



Dave Heineman
Governor

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

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STATE OF NEBRASKA

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

July 18, 2014

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, July 18, 2014 at 9:30 AM 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 July 3, 2014 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, Jeff Davis, Tim Dempsey, Mike Kenney, Ray Norris, Cassandra Rockwell, Fred Ruiz, Rita Sanders, Michelle Schindler, Todd Schmaderer (Arrived 9:35 AM), Thomas Schwarten, and Mike Swain. **Members excused**: Joe Hewgley, Joe Kelly, Don Overman, Dave Sankey and Brenda Smith. **Staff present**: Darrell Fisher, Dave Stolz, Merry Wills, Bruce Ayers, Bill Muldoon, Jeanette Greer, Mike Overton, Vanessa Humaran, Amy Hoffman, Cindy Gans, Lisa Stamm, Linda Krutz, Amy Theilan, and Ann Bauers. **Others present**: Jody Gittins, Attorney General's Office; Dawn Copley, Heartland Family Services; and Jeanie Gilbert, Rape Domestic Abuse Program.

II. APPROVAL OF MINUTES

Motion

A motion was made by Davis and seconded by Sanders to approve the minutes of the Crime Commission meeting of May 2, 2014; Crime Victim Reparations meeting of May 2, 2014; Police Standards Advisory Council meetings of March 19, 2014 and April 16, 2014; Coalition for Juvenile Justice meeting of June 6, 2014; Office of Violence Prevention meeting of June 3, 2014; County Attorneys Standards Advisory Council of April 10, 2014, Task Force on Human Trafficking meetings of April 23, 2014 and June 12, 2014; and Jail Standards Board meetings of April 17, 2014. Motion passed by acclamation.

III. EXECUTIVE DIRECTOR'S REPORT

Fisher gave the following report:

Legislative Issues

- During the quarter, the Commission has been involved in some issues resulting from 2014 Legislative action. The most prominent is the Justice Reinvestment Working Group. The Nebraska Justice Reinvestment Working Group (Working Group) is a 19-member group established under the guidelines of LB907, Section 11 to collaborate with the Council of State Governments Justice Center (CSG Justice Center), a nonprofit association that helps local, state, and federal government agencies through membership dues and grants from the Pew Charitable Trusts and the U.S. Department of Justice Bureau of Justice Assistance. The CSG Justice Center was asked to provide intense technical assistance to help collect and analyze data and develop appropriate policy options to finance prison reform; to study and identify innovative solutions; to study evidence-based practices to develop a data-driven approach to reduce correctional spending; and to propose justice reinvestment strategies that can decrease crime and reduce recidivism and increase public safety. The Nebraska Legislature unanimously passed LB907 and was signed by Governor Heineman on April 16, 2014.
- The Working Group is created under the authority of the executive, legislative, and judicial branches of Nebraska state government with Governor Dave Heineman; Speaker of the Legislature, Senator Greg Adams; and the Chief Justice of the Supreme Court, the Honorable Michael Heavican serving as co-chairs. The first meeting was held on Wednesday, 18 June 2014 at the Lincoln Country Club, and Linda Krutz and her staff from the Community Corrections Division handled all logistics for this meeting. I am grateful to Linda and her staff for all their efforts on this initiative. The first meeting resulted in a presentation by CSG outlining the phases for their approach and setting up future meetings. More information will be forthcoming to the Commission members as we work through the Summer and Fall months, but CSG hopes to have a final report and proposals to the State of Nebraska by early 2015.
- We have worked with Senator Davis' and Ashfords offices on LR 520: which deals with the ramifications of the legalization of marijuana in Colorado on Nebraska. The purpose of this resolution is to gather information about the developing problems that law enforcement is encountering since the State of Colorado legalized the sale and recreational use of marijuana. This study includes, but not be limited to, the following issues:
 - (1) The steps that local law enforcement and the State of Nebraska can take to mitigate the problems associated with the drug;
 - (2) An assessment of the adequacy of law enforcement in Nebraska counties that border Colorado;

- (3) A determination of the need to increase the presence of the Nebraska State Patrol in Nebraska counties that border Colorado;
- (4) An evaluation of how affected counties can deal with the increased costs to the judicial system; and
- (5) Whether current fines and penalties are adequate, or if Nebraska should consider more significant and effective deterrents to the illegal transportation of marijuana into Nebraska.

Specifically, we have provided data on the number of adult vs. juvenile arrests for Sale and possession from 2008 through 2012. In a separate report, we also provided a breakdown of the same information specifically for Deuel County, as they have claimed a real hardship of Colorado's legislation.

Complaints/Revocation of Law Enforcement Officers

We are diligently working through the seventeen cases we had. Of those cases:

- 4 cases have been closed
 - 2 cases have been automatically revoked for felony convictions
 - 1 case voluntarily surrendered and was recommended for revocation by PSAC in January, and was confirmed by Crime Commission in May 2014.
 - 1 case was dismissed by the Crime Commission – insufficient evidence to proceed in May 2014.
- 6 cases have been reviewed by the PSAC and all six are recommended for revocation – you will review those today.
- 1 case at the Attorney General's Office – **COMPLAINT HAS BEEN FILED** - scheduled for 20 August PSAC Public Hearing – to be reviewed @ October Crime Commission
- 1 case at the Attorney General's Office – respondent has replied – complaint will be disputed – awaiting the filing of the complaint by AG's Office
- 1 case at the Attorney General's Office – respondent failed to reply - awaiting the filing of the complaint by AG's Office
- 3 cases pending – awaiting replies from respondents – believe will be voluntary surrenders
- 1 case out for investigative review at NLETC.
 - You may work as many as seven cases at the October Crime Commission meeting.

As a follow-up to last month's meeting and per your direction, included in these numbers above is a case I recommended dismissal on at the May Meeting, which this group denied, and sent back for further investigation. I am pleased to report that thanks specifically to Tim Dempsey, I was able to make contact with officers of the affected police department. They provided information and written reports which had been requested earlier on this case, but not provided. Those reports provided the necessary information we needed to move forward on this case, and I am reporting to this body that I will be seeking a formal complaint from

the Attorney General's Office for revocation of this person's law enforcement certification in the near future.

Racial Profiling

During the week of 23 June, we mailed out letters to the four local agencies and the one sheriff's office who failed to send in any policy. An attachment to that letter was the Crime Commission's DRAFT Racial Profiling Model Prevention Policy, which was developed in late March. We have also mailed out letters to agencies who were in full compliance, and letters to those agencies who were not in full compliance. We attached the DRAFT Racial Profiling Model Prevention Policy to those letters that went to agencies who were not in full compliance. We gave those agencies a requested response date of 15 August to resubmit. Just so this body is aware, §20-504 does not really have any "teeth" in it for us to take any further action. Therefore the letters we sent out to those who failed to comply and those who were not in full compliance are RECOMMENDATION letters only; meant strictly to help them mitigate their risk.

Regarding the Commission's Racial Profiling Model Prevention Policy; we have that policy on the agenda for the 18 September Racial Profiling Advisory Committee. Those members have already received the DRAFT policy, and will give their final review on that date. The Crime Commission will receive the final version prior to the 17 October meeting, and it will appear as an action item for final approval. We have provided it to agencies somewhat out of desperation: we needed to provide them with something so they could draft their policy. Our policy fully complies with §20-504 and has gone through a legal review internally before we supplied it outside of the agency.

IV. OLD BUSINESS

There was no Old Business

V. NEW BUSINESS

A. Revocation of Law Enforcement Certificate – Christopher J. Bovee, LR-076-10

Lt. Thomas Schwarten, 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.

Schwarten stated that the case before the Board today was uncontested and there is an affidavit showing publishing of the notice to revoke. Schwarten 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. Bovee's law enforcement certification.

Christopher J. Bovee did not attend, nor did he send a representative on his behalf.

Motion

A motion was made by Dempsey and seconded by Kenney to uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Christopher J. Bovee, LR-076-10. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

B. Revocation of Law Enforcement Certificate – Jeffrey S. Ortgies, LR-087-11

Schwarten stated that the case before the Board today was uncontested and there is an avadavat showing publishing of the notice to revoke. Schwarten 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. Ortgies's law enforcement certification.

Jeffrey S. Ortgies did not attend, nor did he send a representative on his behalf.

Motion

A motion was made by Rockwell and seconded by Norris to uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Jeffrey S. Ortgies, LR-087-11. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

C. Revocation of Law Enforcement Certificate – Steven R. Crile, LR-077-10

Schwarten stated that the case before the Board today was uncontested and there is an avadavat showing publishing of the notice to revoke. Schwarten 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. Crile's law enforcement certification.

Steven R. Crile did not attend, nor did he send a representative on his behalf.

Motion

A motion was made by Sanders and seconded by Schindler to uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Steven R. Crile, LR 077-10. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

D. Revocation of Law Enforcement Certificate – Lance Dow, LR-013-14

Schwarten stated that the case before the Board today was uncontested and there is an avadavat showing publishing of the notice to revoke. Schwarten 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. Dow's law enforcement certification.

Lance Dow did not attend, nor did he send a representative on his behalf.

Motion

A motion was made by Norris and seconded by Sanders to uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Lance Dow, LR-013-14. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

E. Revocation of Law Enforcement Certificate – Bruce R. Theye, LR-045-06

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

Bruce R. Theye did not attend, nor did he send a representative on his behalf.

Motion

A motion was made by Davis and seconded by Schindler to uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Bruce R. Theye, LR-045-06. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

F. Approval of FY 2014 Victims of Crime Act Formula Grant Program in the amount of \$3,247,855.44.

SEE ATTACHMENT #1

Wills gave a brief summary on the FY 2014 Victims of Crime Act Formula Grant Program and asked for approval in the amount of \$3,247,855.44.

Wills also summarized and asked for approval of Grant #14-VA-204 Heartland Family Services for additional support in the amount of \$37,996 for 1 FTE Case Manager.

There was a brief discussion regarding what supplanting means. Wills asked Dawn Copley, Program Director for Domestic Violence/Sexual Abuse Program what would happen if the funds were denied. Copley replied that the program would continue, but there would have to be cuts made and donated funds would continue to be used.

Wills summarized the application and asked for approval for the Supplemental Funding Request for Grant #14-VA-238 Rape/Domestic Abuse Program in the amount of \$33,114 to expand services to Cherry County.

Jeanne Gilbert, Executive Director from the North Platte Rape/Domestic Abuse Program, stated that this amount was to fill a gap from a position that was closing. There was a brief discussion.

It was decided to vote on each request separately.

Motion

A motion was made by Sanders and seconded by Schindler approve the FY 2014 Victims of Crime Act Formula Grant Program in the amount of \$3,247,855.44. Voting in favor: Batton, Davis (Abstain A-214), Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

- G. Approval of Grant #14-VA-204 Heartland Family Services for additional support in the amount of \$37,996 for 1 FTE Case Manager**

SEE ATTACHMENT #1

Motion

A motion was made by Norris and seconded by Rockwell approve the Grant #14-VA-204 Heartland Family Services for additional support in the amount of \$37,996 for 1 FTE Case Manager. Voting in favor: Batton, Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Abstaining: Davis. Motion Carried.

- H. Approval of Supplemental Funding Request for Grant #14-VA-238 Rape/Domestic Abuse Program in the amount of \$33,114 to expand services to Cherry County**

SEE ATTACHMENT #1

Motion

A motion was made by Schmaderer and seconded by Schindler to approve the Supplemental Funding Request for Grant #14-VA-238 Rape/Domestic Abuse Program in the amount of \$33,114 to expand services to Cherry County Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schindler, Schmaderer, and Schwarten. Abstaining: Swain. Motion Carried.

- I. Approval of FY 2014 Federal JAG Application #2014-NE-DJ**

SEE ATTACHMENT #2

Stamm gave a summary of the 2014 Federal JAG Application #2014-NE-DJ and asked for approval to submit the form.

Motion

A motion was made by Schindler and seconded by Sanders to approve FY 2014 Federal JAG Application #2014-NE-DJ. Voting in favor: Batton, Davis, Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schindler, Schmaderer, Schwarten and Swain. Motion Carried.

J. Approval of FY 2013 JABG #2013-JB-FX-0009 in the amount of \$150,877

SEE ATTACHMENT #3

Humaran summarized the grant request and asked for approval of FY 2013 JABG #2013-JB-FX-0009 in the amount of \$150,877. There was a brief discussion.

Motion

A motion was made by Kenney and seconded by Rockwell to approve FY 2013 JABG #2013-JB-FX-0009 in the amount of \$150,877. Voting in favor: Davis, Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schmaderer, Schwarten and Swain. Abstaining: Batton and Schindler. Motion Carried.

K. Approval of remaining \$76,773 for Community Based Aid Enhancement

SEE ATTACHMENT #4

Gans gave a summary of the Community Based Aid Enhancement and asked for approval for the remaining amount of \$76,773. There was a brief discussion.

Hoffman gave a brief summary on the Georgetown Application process and for the first time Nebraska will be sending delegates for the Juvenile Diversion Certification program.

Motion

A motion was made by Rockwell and seconded by Ruiz to approve of remaining \$76,773 for Community Based Aid Enhancement. Voting in favor: Davis, Dempsey, Kenney, Norris, Rockwell, Ruiz, Sanders, Schindler, Schmaderer, and Schwarten. Abstaining: Batton. Motion Carried.

VI. OTHER BUSINESS

Darrell Fisher introduced Amy Theilan who is temporarily filling the Staff Assistant II position vacancy.

VII. PUBLIC COMMENT

There was no public comment.

VIII. ADJOURNMENT

The next scheduled meeting of the Commission will be:

**Friday, October 17, 2014
9:30 AM
Nebraska State Office Building
Lower Level Conference Room A
Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 10:58 AM

Respectfully Submitted,



Ann Bauers
Administrative Assistant