



Dave Heineman  
Governor

# STATE OF NEBRASKA

## NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

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## NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

May 2, 2014

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, May 2, 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 May 18, 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 9:31 AM by Acting Chairman John Freudenberg. The following members were **in attendance**: Acting Chair John Freudenberg, Candice Batton (Left 12:17 PM), Tim Dempsey, Joe Hewgley, Joe Kelly (Arrived 9:34 AM), Mike Kenney (Left 11:16 AM), Ray Norris (Left 11:28 AM), Don Overman (Left at 11:26 AM), Cassandra Rockwell (Left 12:11 PM), David Sankey, Rita Sanders (Arrived 9:34 AM), Michelle Schindler, Thomas Schwarten, Brenda Smith, and Mike Swain. **Members excused**: Jeff Davis, Fred Ruiz, and Todd Schmaderer. **Staff present**: Darrell Fisher, Dave Stolz, Merry Wills, Bruce Ayers, Bill Muldoon, Jeanette Greer, Mike Overton, Vanessa Humaran, Amy Hoffman, Derek Jones, Mary Thomason, Cindy Gans, Lisa Stamm, Chris Harris, Marilyn Keelan, Wendy Leming, and Ann Bauers. **Others present**: Brian Freeman, Banister Leadership Academy and Lt. Dues from the Nebraska State Patrol

### II. APPROVAL OF MINUTES

#### *Motion*

*A motion was made by Kenney and seconded by Smith to approve the minutes of the Crime Commission meeting of January 24, 2014; Crime Victim Reparations meeting of January 24, 2014; Police Standards Advisory Council meetings of December 18, 2013, January 15, 2014 and February 19, 2014; Coalition for Juvenile Justice meeting of March 28, 2014; Office of Violence Prevention meeting of March 5, 2014; Task Force on Human Trafficking meetings of January 27, 2014 and February 10, 2014; and Jail Standards Board meetings of January 17, 2014. Motion passed by acclamation.*

### III. EXECUTIVE DIRECTOR'S REPORT

Fisher asked Marilyn Keelan to stand and be recognized for her 43 years of service to the Crime Commission. Fisher stated that she is retiring and introduced Wendy Leming as her replacement.

Fisher than gave the following updates for his report.

#### Legislative Issues

The Commission had five bills which primarily affected our operations:

- LB 464 – Juvenile Reform Bill
  - Lots of amendments
  - Ultimately increases the amount of Community Based Juvenile Aid money available to sub grant recipients
- LB 907 – Prison Reform Bill
  - Lots of amendments
  - One amendment would have placed \$5 million for inmate programming and vocational services, and up to three new staff over a two year period into the Commission.
    - Ultimately, we prevailed in convincing the sponsor to place this money into DCS and Parole.
    - As passed, this bill will establish the Nebraska Justice Reinvestment Working Group under the authority of the executive, legislative, and judicial branches of government to work with the Council of State Governments. CSG will ultimately produce a report to address the prison overcrowding issue.
- LB 933 – Human Trafficking
  - Changed and developed some definitions for human trafficking and most of the language for this bill was moved to LB998.
- LB 934 – Human Trafficking
  - Was presented to establish the position of Coordinator for Human Trafficking Prevention in the Commission.
  - Was never advanced out of the Judiciary Committee.
- LB 999 – Prison Reform Bill
  - Started out as a 50-page LB and would have eliminated the Community Corrections Council.
  - The bill was amended many times, and ultimately was passed with all of the original language eliminated and substituted with a proposal and \$200k to

determine the feasibility of saving one of the buildings at the old Hastings Regional Center.

- They would like to renovate one building and turn it into a 200-bed facility for inmates with mental health issues.
- With LB999 passed, and our Community Corrections Council no longer under threat of elimination, we will proceed in hiring the Policy Analyst Position vacated with Jeff Beaty's move to DOC last September. We have made a conditional offer of employment to the most qualified applicant, and we anticipate that person starting soon.

### **Complaints/Revocation of Law Enforcement Officers**

Upon arrival at the Commission, we had sixteen complaints/revocations pending:

- 2 from 2006
- 3 from 2010
- 3 from 2011
- 2 from 2012
- 6 from 2013

We have 2 complaints so far in 2014. All the files have been reviewed, and those needing investigation are out and assigned for investigation; two will be worked today for dismissal; and others have been sent to the Attorney General's Office. My goal is to be current with these by the end of this year, but I want the Crime Commission to understand that based upon the outcome of the investigations and decisions subsequent to those investigations, you may be working many of those this year as revocations/decertifications.

### **Racial Profiling**

The Commissioners will recall that in the 2013 Legislative Session, LB 99 was passed and signed into law by the Governor. Nebraska Revised Statute SS20-504 now requires all law enforcement agencies to provide their racial profiling policies to the Commission by 01 January 2014, and that such policies shall include the following:

- Prohibition for the detention of any person motivated by racial profiling;
- Prohibition for any motor vehicle stop motivated by racial profiling;
- Definitions consistent with section 20-503 (includes definitions for racial profiling, disparate treatment, and motor vehicle stops);
- One or more internal methods of prevention and enforcement including, but not limited to:
  - Internal affairs investigation
  - Early intervention methods

- Extra training
- Disciplinary measures

We have completed our review of those policies and several went before the Racial Profiling Advisory Committee for their review and guidance. We did receive some late policies, which were provided by agencies after the Advisory Committee met, but we still have not received policies from the following agencies:

- Dodge Police Department
- Exeter Police Department
- Hildreth Police Department
- Minatare Police Department
- Spalding Police Department
- Tekamah Police Department
- Seward County Sheriff's Office
- Sioux County Sheriff's Office

Since we have mailed two letters, and followed those up with telephone calls after 15 February, we will discuss our options and execute a strategy to gain voluntary compliance within the next few days.

#### **IV. OLD BUSINESS**

##### **A. Operating Instruction #10 – Grant Procedures**

##### **SEE ATTACHMENT #2**

Bruce Ayres gave an update on the changes to OI#10. There was a brief discussion

##### *Motion*

*A motion was made by Schindler and seconded by Sanders to approve the changes to Operating Instruction #10 – Grant Procedures. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

#### **V. NEW BUSINESS**

Fisher suggested that the Board go into Executive Session for the prevention of needless injury to the reputation of Leroy Janssen and Michael Hinkley. For the purposes of Executive Session besides the Board members, Darrell Fisher, Dave Stolz and Ann Bauers will remain in the room

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

*Motion*

*A motion was made by Hewgley and seconded by Sanders to approve going into Executive Session. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**EXECUTIVE SESSION BEGINS AT 9:51 AM**

**COME OUT OF EXECUTIVE SESSION AT 10:17 AM**

Freudenberg called the meeting to order after Executive Session at 10:17 AM.

*Motion*

*A motion was made by Hewgley and seconded by Sanders to approve coming out of Executive Session. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**A. Dismissal of Revocation – Leroy Janssen – LR-098-13**

*Motion*

*A motion was made by Dempsey and seconded by Sankey dismiss the Revocation against Leroy Janssen – LR-098-13 . Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**B. Dismissal of Revocation – Michael K. Hinkley – LR-053-06**

*Motion*

*A motion was made by Overman and seconded by Sanders override the dismissal recommendation and do further investigation against Michael K. Hinkley – LR-053-06. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**C. Revocation of Law Enforcement Certificate – Kevin W. Bombeck – LR-100-13**

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. Bombeck's law enforcement certification.

Kevin Bombeck did not attend, nor did he send a representative on his behalf.

*Motion*

*A motion was made by Sankey and seconded by Smith uphold the Police Standards Advisory Council's decision to revoke the Law Enforcement Certification of Kevin W. Bombeck, LR-100-13. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**D. Title 79, Chapter 18 – Certification of Police Service Dog Teams**

**SEE ATTACHMENT #1**

Schwarten gave a summary of the proposed Title 79, Chapter 18 – Certification of Police Service Dog Teams. This proposal would change the procedures from being voluntary to mandatory. There was a brief discussion regarding the certification standards that are being adopted and when it would go into effect.

*Motion*

*A motion was made by Kelly and seconded by Rockwell approve Title 79, Chapter 18 – Certification of Police Service Dog Teams. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**E. Law Enforcement Training Center Report**

**1. Instructor Certifications**

The Crime Commission next considered *five* requests for **Professional Certification**, and *one* request for **Professional Recertification**. Police Standards Advisory Council's recommendations were reported by Lt. Col Thomas Schwarten.

*Motion*

*A motion was made by Schindler and seconded by Dempsey to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Recertification to Cody J. Paro, Nebraska State Patrol; and Professional Certification to Jeremiah J. Harmon, Nebraska Law Enforcement Training Center; Kent A. Kavan, Nebraska State Patrol; Craig A. Loveless, Nebraska State Patrol; David E. Thome, Nebraska Law Enforcement Training Center; and Bradley A. Wagner, Nebraska State Patrol. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Kenney, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried. (Motion carried)*

**F. Approval of FY 2014 CB Community—Based Juvenile Aid in the Amount of \$5,018,028**

**SEE ATTACHMENT #3**

Gans gave a summary of both the Community Based Juvenile Aid and the Community Based Juvenile Aid Enhancement grant applications and how the money was allotted. Gans further gave a breakdown of how the money was dispensed.

Schindler asked who was on the grant review committee and Gans provided a list of the members and gave an overview of how the process worked. Kelly asked about attorneys being denied this year and what will happen in the future. Gans gave a summary of LB464 and how the law has been changed on how attorneys will be funded based on percentage of their time used to help youth, and not prosecuting them. There was a brief discussion concerning how the staff review committee determined the percentage.

Hoffman gave a brief summary on how statute §43-2404 outlined how the funds will be allocated. The Staff Review Committee actually determined the ultimate use of the funds. There was a discussion on how the youth would be eligible for these programs, because they have to go through the court system first in order to be sent to a diversion program. There was a discussion on whether putting constraints on the county attorneys at this point was premature.

Hoffman stated that more information was needed in order to determine how the money would be spent. Kelly said it is almost impossible to determine that in advance. Smith stated that sometimes it's hard to separate truancy from crimes because the crime could cause the truancy. Fisher stated that more information may be needed for future grant reviews in order to determine how the funds will be spent.

**G. Approval of FY 2014 EB Community Based Juvenile Aid Enhancement in the amount of \$451,582**

**SEE ATTACHMENT #4**

*Motion*

*A motion was made by Schindler and seconded by Dempsey to approve the recommendations of the Grant Review Committee funding for FY 2014 CB Community-Based Juvenile Aid in the Amount of \$5,018,028 with the amendment of changing the relevant comment sheets to allow funding of prosecutors to fulfill the goals of this funding and FY 2014 EB Community-Based Juvenile Aid Enhancements in the Amount of \$451,582. Voting in favor: Batton, Dempsey, Hewgley (Abstain on 15-CB-501 and 14-EB-601), Kelly (Abstain on 14-CB-529), Kenney, Norris, Overman (Abstain on 14-EB-507), Sankey, Sanders, Schindler, Schwarten, Smith and Swain (Abstain on 14-CB-502 and 14-EB-601). Abstaining: Rockwell Motion Carried.*

## **H. Update on FY 2014 Reallocated Dollars in the Amount of \$76,733**

### **SEE ATTACHMENT #5**

Cindy Gans stated that these dollars can't be held over, so the grant process will be open for applications. She gave a brief summary of the requirements.

#### *Motion*

*A motion was made by Kelly and seconded by Rockwell approve the FY 2014 Re-allocated Dollars in the amount of \$76,733. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Norris, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

## **I. Approval of Nebraska State Implementation Plan STOP Violence Against Women Act (VAWA) 2014-2016**

### **SEE ATTACHMENT #6**

Wills gave a summary of the Nebraska State Implementation Plan of the STOP Violence Against Women Act (VAWA) 2014-2016.

#### *Motion*

*A motion was made by Swain and seconded by Batton approve Nebraska State Implementation Plan STOP Violence Against Women Act (VAWA) 2014-2016. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Norris, Overman, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

## **J. Approval of FY 2013 STOP Violence Against Women Formulas Grant Program Fund #2013-WF-AX-0019 in the Amount of \$1,028,417**

### **SEE ATTACHMENT #7**

Wills summarized the FY 2013 STOP Violence Against Women Formula Grant Program Fund and how the funds can be dispersed.

#### *Motion*

*A motion was made by Norris and seconded by Sanders to approve FY 2013 STOP Violence Against Women Formula Grant Program Fund #2013-WF-AX-0019 in the Amount of \$1,028,417. Voting in favor: Batton, Dempsey, Hewgley, Kelly (Abstain 14-VA-702), Norris, Rockwell, Sankey (Abstain 14-VA-703) , Sanders, Schindler, Schwarten (Abstain 14-VA-703), Smith and Swain. Motion Carried.*

**K. Approval of 2013 Office of Violence Prevention Grants in the Amount of \$350,000**

**SEE ATTACHMENT #8**

Harris gave a summary of the Grant Review Committee's recommendations of the 2013 Office of Violence Prevention Grants and how the money will be dispersed.

*Motion*

*A motion was made by Kelly and seconded by Rockwell approve 2013 Office of Violence Prevention Grants in the Amount of #350,000. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Norris, Overman, Rockwell, Sankey (Abstain 13-VP-5002), Sanders, Schindler (Abstain 13-VP-5001), Schwarten (Abstain 13-VP-5002), Smith and Swain. Motion Carried.*

**L. Approval of 2013 Title II Juvenile Justice and Delinquency Act Formula Grants in the Amount of \$343,951**

**SEE ATTACHMENT #9**

Humaran gave a brief summary of the 2013 Title II Juvenile Justice and Delinquency Act Formula Grant in the amount of \$343,951.

*Motion*

*A motion was made by Dempsey and seconded by Sanders to approve 2013 Title II Juvenile Justice and Delinquency Act Formula Grants in the Amount of \$343,951. Voting in favor: Batton, Dempsey, Hewgley, Kelly, Norris, Rockwell, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**M. Approval of 2014 Juvenile Services Grants in the Amount of \$587,812**

**SEE ATTACHMENT #10**

Humaran gave a brief summary of the 2014 Juvenile Services Grants in the amount of \$587,812 and how the money was to be dispersed. Voting was delayed until after the appeal by Banister's Leadership Academy.

Humaran gave a brief summary of the appeal process, basis of the appeal and why the staff recommended denial of the appeal. The question was raised concerning if Banister's was allowed to speak at the grant review meeting. There was a brief discussion.

**N. Appeal of Banister's Leadership Academy Grant 13-JJ-10**

**TWO HANDOUTS**

Freeman from Banister's Leadership Academy presented their appeal for the denial of funds requested. There was a brief discussion concerning their capacity to carry out both programs at the same time. Smith asked why a \$35,000 reduction in monies allowed.

Humaran stated that it mostly came from funds available and cost effectiveness of the program. There was a brief discussion on the process that determined the final decision. Stamm stated that they looked at the region served as well as what is available for the entire state. The question was raised if any grant recipients were allowed to speak at the meeting, and the answer was no, however, there were no other groups that attended. Schindler asked if there was a policy in force that would determine the amount of reduction for the applicants. Stamm replied there were various factors that are taken into consideration when determining amounts approved.

*Motion*

*A motion was made by Dempsey and seconded by Swain to deny the appeal of Banister's Leadership Academy Grant 13-JJ-10. Voting in favor: Dempsey, Hewgley, Kelly, Sankey, Sanders, Schindler, Schwarten, and Swain. Voting Against: Norris and Smith. Motion Carried*

*Motion*

*A motion was made by Dempsey and seconded by Swain to approve 2014 Juvenile Services Grants in the Amount of \$58,812. Voting in favor: Dempsey, Hewgley, Kelly (Abstain 13-JS-504), Norris, Sankey, Sanders, Schindler, Schwarten, Smith and Swain. Motion Carried.*

**VI. OTHER BUSINESS**

There was no other business.

**VII. PUBLIC COMMENT**

There was no public comment.

**VIII. ADJOURNMENT**

The next scheduled meeting of the Commission will be:

**Friday, July 18, 2014  
9:30 AM  
Nebraska State Office Building  
Lower Level Conference Room A  
Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 12:22 PM

Respectfully Submitted,



Ann Bauers  
Administrative Assistant