problem is methamphetamine or drugs, and we can't see them putting all this money into this. But not say, give us part of this, but just say, "this is our major problem, and we need money for this as opposed to." I just don't think that they are going to buy this trying to push the money because it's going to be nickels and dimes to everybody.

Arnold: Gary, can I ask you a question as the prosecutor for the second largest county? How many victims have you seen, child victims, of internet crimes come across your desk?

Lacey: We have them a lot.

Arnold: Can you put a number to it?

Lacey: I could if I went back to my office and run a computer check.

Arnold: I've been a police officer for 25 years, and I've never had a child victim of an internet crime. I'm not saying that they don't happen, and I'm not saying that they don't happen in my agency, but we had an arrest last week of a guy because we had an officer posing as a 14 year girl, but the 14 year old girl wasn't a victim, it was, we had a perpetrator. I don't see the numbers, now, do I see victims of methamphetamine? I've got them in my family. I've got a brother-in-law in Leavenworth; I've got a sister in treatment here in town; I've got a niece that's in jeopardy of her life

going down the tubes because her parents are meth users and dealers. My sister is 43 years old, been a meth addict for her whole adult life, how many times do you think she has been arrested for drug use? Zero.

Overman: I want to remind this group that last April, we sat around this table and said “we’re going to go to the Governor, and we’re going to ask for \$12 million.” Tom Warren was the one that basically was kind of speaking up for the task forces, and I think my memory tells me that’s what we were going to do. And what did we get?

Brueggemann: I think we should cut the benefit package for the City of Lincoln employees and use that money.

McNair: Gary, there was an offer to amend your motion. Do want to amend it or repeat it?

Lacey: No, I don’t think I would like to amend it. I’ll restate the motion that we send a letter to the Governor outlining our reasons for wanting to save the drug task forces, setting forth the Federal problem that has been continuing for the last, at least 10 years, and asking the Governor and the Attorney General to assess whether or not Yahoo funds can be used under the settlement agreement for drugs rather than just Internet Sexual Crimes Against Children, and to reapportion the money that was gotten from Yahoo to say, take 75% to go to drugs, and 25% to go to Internet Crimes Against Children. I just picked those out of the air because I don’t know what more to do of it.

McNair: I hadn’t really thought about it before this morning, so I apologize for not bringing it up earlier, but my recollection is that those funds were supposed to, by contract between us and Yahoo, be used for Internet Crimes Against Children, education and prosecution and whatever else for that kind of effort, so I am not sure any of those funds under the agreement will be able to be used for that, but when it went to the Patrol, it was still for that purpose, and so there wasn’t really a problem with it. I hadn’t thought about this before, so I guess to the extent that it might be used, then you could send that letter.

Lacey: Well you know, the drug forfeiture money, I think there is tons of drug forfeiture money that agencies get that could be directly directed to this use.

Brewster: I’ll second the motion.

McNair: Is there any other discussion?

Robert Houston: I am very favorable towards a resolution, but not one that establishes a pecking order. On the receiving end of this, I see both as being important, and I think that the Governor, I can't speak for the Governor, knows what his funding options are, but I could agree with a letter to stress the importance of the drug task force and how important they are, but I guess I am less comfortable with prioritizing that and saying that that's more important than the internet problems. To that extent, I can support a resolution to make a statement about the value of the task forces from both my experiences in county and state government.

Lacey: I think you have to go after this money like a junkyard dog. If you go after it like a mambi pambi and say I think this is important and we want everything to succeed, you are not going to get anything. So, I guess I would rather leave my motion the way it is.

White: Including the percentage?

Lacey: Yeah.

McNair: Can you repeat the percentage?

Lacey: 75, 25. If the settlement money can't be used, then I think you'll have to reassess and maybe do something else.

Susan Jacobs: I take it you would work with Mike to draft a letter.

Lacey: Yeah, I'll even to go to the Governor and present it to him if that would help. Sometimes my presence doesn't help, especially with him because I supported his opponent, Tom Osborne. So, he probably could care less what I think.

McNair: We'll take a vote on the motion and then you can work, Gary, with Mike to come up with a drafted letter.

James Riskowski: Ok, but before we, let's have discussion here for a second. I think we need to hold, and I agree with Gary on this a lot, and I also agree with Bill here because we've grappled with Crime Victims and the funding for that for years and years and its severe cuts, and we have the Law Enforcement Training Center. I think as a Commission we need to stand up for, and I think, Mike, one of the things that this Commission has since its founding and part of its mission is to determine what are the key legislative issues that we need to face up to, take a stand, and then champion those, and champion those either on the state level or on the federal level. I think we need to go after our Congressmen and our Senators to say these are important law enforcement issues to the State of Nebraska, and you need to stand up for them, and we as a Commission need to stand up for them. I think that, as Bob talked about, it's not just one issue, you know. Sometimes we deal with the issue of the moment, and we need a longer

term strategic vision of what's important to the State of Nebraska, Law Enforcement Criminal Justice wise, and what are those issues, and what are the funding shortfalls because there are some significant ones, and we need to take a position, stand up for those, and I think as a Commission and its whole, stand up and be heard. I agree with Gary's motion that we need to go after these funds because if we don't, then somebody else's voice will be stronger, the squeaky wheel issue, and that's where the money is going to go. If we had a strategic vision when these kinds of things come into the state, like the Yahoo settlement, then we can say, ok, this is how it fits into our vision, and our vision is we need funds for the task force. Yeah you're going to give us money, and we're going to get this settlement, but this is the priorities of the State of the Nebraska because we have a vision, and right now, we don't have a vision. We're reactive, and we shouldn't be reactive. We know this is coming because Nancy tells us every meeting that this is coming and it's going to be a problem, and we don't have a strategic vision to address that or strategy as a Commission to do something, and yet that's our mission, and I think that's why we are here is to make a difference in law enforcement and to try and come in with our eyes open and not be reactive. We need to have motions, legislative issues, I think. I don't understand why we don't ask the Governor or the Governor's representative or Policy Research to come here so that we can have this kind of discussion so that it gets on their agenda, and it gets in the funding package, and it's something that, you know, the same thing, representatives of the Senators and the Congressman to come here and say these are significant issues that the State is going to be dealing with, and we expect you to stand up for us. Or the Congressmen or Senators stand up in the Congress and Legislatures of the United States and say that we need these monies, we need these funds and go out there and make a difference and get that done. I think Mike needs to be responsible for part of that, and I think as a Commission, we need to pick the issues like Gary and Bill brought up and then champion those.

Jacobs: Jim, that's a separate issue, but I think you are absolutely right. Having Governor's representatives or Legislative representatives with the Crime Commission is absolutely a wonderful idea. We have never done that as long as I have been on the Commission, and it's a terrific idea. It's a separate issue from this though.

Riskowski: Right, it is, but we need to be moving in that direction.

Jacobs: I think you're right.

Behm: I would like to respond to a couple of things you said, Jim, on behalf of some of the leadership that has been provided to me since being appointed in May of 2005. I would take one issue with the fact that we don't have vision here as a group and as a Crime Commission towards the drug task forces also methamphetamine, which we don't particularly center our

focus on methamphetamine; we center it on illegal drugs because it's my experience since 1976 in law enforcement, there is a drug of choice that changes every couple of years. Right now it's methamphetamine, but I can guarantee you people are still using heroine. I was told recently by the Colonel here they actually took off four pounds of heroine in the Omaha area. So that tells me there are a lot of drugs out here. The resolution that is included in your packet today, if you were to review that, that went to all the State Senators; that went to the Governor's office, Policy Research, the Congressional members, the Federal Delegation, all you members here per your instructions, again per your leadership. I have had personal meetings with members of state government since September of 2005 we've been working on this, Nancy, myself, included with the Feds, and also the drug task forces, and also the reason we established the Ad Hoc Committee and a Committee for the drug task forces was to deal with this specific problem since January of 2006. I think we've examined the funding that's available to us. As you know, state fundings are tight, federal monies are tight, and I guess the best thing that came out of our conversations, at least last year, was with Senator Flood who did take a leadership role, and I know I've mentioned him before, but he did take and should be recognized for his leadership down there that was able to get some money to sustain these because some others were not interested at the closing moments of the Legislature last year. I also want to recognize the Attorney General's office who went to bat for us down there as well.

Lacey: I know that's true, and everything you say is correct. I think we need to take a role that will more emphatically emphasize to the Governor these task forces and what they've meant to Nebraska in the last 20 some years.

White: But I can go back, to reinforce what you were saying Mike, for years, two previous Directors', we have tried and tried working with the Legislature. We have had Ad Hoc Committee's; we've worked with this; we've worked on legislative issues, and we've probably gone as far as we can go. The statements that we make, the resolutions that we pass have all gone there, and I think they've done some good, and we've had excellent working relationship with the Attorney General's office. I think we've taken a leadership role.

Riskowski: I think we have a champion you know, because Pete, who was one of us, you know, has told me that you guys bring the stuff, and I'll help champion it. So we have a voice, we have a guy that says I am willing to stand up because I was part of you, and I understand the issues that you guys are facing, but bring them to me. What is your vision? What is it that you want to have done? I think we have a champion who says I am willing to stand up for you, let's give him what we need to have him carry that message forward.

White: But you have to remember that Mike serves at the pleasure of the Governor.

Riskowski: Yes. He does.

White: Don't forget that.

Riskowski: But,

Lacey: We don't.

Riskowski: We don't.

White: You can't expect him to do this.

Riskowski: Yes we can because, only in the resolution form of the Commission, and we can stand up and take a position, like Gary said, and carry that message forward, the members can.

McNair: As far as a practical effect, that maybe you are just as wise to direct some of this at the appropriations committee. You say you want to let the Governor know how we feel, but there is very little doubt in my mind that the Governor knows exactly how we all feel. It has been made very clear to him that a lot of people very strongly support these task forces. He just decided in his budget that he submitted to the Legislature that he didn't want to dedicate new funds to that, but I don't think there is any doubt that he knows how we all feel. So the appropriations committee, to the extent that you are dedicating energy towards those efforts, the appropriations committee would probably also be a place to go.

Tuma: I think the important thing to remember is that last year, we were successful with the appropriations committee, but in that appropriation they also said it was a one time shot of money.

Lacey: Yeah, and that's what they said when they were giving money to the Qwest Center. It's a one time shot of money we're going to give you.

Tuma: I agree with you Gary.

Lacey: Guess what they're doing now? Omaha is in trouble, and they want more money because the Qwest Center isn't making enough money, and do you suppose they're going to get it? Oh, I think they will probably. Because if it's making sure the Qwest Center succeeds, it's A-ok, but if it's kids that are suffering because they don't have enough people at Health and Human Services to train to do investigations or there's not enough cooperation with law enforcement or if the drug task forces are going down the tubes then they, you know, can just fluff over that, but I'll tell you if Omaha needs more money for the Qwest Center, I'll bet they get it.

- Tuma: My point was to focus in on where we need to dedicate our energies. Mike and I have met with the Governor; we've met with the ad hoc task force; we've had those conversations; we've met with the budget policy people, where do we go next?
- Arnold: I understand your frustration, but I wonder if we're not targeting the wrong people. Because, quite frankly, the reason that the Qwest Center is a favorite and school redistricting is a big topic and all these others is because the public is pushing it. The public wants to see things done, and do you think the public would stand by if they knew that their drug investigations, because, I can't tell you how many times I get told, well, that house over there is a drug house and they've got cars coming and going all the time, well, if I said, you know we don't have a unit that's dedicated to drug investigations and so I appreciate that, but we'll keep an eye on it. If they got that idea, they'd be up in arms because I'll tell you what, there is a terrible fear from people that understand what meth does, and illegal drugs, and I'd probably disagree with Mike that the drug of choice changes every couple of years. It's been meth since I've been a police officer in my area. You get cocaine and you get heroine thrown in there, but meth is always a, but it doesn't matter, it's drugs, and people are concerned about that. They don't want their kids going to school with other kids that are using drugs; they don't want their neighbors dealing drugs out of their house; if they understood that is the best tool we have to fight that, and that the state Legislature and the Governor aren't committed to making sure they stay in operation, I think their focus would change.
- McNair: Any further discussion? We have a motion and a second. Do we want to do a roll call vote?
- Arnold: Is this contingent on it being ok with the agreement. I mean we're not going to send this letter if the agreement says it has to be used?
- Lacey: Right.
- Tuma: I guess I would like to have the motion clarified before I vote.
- McNair: Gary, do you want to repeat the substance of the letter?
- Lacey: That the Crime Commission send a letter or resolution setting forth the importance of drug task forces and that it's our view or our recommendation that the Yahoo settlement money be used in a proportion of 75 to 25% to fund the drug task forces until the Legislature can tell us whether or not they're going to pass a or until such time the Legislature passes a resolution to appropriate money from the fund or whatever you call it, the constitutional amendment or other state funding.
- Riskowski: Has the agreement been executed?

McNair: Yes.

Riskowski: And, do you know what the terms are of the agreement?

McNair: I can't remember off the top of my head, like I said, I believe that it says that the money is dedicated to educating and taking care of problems with Internet Crimes Against Children. It hasn't come up before this morning, so I don't have a copy with me.

Riskowski: Is there any flexibility in the agreement to modify it?

McNair: No. I mean we could go back to Yahoo and try to re-negotiate, but that was a six month negotiation to get that one signed. It wasn't all that easy.

Overman: Well, you put it in the motion subject to whether it's possible under the agreement. If it isn't, at least they know what we think.

Brewster: Well, I think the motion has been stated three times.

Moser: In three different versions.

Brewster: Well, no, I'm hearing the same version. We've got a second. Let's do it.

Houston: Well, I guess one last statement. I would certainly like to vote in support of this, but to slow down, to go back to a six month negotiation, you know, I think the Governor knows what his options would be, and I could certainly speak very strongly in support of the drug task force, but to take away from this or to slow this down and so forth, is not something I can support.

Overman: I am not in support of going back and renegotiating either. If it can be done, the motion would say that's what we want to do. If it can't be done, it can't be done, but at least they know we think it's awfully important for the drug task forces.

McNair: So you're saying you would like to send a letter regardless of whether it's possible so that the message at least gets to the Governor.

Overman: No, it should be in the motion.

McNair: Oh, ok.

Lacey: To the extent that it's necessary, I want to amend my motion to send the letter whether or not Yahoo funds are available because if we can't find it in the Yahoo settlement, then we can find it in the Qwest settlement or the soybean gasahol settlement, or whatever other money there is out there. Maybe even a tax refund.

Overman: I move to call the question.

McNair: We have a motion to call the question. All in favor say I. (Commission members said I). All opposed say neigh. The I's have it. Call the question with a roll call vote. Actually, we'll have the roll call vote on the motion. We already called the question, and it passed.

Motion

A motion was made by Lacey and seconded by Brewster that the Crime Commission send a letter or resolution setting forth the importance of drug task forces and that it's our view or our recommendation that the Yahoo settlement money be used in a proportion of 75 to 25% to fund the drug task forces until such time the Legislature passes a resolution to appropriate money from the fund, the constitutional amendment or other state funding and to send the letter whether or not Yahoo funds are available. Voting in favor of the motion: Arnold, Brewster, Jacobs, Lacey, Overman and Riskowski. Voting against the motion: Brueggemann, Chase, Ford, Houston, Moser, Tuma and White. Due to an absence of a majority vote, the motion failed.

McNair: Would you like to get back to the BYRNE Nancy?

Steeves: That would be great, but I do appreciate all the support. This is very, very important. I do need you to approve this proposal as is, and should you find anything that you think needs to be changed, I will be happy to hear from you. I will be submitting this application within the week. Also, we need to have public comment.

McNair: Ok. I'll ask for a motion first, and then I'll ask for discussion and public comment. May I have a motion to approve the 2007 Edward Byrne Law Enforcement Memorial Justice Assistance Block Grant Application?

Overman: So moved.

Arnold: Second.

McNair: We have a motion and a second. Is there any discussion? Seeing none, is there any public comment? Seeing none, may I have a roll call vote please?

Motion

A motion was made by Overman and seconded by Arnold to approve the 2007 Edward Byrne Law Enforcement Memorial Justice Assistance Block Grant Application. Voting in favor of the motion: Arnold, Brueggemann, Chase, Ford, Houston, Jacobs, Lacey, Moser, Overman and Tuma. Charles Brewster and William White had stepped out of the room when this motion took place. Motion carried unanimously.

C. Update the VAWA Advisory Committee

Jennifer Kirkpatrick presented updates for the membership for the VAWA Advisory Committee. The main purpose of the Committee is the review of the VAWA grant applications submitted to the Crime Commission. The VAWA Committee also develops the statewide plan. The Committee consists of representatives from law enforcement, probation, courts, victim services, and a tribal representative. Changes to the Committee membership that I am proposing consist of the following: 1). Chief Alex Moreno of Scottsbluff and Chief David Lacy of Nebraska City replacing Sheriff Bill Burgess, Fillmore County and Chief Lance Webster of Wayne; 2). Pam Perry-Brown, the new Executive Director of the Domestic Violence/Sexual Assault Coalition is replacing Sarah O'Shea; and a new addition to the group, Charlie Vendetti, is a representative of the Douglas County Attorneys Office who has presented training throughout the state for domestic violence and sexual assault.

Motion

A motion was made by Ford and seconded by Brueggemann to approve the VAWA Advisory Committee membership changes. Voting in favor of the motion: Arnold, Brueggemann, Chase, Ford, Houston, Jacobs, Lacey, Moser, Overman and Tuma. Charles Brewster and William White had stepped out of the room when this motion took place. Motion carried unanimously.

D. Deobligation of funds to Box Butte County Attorney Victims' Rights Unit, Grant Number 05-VA-202 and 06-VA-208

Jennifer Kirkpatrick reported that grant number 05-VA-202 was awarded to Box Butte County on July 29, 2005 in the amount of \$17,158. This was a new victim witness unit in a county attorney's office. The victims' right coordinator position has been vacant since June 9, 2006. Kirkpatrick has been working with the Box Butte County Attorney to identify someone for the position. Thus far, these efforts have been unsuccessful. Services to victims are not being provided nor are the grant funds being utilized. The last cash report received was for the January-March 2006 quarter. It reflected a balance of \$8,000 on hand. Contact was made with the County Attorney. It is understood that a cash report reflecting actual funds expended through June 30, 2006 is to be submitted to the Crime Commission by February 10, 2007. All funds not expended will be deobligated.

They are also awarded a 2006 grant in the amount of \$16,494. Required contingencies for the award have not been received. Therefore, this grant will be deobligated. The deobligated funds will be re-awarded with the 2007 awards.

No action by the Commission was needed at this time.

VII. OTHER BUSINESS

A. NCJIS Update

Michael Overton gave a brief update on the goals of CJIS, the changes and updates that are being made and some issues that are being dealt with. He informed the Commission that one of the key ways of getting this information out to users is through the NCJIS Technology Conference, which will be taking place on March 7-8, 2007 in North Platte, Nebraska at the Sandhills Convention Center.

B. Presentation of a Funded Program

Stephanie Ortiz-Cidlik, from the Homestead Girl Scout Council, gave a brief presentation on the Studio 2B After School Program that is funded with Juvenile Services funds, which is administered by the Crime Commission.

C. 2007 Legislation

Bruce Ayers discussed with the Commission the 2007 legislation. He stated that the bills he listed on the handout were the main bills that affected the criminal justice system. For the following bills, Ayers pointed out some key issues of the bills that were worth bringing to the Commission's attention:

- **LB 414** (Flood) was withdrawn on January 25, 2007.
- **LB 452** (Burling, Wallman) is a repeat from last year which appropriates \$200,000 to the Crime Commission for grants to develop drug abuse prevention and education programs for elementary aged children.
- **LB 532** (Nantkes) expands the membership of the Police Standards Advisory Council from seven to eight. The eighth member would be a law enforcement office with the rank of sergeant or below.
- **LR 11CA** (Flood) this is a constitutional amendment that takes 3% of the lottery money and transfers it to the Crime Commission to basically fund the drug task forces. The 2006 Annual Report by the Nebraska Lottery says that the annual proceeds from Nebraska's lottery totaled \$27,600,000. Three percent of that amount is \$828,000.

The Crime Victims Reparations Committee funding was brought forth as a concern. Ayers reported that the Governor's budget is recommending a flat line appropriations, which is the same appropriation as we have been getting for the last several years. Riskowski asked if there was a plan to try and obtain more funding for this program. Brewster responded by saying that by statute, we are responsible to notify DAS that we don't have any money, and every year, this is voted upon to make sure this happens. Brewster went on to say that he drafted a letter that he wanted to send, but Mike wasn't comfortable with it, so we didn't send it. Brewster feels that we need to continue to award money even though we don't have it.

Gary Lacey asked to call the question.

Motion

A motion was made by Brewster and seconded by Riskowski to authorize the Crime Victims Reparations Committee to send the initial letter to the Governor of the State of Nebraska saying, we need money and by statute, you need to give it to us and add the language that Mike Behm has been directed to do this by the Commission. Voting in favor of the motion: Arnold, Brewster, Brueggemann, Chase, Ford, Houston, Jacobs, Lacey, Moser, Riskowski, Tuma and White. Don Overman had to leave prior to this motion to catch his flight home. Motion carried unanimously.

It was suggested that Senator Pirsch receive a copy of the letter as well.

VIII. ADJOURNMENT

The next scheduled meeting of the Commission will be **Friday, May 4, 2007 at 9:30 a.m. in the Nebraska State Office Building, Lincoln, Lower Level Conference Room A.**

There being no further business, the meeting adjourned at 12:05 a.m.

Respectfully Submitted,

Sarah J. Schoen
Administrative Assistant