

NEBRASKA COMMISSION ON LAW
ENFORCEMENT AND CRIMINAL JUSTICE
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Crime Commission Update



July 2013

Nebraska Commission on Law Enforcement and Criminal Justice
Dave Heineman, Governor
Michael Behm, Executive Director

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Crime Commission Update



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<http://www.ncc.ne.gov>

Dave Heineman, Governor

DIRECTOR'S COMMENTS

I'd like to welcome three new staff members to our agency: Ms. Kristy Nguyen, Grant Division Staff Assistant, Mr. Michael Fargen, Business Systems Analyst in our Information Technology Division, and Sara Kinney with our Budget and Accounting Division.

With a final motion of 'Sine Die' on June 5, 2013, the 2013 Legislature session adjourned. The following legislative bills passed and signed into law by Governor Heineman will affect the Crime Commission. Note: these legislative Bills may be found on the Unicameral website. www.nebraskalegislature.gov

LB 99 (includes LB 233) Effective date: September 6, 2013

1. Requires law enforcement agencies to provide a copy of their written policy on racial profiling to the Crime Commission prior to January 1, 2014.
2. The Crime Commission may develop and distribute a suggested model written racial profiling prevention policy for use by law enforcement agencies.
3. Removes the sunset clause for collecting and reporting motor vehicle stops to the Crime Commission. The sunset date was January 1, 2014.
4. Provides that the Crime Commission shall, within the limits of its existing appropriations provide for an annual review and analysis of motor vehicle stops that may involve racial profiling. Also gives the Crime Commission the authority to inquire and study individual cases where racial profiling may have occurred.
5. Any law enforcement officer, prosecutor, defense attorney, or probation officer, unless restricted by privilege, who becomes aware of incidents of racial profiling by a law enforcement agency, shall report such incidents to the Crime Commission within 30 days of becoming aware of such incident.
6. Eliminates the requirement for CVR claims that the victim incurs an economic loss which exceeds 10% of his or her net financial resources.

7. Eliminates the requirement for our biennial CVR report to include the names of CVR claimants, the facts in each case, and the amount awarded..

LB 255 Effective Date: October 1, 2013

Requires the Task Force on Human Trafficking to : (1) utilize information and research available from the Innocence Lost National Initiative and (2) research and recommend a model of rehabilitative services for victims of human trafficking.

LB 538 Effective Date: January 1, 2014

1. Contains a definition of incapacity for a law enforcement officer.
2. When a law enforcement officer is separated from his/her agency due to a physical, mental, or emotional incapacity, the law enforcement agency shall report the separation to PSAC and the officer's law enforcement certificate shall be suspended pursuant to rules and regulations adopted by PSAC.
3. When the officer demonstrates to PSAC that the incapacity no longer prevents the officer from performing the essential duties of his/her position, then the law enforcement certificate will be reinstated.

LB 561 (Includes LB 86) Effective date: May 29, 2013

1. Adds two new positions to the Crime Commission at the Division Chief level. The two positions are: Director of Community-based Juvenile Services Aid Program and Director of Juvenile Programs. The duties of each position are specified in the bill..
2. Adds three members to the Coalition for Juvenile Justice: a member with data analysis experience; the Foster Care Review Director; and a member of a regional behavioral health authority.

3. The County Juvenile Services Aid Program is retitled the Community-Based Juvenile Services Aid Program. There are new criteria specified for what types of projects may be funded.
4. The aid funds are increased from the current \$1,477,575 to \$3,000,000 in FY 2013-2014 and \$5,000,000 in FY 2014-2015
5. Adds a new member to the Crime Commission. This person shall be the chairperson of the Coalition for Juvenile Justice.
6. Requires the establishment through the use of technology of an information-sharing process to support and enhance the exchange of information between HHS, the Probation Administration and the Crime Commission. Also, there is intent language that \$250,000 is to be appropriated to the Probation Administration to facilitate this process.
7. Provides a definition of staff secure juvenile facility. The Jail Standards Board is required to develop standards for staff secure juvenile facilities and the staff of the Jail Standards Division are required to inspect these facilities.
8. Adds a new member to the Jail Standards Board. This person shall be an administrator of a staff secure juvenile facility.

As a result of LB561, the Crime Commission has hired Cindy Gans as Director of Community Based Juvenile Services and Amy Hoffman as Director of Juvenile Diversion Programs

-Michael E. Behm, Executive Director-

LAW ENFORCEMENT TRAINING CENTER

Last year, the 102nd Legislature passed LB 817 (rolled into LB 1046) that mandates all Nebraska law enforcement officers receive a minimum of 20 hours of continuing education annually. The bill was signed into law and takes full effect in 2014.

The law is very similar to the proposed Nebraska Administrative Code rule that circulated over the last two years as proposed Title 79, Chapter 17. The Police Standards Advisory Council has updated the proposed Chapter 17 rule and this updated draft rule can be viewed at the NLETC website. The rule will be needed to implement LB 817.

In essence, the law requires all Nebraska certified and reserve officers to obtain a minimum of 20 hours of continuing education in the areas of criminal justice or law enforcement annually. This includes Nebraska agencies that use special state deputy sheriffs. The reporting period will run from January 1 to December 31 each calendar year. The largest change from the first draft is that the law stipulates that only 10 hours of continuing education credit from “the internet” can be counted towards the 20 hour minimum.

The agency police chief or sheriff still decides what law enforcement related training counts towards the continuing education requirement based on agency needs. Existing agency in-service training programs, any training at a police academy, regional law enforcement training opportunities, professional conferences and seminars, internet or web-based training programs, and university or college courses can count toward the annual requirement.

The agency head determines if training:

- is delivered by local resources or away,
- is classroom or practical application based,
- if training consists of watching a video, using the internet, or a combination of any training delivery system,
- if training involves partnering with other agencies, such as local fire, EMS, Emergency Management, or other law enforcement agencies, or any combination of the above including shooting the annual state firearms qualification.

The rule does not require travel to attend any training, mandated minimums in specific topical areas, use of ‘state certified instructors’ (except firearms instructors for the state qualification shoot), or submission of classes or lesson plans for pre-approval. The agency head determines agency training needs and implements the training plan for his or her agency.

The Training Center has incorporated the continuing education report into the existing firearms report and provided an on-line reporting option that will be tested to report 2013 continuing education. The annual reports will check-off and attest that each officer has received the minimum 20 hours of training. The rule provides for waivers for the same reasons that are used to waive the firearms qualification shoot. One waiver can be used to excuse an officer from one or both of the continuing education or firearms requirements. The Council would review these each February following a reporting period.

To ensure the training is being delivered and properly documented in training files, the rule provides that the training center director shall audit a random number of agencies annually. The director will also be required to conduct a training needs assessment survey every three years.

For more information, visit www.nletc.state.ne.us or contact Director William Muldoon at wiliam.muldoon@nebraska.gov

A SIMPLE QUIZ

Match the state motto with the appropriate state.
Answers are below:

- | | |
|---------------------------------|---------------|
| 1. Eureka | A. Arkansas |
| 2. Friendship | B. Oregon |
| 3. The people rule | C. Nebraska |
| 4. North to the Future | D. Alabama |
| 5. She flies with her own wings | E. Texas |
| 6. Ever upward | F. Virginia |
| 7. Equality before the law | G. California |
| 8. We dare defend our rights | H. Alaska |
| 9. The Crossroads of America | I. New York |
| 10. Thus always to tyrants | J. Indiana |

Answers: 1. (G) 2. (E) 3. (A) 4. (H) 5. (B)
6. (I) 7. (C) 8. (D) 9. (J) 10. (F)

RECENT CHANGES TO JAIL ADMISSION STANDARDS

Revisions to Title 81 Adult Detention Facility Standards, effective March 28th, 2012, included a change to Chapter 4-002.01. This Standard now requires that a photograph be taken of a detainee at the time of admission for identification purposes. Since its part of the admission process, it should be understood that the photograph is to be uploaded into the JAMIN or equivalent in-house computer system during booking. For AFIS users, photographs should also be attached to the AFIS fingerprinting. To meet the requirements of this standard, each jail will have to take a booking photo of each detainee being lodged into the jail each and every admission and enter it into the computerized booking records.

Another matter related to arrestee and detainee identification is fingerprinting. Currently Nebraska revised Statute 29-209 requires that all felony arrests be fingerprinted with two copies of the print cards being submitted to the Nebraska State Patrol. While this statute does not address misdemeanor arrests, it should be considered best practice that all misdemeanor arrests and bookings be fingerprinted. A policy of fingerprinting all misdemeanors would provide for a more uniform, coordinated and efficient statewide record keeping system since criminal history and arrest events are fingerprint based. This would also include arrests and bookings on all types of warrants. Moreover, this practice would be more consistent with the specifications of the Nebraska Security, Privacy and Dissemination of Criminal History Act and the policy and intent of Nebraska Adult Detention Facility Standards Chapter 4-001 and 002.01.

At the National, State and local levels, certain misdemeanors are disqualifiers for acquisition, purchase, possession of firearms and carrying concealed firearms, such as domestic violence, protection order violations and firearm offenses. It is difficult for law enforcement authorities at all levels of government to conduct accurate criminal history checks if these and other misdemeanor fingerprints are not in the system. Another matter which prompted recent efforts to legislate fingerprinting of selected misdemeanors was DUI arrests and convictions. If fingerprint based criminal histories do not reflect all DUI convictions, it is difficult for the arresting agencies, courts and attorneys to conclude how many previous convictions an accused may have on their record. This includes exchanging record information with other states.

In an effort to ensure that all jails in the State are employing meaningful admission practices as required by the Standards, Jail Standards staff will be addressing these particular policies, procedures and practices during the upcoming annual facility inspections.

Dan Evans State Jail Standards

TRAFFIC STOPS IN NEBRASKA EXECUTIVE SUMMARY

Issues of fairness and trust are critical in the administration of justice. These issues are critical for the public as well as for law enforcement. Traffic stops are one of the most common types of contact for the public. Perceptions derived from these contacts and the need for openness on the reasons for stops fit with other concerns.

The Nebraska Legislature passed LB593 in 2001 to respond to possible issues relating to the way that traffic stops are made. The act specifically prohibited racial profiling and required law enforcement to implement policies prohibiting discriminatory practices as well as requiring the collection of prescribed data. Additionally, it required agencies to report to the Crime Commission all allegations of racial profiling received and the disposition of such allegations. This report included traffic stop data from 2002 through 2012 as submitted to the Nebraska Crime Commission.

One component of addressing concerns has been the training of law enforcement. Issues regarding racial profiling have been incorporated into the basic training all law enforcement officers attend for certification. Since the law took effect in 2001, and even prior to this law, students in basic training are taught that all traffic stops must be based on a legal justification and cannot be based solely upon the person's (or driver's) race or ethnic makeup. Any stop based solely upon the person's race or ethnicity would be unconstitutional. Students fill out racial profiling report forms with each simulated traffic stop conducted while in the training academy.

Data by agency and county is available at the Crime Commission's website (www.ncc.ne.gov)

Proactive use of this data can assist in an agency's monitoring and adherence to legislation. They can provide opportunities to reach out to the community as well as examine processes and procedures. We strongly encourage agencies to examine their data and look at what is happening within their jurisdiction.

- There were 505,481 traffic stops reported to the Crime Commission for 2012 from 177 law enforcement agencies.
- Of the total traffic stops reported, over two thirds were by the Nebraska State Patrol or agencies in Douglas, Lancaster and Sarpy Counties. Overall, almost 44% of the stops made statewide were by the Patrol. Omaha Police made 9% and Lincoln Police made about 10% of the statewide traffic stops.
- While both population and stops were concentrated in the largest counties, the largest metropolitan agencies accounted for the most stops. The Omaha Police Department, Lincoln Police Department and the Nebraska State Patrol accounted for 62% of stops.
- Given that the 2010 census included detailed data on Lincoln and Omaha, we were able to better examine details of stops in those communities.
- The general or census population only provides one aspect of the potential group that would be stopped by law enforcement, particularly in areas with a lot of commuters of Interstate traffic. Nonetheless, the local population provides one view of the area and is often used for these comparisons.
- The breakdown of types of stops and related data by race has stayed relatively consistent throughout the reported years, with certain variations showing in searches and the dispositions of stops.
- The statewide breakdown of traffic stops by race parallels the census adult population breakdown as well as the general known licensed driving population. In and of itself this does not mean that there is no racial profiling. It can be said that, on the statewide aggregate, there are not apparent disproportionalities.
- However, this does not mean that there are not disparities. There are other variances that show up when looking at particular local populations or jurisdictions. Since minority populations vary greatly across Nebraska, it significantly affects the contact law enforcement would have with them.
- The majority of stops in Douglas County were by the Omaha Police Department.
- Black drivers in Omaha are stopped almost twice as often by the Omaha Police Department (21.9% to 12.2%)
- Lancaster County has the majority of its stops by the Lincoln Police Department.
- The Lincoln Police Department stops Black drivers at over twice their local adult population (8.7% to 3.3%)
- Dawson County has a large Hispanic population that dramatizes the need for local examination of populations.
- Hispanics, the largest minority population in Dawson County, account for 30.4% of stops countywide compared to their overall population of 26.2%.
- Hispanics are 54% of Lexington's adult population but account for 41.1% of the stops.
- Looking at the processing of stops can point to similarities and disparities. A search can be requested of the driver or cause may bring about a search.
- The overall reporting by law enforcement shows that Blacks (5.1%), Hispanics (5.8%) and Native Americans (4.7%) are searched more often than overall (3.5%) or Whites (3.2%).

- The Nebraska State Patrol searches at a proportion lower than those reported overall (1.0% to 3.5%)
- The Douglas County Sheriff's Office conducts a larger proportion of searches on Hispanics (12.1%) than overall (4.8%).
- The Lincoln Police Department searched Blacks (4.7%) and Native Americans (5.6%) and Hispanics (3.0%) more frequently than general searches (1.7%).
- The Dawson County Sheriff's Office searched Hispanics (4.3%) almost twice as frequently as general searches (2.5%).
- For 2012 the Crime Commission received a total of 15 reports from 3 agencies of the public making allegations of racial profiling. All the agencies involved conducted internal investigations. In the 15 instances, the officer was exonerated or the allegations were deemed unsubstantiated.

As always, it must be noted that any observed disparities are just that: disparities. The data cannot prove bias or instances of racial profiling, but they can point to areas that agencies can look at more closely. Detailed review by agencies, including specifics such as officers, locations, populations or other criteria are essential to understanding the local situation.

While this data provides a good snapshot of traffic stops it must be noted that there are inherent limitations. Since only summary data is required to be collected and reported, there is no way to track individual instances or get to a detailed level of analysis available in other data sets.

Note: This report is posted on the Crime Commission's website at www.ncc.ne.gov

CRIME IN NEBRASKA, 2012

1% INCREASE IN CRIME IN 2012

The number of crimes reported to Nebraska law enforcement agencies increased 1% in 2012 compared to 2011. There were 53,911 crimes reported during January through December of 2012, compared to 53,317 reported during the same period of 2011, an increase of 594 crimes. These numbers include only the crimes of Murder-Manslaughter, Forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Motor Vehicle Theft, and Arson which serve as the *Crime Index* used to measure crime statewide. Violent crimes (Murder-Manslaughter, Forcible Rape, Robbery, and Aggravated Assault) increased 4%.

There were 4,587 violent crimes reported in 2012 compared to 4,420 reported in 2011, an increase of 167 crimes. Property crimes (Burglary, Larceny-Theft, Motor Vehicle Theft, and Arson) increased 1%. There were 49,324 property crimes reported in 2012 compared to 48,899 reported in 2011, an increase of 425 crimes.

Crime increased 3% in Omaha and 1% in Lincoln. Cities of 5,000 to 99,000 population had a less than 1% increase; and county areas reported a less than 1% decrease. Crimes occurring on State property decreased 6% from 2011.

Total Arrests Decrease 4%

The total number of persons arrested in Nebraska during 2012 decreased from 81,474 in 2011 to 78,637 in 2012, a decrease of 2,837 arrests. The top five categories in terms of the number of arrests made for specific crimes were: Driving under the Influence (10,718 arrests), Drug Abuse Violations (10,518), Liquor Law Violations (8,925), Larceny-Theft (9,642), and Simple Assault (7,903). The total number of adult arrests (age 18 and over) decreased 3%, from 68,488 in 2011 to 66,438 in 2012. Adult arrests accounted for 84% of the total arrests made statewide. The total number of juvenile arrests decreased 6%, from 12,986 in 2011 to 12,199 in 2012.

A REVIEW OF HATE CRIMES IN NEBRASKA

With the passage of Legislative Bill 90 in 1997, commonly referred to as the Hate Crime Bill, the Crime Commission developed a system for reporting hate crimes. Law enforcement agencies voluntarily submit quarterly reports to the Commission on the number of hate crime incidents. If a hate crime has been committed, they report the type of crime committed, a general description of the location, and the type of bias motivation. Of the 165 law enforcement agencies asked to participate in hate crime reporting, 91 agencies submitted at least one quarterly report during 2012 with 86 of those agencies reporting all four quarters.

During 2012, there were a total of 30 incidents reported involving crimes motivated by hate. This is a 23% decrease from the 39 reported in 2011.

PLEASE NOTE: Caution should be used when comparing the percent changes presented within this report. A slight shift in the volume of crimes or arrests may result in a large percent change for some offenses, arrests, and population groups.

The Crime in Nebraska 2012 report can be found on the Crime Commission's website (www.ncc.ne.gov).



CRIMINAL JUSTICE VIDEO LIBRARY

As of June 30, 2013 the film library is being discontinued. There will be some DVDs available for rental through the Nebraska Law Enforcement Training Center (308) 385-6030.

CRIMINAL JUSTICE DIRECTORY

We have limited copies of the 2013 Nebraska Criminal Justice Directory available. The cost is \$7.50. Contact Ann Bauers at (402) 471-2195

THOUGHT(S) FOR THE DAY - On Summer-

- ◆ “Ah, summer, what power you have to make us suffer and like it.

Russell Baker

- ◆ Summer is a promissory note signed in June, its long days spent and gone before you know it, and due to be repaid next January.

Hal Borland

- ◆ A lot of parents pack up their troubles and send them off to summer camp.

Raymond Duncan

- ◆ Deep summer is when laziness finds respectability.

Sam Keen

