



Dave Heineman
Governor

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

(Nebraska Crime Commission)

Michael E. Behm, Executive Director

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NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

October 19, 2012

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, October 19, 2012 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 October 5, 2012 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, Joe Kelly, Bob Houston, Robert Lausten, Don Overman, David Sankey (left 10:13 AM), Rita Sanders, Michelle Schindler, Todd Schmaderer, Mike Swain, Derek Vaughn and William White. **Members excused**: Joe Hewgley, Fred Ruiz, and Brenda Smith. **Staff present**: Michael Behm, Merry Wills, Bruce Ayers, David Stolz, Derek Jones, Bill Muldoon, Mary Thomason, Robin Peck, Lisa Stamm and Ann Bauers. **Others Present**: Alan Peterson, ACLU

II. APPROVAL OF MINUTES

Motion

A motion was made by Overman and seconded by Houston to approve the minutes of the Police Standards Advisory Council meetings of June 20, 2012, and July 18, 2012; Crime Victim's Reparation meeting of July 20, 2012; Jail Standards Board meeting of July 27, 2012; Crime Commission meeting of August 17, 2012; Nebraska Coalition for Juvenile Justice Meeting of September 7, 2012; Racial Profiling Advisory Committee Meeting of September 20, 2012; and the Task Force on Human Trafficking Meetings of August 22, 2012, and September 12, 2012. The motion passed unanimously by acclamation.

III. EXECUTIVE DIRECTOR'S REPORT

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

- We have three new members to welcome to the Crime Commission Board. Joe Hewgley, Commissioner from District #3; Michelle Schindler, Director Lancaster Youth Services; and Todd Schmaderer, Omaha Chief of Police.

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- Derek Jones is our new Juvenile Compliance Monitor and DMC in the Grants Division
- Robin Peck is the new Accountant I in the Accounting Division
- The Task Force on Human Trafficking Committee has been formed and is in the process of compiling the information necessary for the first report due to the Legislature December 1, 2012
- Staff is currently reviewing the entire grant process, including Operating Instruction #10, to see where improvements can be made, due to questions raised by commission members.

IV. OLD BUSINESS

There was no old business

V. NEW BUSINESS

A. Dismissal of Complaint LR-048-06 against Bernard Kresha

SEE HANDOUT

Behm gave a brief summary of the complaint against Bernard Kresha and the reasons for his recommendation to dismiss the complaint.

Motion

A motion was made by Swain and seconded by Davis to dismiss the complaint against Bernard Kresha LR-048-06. Voting in favor of the motion: Batton, Davis, Kelly, Houston, Lausten, Overman, Sanders, Schmaderer, Swain, Vaughn, and White Abstain: Sankey and Schindler. Motion carried.

B. Nebraska Law Enforcement Training Center

1. Instructor Certifications

The Crime Commission next considered six requests for **Professional Certification** and two requests for **Professional Recertification**. Police Standards Advisory Council's recommendations were reported by Robert Lausten.

Motion

A motion was made by Sankey and seconded by Houston to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Recertification to Andrew K. Bensalah, Omaha Police Department; Sean C. Fontana, Omaha Police Department; Sherry L. King, Omaha Police Department; Teresa B. Negron, Omaha Police Department; Mario E. Robinson, Lincoln Police Department; and Ryan Schmuecker, Lancaster County Sheriff's Office; Professional Recertification to George T. Merithew, Omaha Police Department; and Nicholas Prescott, Omaha Police Department. Voting in favor of the motion:

Batton, Davis, Kelly, Houston, Lausten, Overman, Sankey, Sanders, Schindler, Schmaderer, Swain, Vaughn and White. Motion carried unanimously.

C. Grant Review Process

SEE ATTACHMENT #1 - YELLOW

Behm gave a summary of the letter from State Probation and his response to her. He further summarized what changes he would offer to Operating Instruction #10 (Handout). Kelly moved to adopt the changes, and Vaughn seconded.

Overman stated that it was hard to get people to serve on the Grant Committees and most of the time it fell on local people. Behm agreed. Kelly stated he was favorable towards the changes, but thought the changes should be split between two votes. There was a brief discussion on the portion about leaving the room, whether that would be legal; and what was actually a conflict of interest. Schindler asked how the committee members were chosen and the intent behind the second paragraph. Behm answered that the Grant Review Committee members were all volunteers. He further stated that the staff looked at the terms of people serving, and determined that it should be opened up to being more accessible to other Board members.

Behm stated that he felt obligated to look at the process to make sure it looks equitable to everyone. Batton stated that term limits gives more members the opportunity to serve and learn how the process works. There was a discussion regarding how to keep the process transparent for the committee members as well as the grantees.

Behm suggested that this is something to discuss and perhaps put on the agenda for January. The discussion continued regarding the pros and cons of term limits, as well as the question of how many grant review committees there should be.

Freudenberg invited the withdrawal of the motion from the discussion which was moved by Kelly and seconded by Vaughn and then invited a motion to table revisions to OI #10 until the January meeting.

Motion

A motion was made by Houston and seconded by Batton to table OI #10 until the January 25, 2013 Crime Commission Meeting. Motion passed by acclamation.

D. Sexual Assault Services Program (SASP) Update

Wills gave a brief update and summary on the Sexual Assault Services Program. Vaughn asked how process the use or distribution of funds. Wills answered that it has to do with population and they apply a formula to make it equitable.

E. Residential Substance Abuse Treatment funds (RSAT) Update

Stamm gave a brief update and summary on the Residential Substance Abuse Treatment funds. There was no discussion or questions.

F. Approval of proposed JAG Step Down Process

HANDOUT

Stamm gave a brief overview of how the Step Down Process would work. Lausten asked if one of the overall objectives of JAG was for the funds to be seed money. Stamm answered that it could be a 5-10 year funding. There was a discussion on when the grants would be sent out in 2013.

Freudenberg suggested that the applicants be notified before the Board takes on vote so they are aware of the changes that will be implemented. There was a discussion on the stipulations of Federal grants and when the information needed to be included in the applications for 2013. The question was raised if there could be waivers and Stamm indicated that was a possibility for good cause. There was a brief discussion on how a waiver would be defined.

White noted that this was the intent originally. Not to fund forever, but to gradually decrease the amounts awarded to make the grantees self-sustaining. Stamm mentioned that the applicants have been told about this for a number of years and it won't be a surprise.

Swain stated that he served on the committee for several years, and for the last 4 or 5 years all applicants were repeatedly told that this was for seed money and not meant to sustain programs indefinitely.

Lausten asked if this would be part of an operating instruction or a stand-alone document. Stamm said it could be drafted either way. The discussion continued concerning the implementation of this and how to invite applications for their input. Lausten suggested this be put into an Operating Instruction to be made available in January, and let anyone who wants to attend the public meeting be made aware they can comment in the public opinion section.

Freudenberg invited a motion for the Crime Commission to prepare this as an Operating Instruction for consideration at the next meeting. Overman so moved. Behm suggested that he receive input as to the language to be used in drafting the Operating Instruction. Stamm stated that the language can be taken right from the Federal Instructions.

Lausten moved to direct staff to prepare a policy on step down process for consideration at the January meeting, and that policy to either be incorporated into an Operating Instruction, or as a stand-alone document. Overman withdrew his original motion.

Houston wanted to amend the motion to include a reason as to why it is needed. Behm asked for clarification as to what needs to be added or deleted in order to prepare the

requested document for the next meeting. Behm stated he would like to have any comments submitted to Stamm by December 22, 2012. Batton asked for clarification regarding the priority of funding in regards to programs already receiving grants, as opposed to new ones applying. She questioned how that would be clarified. Batton also questioned the use of the waiver.

Motion

A motion was made by Lausten and seconded by Overman to direct staff to prepare a policy on a Step Down Process which will include a reason as to why it is needed, and to be either incorporated into an Operating Instruction or as a stand-alone document to be considered at the January 25, 2013 Crime Commission meeting. Voting in favor of the motion: Batton, Davis, Kelly, Houston, Lausten, Overman, Sanders, Schindler, Schmaderer, Swain, Vaughn and White. Motion carried unanimously.

VI. OTHER BUSINESS

There was no other business.

VII. PUBLIC COMMENT

Alan Peterson of the ACLU gave a brief summary of his background and then spoke regarding expanding the scope and power of the Racial Profiling Committee. Peterson stated that he would write the proposed bill and bring it to the Crime Commission for consideration.

Kelly asked if this went to judiciary, and Peterson said he thought it would. Houston gave a brief summary of the problems that they have addressed within the corrections division.

VIII. ADJOURNMENT

The next scheduled meeting of the Commission will be **Friday, January 25, 2012 at 9:30 AM in the Nebraska State Office Building, Lower Level Conference Room A, Lincoln, Nebraska.**

There being no further business, the meeting adjourned at 11:16 AM.

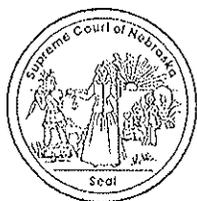
Respectfully Submitted,



Ann Bauers
Administrative Assistant

Attachment #1

SUPREME COURT OF NEBRASKA



August 21, 2012

ADMINISTRATIVE OFFICE OF THE COURTS & PROBATION

Janice K. Walker
State Court Administrator

Ellen Fabian Brokofsky
State Probation Administrator

Mike Behm, Executive Director
Nebraska Crime Commission
P.O. Box 94946
Lincoln, NE 68509

Dear Mr. Behm:

I am writing to you today to express my concern at the recent decision of the Crime Commission to not fund the Administrative Office of the Courts and Probation Byrne/JAG grant request. While I understand this decision is final, I feel it is important to again point out the discrepancies in what was outlined in the grant application kit and the funding decisions made by both the Grant Review Committee and the Crime Commission.

As discussed in our appeal, both the Bureau of Justice Assistance information regarding Byrne funding and the Crime Commission Application Kit discussed how programs that were new and evidence based would be prioritized for funding. Based on reviewing the statewide applications that were funded, the application submitted by the Administrative Office of the Courts and Probation was the only application to specifically discuss evidence based practices. Remote Recovery was also indicated as a priority project in the Application Kit, as referenced in the Byrne/JAG strategic plan. It is of concern that the Grant Review Committee did not follow the guidelines provided by the federal funder and the Crime Commission. Of more concern is that the Crime Commission itself did not follow these same guidelines, even after our appeal and testimony discussed them specifically.

The Courts and Probation are key stakeholders in the Criminal Justice System, so it is vital that we continue to partner in projects that can achieve the ultimate goal of community safety and offender accountability. It is unfortunate that this important project that could impact so many will not be funded.

Again, I understand that the decision regarding the funding of this grant project is final.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellen Fabian Brokofsky".

Ellen Fabian Brokofsky
State Probation Administrator

EFB/lkz

Cc: Chief Justice Michael G. Heavican
Janice Walker, State Court Administrator
Deb Minardi, Deputy Probation Administrator
Toni Jensen, Domestic Violence Programs Services Specialist

RECEIVED

AUG 28 2012

NEBRASKA CRIME COMMISSION



Dave Heineman
Governor

STATE OF NEBRASKA
NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

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September 4, 2012

Ellen Fabian Brokofsky
State Probation Administrator
Administrative Office of Courts & Probation
P.O. Box 98910
Lincoln, NE 68509-8910

RE: August 21, 2012, Correspondence

Dear Ms. Fabian Brokofsky,

I would like to thank you for sharing your concern regarding the Bryne/JAG funding decisions made by the members of the Crime Commission at its August 17, 2012 meeting. As the meeting minutes will no doubt reflect, the final decision pertaining to the grant awards was not an easy one for the Commission members to make. The Commission's Operating Instruction #10, section 007, outlines the criteria that the Grant Review Committee should consider when making award recommendations. The issues that you expressed in your letter represent only 2 of the 8 criteria that the Grant Review Committee should examine when making grant recommendations.

As you are aware, the recommendations are not binding on the Commission as only the commission members may make the final funding awards. Section 008 of Operating Instruction #10, provides that the Commission will, in making its final determination, consider the staff review recommendations, grant review committee recommendations, information contained in the summary comments, written statements offered by the applicant, Commission member discussion and input from the administrator. All of this information was reviewed at the Commission's meeting.

Various Commission members raised questions pertaining to the information contained in the grant kits, the purposes of the Byrne/Jag grant, the guidelines of the grant itself and the long-term use of the awards by grant recipients. Ms. Jensen, on behalf of your agency did a commendable job presenting, but unfortunately, she did not convince a majority of the Commission members that one of the bases of appeal had been established.

Based upon questions raised by commission members, I have asked members of my staff to review the entire grant process, including Operating Instruction #10, to see where improvements can be made. I will also address issues that you have raised. If changes are recommended, which I would anticipate that there would be since no system is perfect, it is my intent to present these recommendations to the Commission members at a meeting in the near future for the Commission's action since it is only the Commission members themselves who control the grant process.

Again, I thank you for sharing your concerns.

Sincerely,


Michael E. Behm
Executive Director

Cc: Honorable Chief Justice Michael G. Heavican
Janice Walker, State Court Administrator