

Crime Commission Update

May - June 2008



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

Dave Heineman, Governor

DIRECTOR'S COMMENTS

Each April, the Nebraska Commission on Law Enforcement and Criminal Justice submits our 'Traffic Stops in Nebraska' report to the Governor and the Legislature.

Back in 2001, the legislature passed LB 593 to respond to possible issues relating to the way traffic stops in Nebraska are made. The act specifically prohibits racial profiling and requires the collection of prescribed data. In 2006, the 99th legislature, by LB 1113, extended the reporting requirements until January 1, 2010. Specifically, law enforcement agencies in Nebraska are to collect and report aggregate data. This data includes:

- The number of motor vehicles stops.
- The race or ethnicity of the person stopped.
- If a stop is for a law violation, the nature of the alleged law violation(s) that resulted in the motor vehicle stop.
- Whether warnings or citations were issued, arrests were made or searches conducted as a result of the motor vehicle stops.

In addition, agencies are required to report all allegations of racial profiling received and notification of the review and disposition of such allegations to the Crime Commission.

On page 24, table [6] 'Traffic Stops in Nebraska' report, we list the years and quarterly reports submitted by agencies in Nebraska. Our recent report for 2008 is our sixth report and unfortunately, we do not have all agencies participating.

We encourage all law enforcement agencies to submit their agency data in compliance with Nebr. Rev. Statute 20-504. Your continued cooperation is appreciated.

The 2008 'Traffic Stops in Nebraska' report is available online at: www.ncc.state.ne.us.

~ Michael E. Behm, Executive Director

2008 LEGISLATURE

Nebraska's 100th Legislature, Second Session, adjourned on April 17, 2008. Following are some of the legislative bills that passed which affect the criminal justice system in Nebraska:

LB 736, introduced by Senator Fulton, allows the installation of an ignition interlock device upon conviction for driving under the influence of alcohol (DUI). The device prevents a vehicle from starting if the driver tests positive for alcohol consumption.

Thirty days into a 90-day license revocation, the driver may apply for an ignition interlock device to be installed in his or her vehicle. The option also is available after 60 days of a one-year license revocation.

Drivers with an ignition interlock device are allowed to drive only to work, school or an alcohol treatment or interlock service facility. Drivers must cover the cost of the device.

The bill passed 43-0 and takes effect January 1, 2009.

LB 844, introduced by Senator Karpisek, increases the penalty for possession of marijuana weighing more than one ounce but less than one pound to a Class III misdemeanor. The penalty carries a \$500 fine and up to three months in jail.

Penalties for possession of marijuana weighing one ounce or less are:

- an infraction citation plus a \$300 fine and assignment to a drug course at a judge's discretion for a first offense;
- a Class IV misdemeanor citation plus a \$400 fine and up to five days in jail for a second offense; and
- a Class IIIA misdemeanor citation plus a \$500 fine and up to seven days in jail for a third offense.

LB 844 takes effect on July 18, 2008.

LB 952, introduced by Senator Lathrop, removes the authority of state administrative departments to compel testimony by issuing administrative subpoenas.

The bill requires State Patrol officers to obtain a court order or go through a county attorney or the attorney general's office in order to send subpoenas.

An opinion issued by Attorney General Jon Bruning last year offered a broad interpretation of this authority. His opinion allowed the State Patrol to use administrative subpoenas in criminal investigations to compel the contents of electronic communication records to be turned over without a court order.

This information includes records of the websites a suspect visited or phone calls they made, but not the content of those web pages or phone calls.

LB 952 takes effect on July 18, 2008.

NOTE: The unicameral website address is www.nebraskalegislature.gov and information on all bills introduced in 2008 can be found on this website.

LEGISLATIVE RESOLUTIONS

The following are some of the legislative resolutions passed by the 2008 Legislature which require an interim study:

LR 276 - Interim study to examine the standards and oversight of death investigations in Nebraska. Referred to the Judiciary Committee.

LR 317 - Interim study to examine the use of electronic surveillance devices and software by individuals who engage in the crime of stalking. Referred to the Judiciary Committee.

LR 341 - Interim study to review issues associated with requiring that DNA samples be collected for arrestees for felony sex offenses and other specified offenses. Referred to the Judiciary Committee.

LR 390 - Interim study to examine firearm-related violence in Nebraska. Referred to the Judiciary Committee.

LR 403 - Interim study to examine retirement plans for law enforcement personnel of political subdivisions. Referred to the Nebraska Retirement Systems.

UPDATE ON BYRNE/JAG FUNDS

The following is excerpted from the [NCJA Justice Bulletin](#), published by the National Criminal Justice Association.

“Last month, we predicted that Congress was close to completing work on the FY08 emergency appropriations bill that will provide supplemental funding for the wars in Iraq and Afghanistan, and which supporters hope will provide restoration of the FY08 Byrne/Justice Assistance Grant (Byrne/JAG) funding. This bill, [H.R. 2642](#), is close to passage, but may be delayed again as the congressional leadership seeks to construct a bill that is acceptable to a majority of members of Congress and the White House.

On May 15, the House took up the emergency supplemental bill on the floor, having bypassed

committee consideration. The House voted on the bill in three sections: funding for the war; policy restrictions on military operations in Iraq; and, a domestic spending package, which included spending requested by the President, a new education benefit for veterans, and an extension of unemployment benefits. The House bill did not include restoration of funding for the Byrne/JAG program. In a procedural move meant to signal their unhappiness with the process employed by the majority, two-thirds of the Republican caucus voted against funding for the war.

On the same day, the Senate Appropriations committee took up the bill, adding about \$10 billion in additional domestic spending, including the full \$490 million in supplemental funding for the Byrne/JAG program (which would bring total FY08 spending to the \$660 million level included in the regular FY08 Senate CJS appropriations bill). The following week, on May 22, the full Senate voted on the domestic spending package. It passed by a very strong vote of 75-22.

The bill now goes back to the House for approval or amendment. It is likely the House will strip at least some of the domestic funding from the Senate version.

VICTIMLAW DATABASE LAUNCHED

The following is excerpted from the Nebraska Coalition for Victims of Crime newsletter.

“The National Center for Victims of Crime announced the launch of *VictimLaw*, a groundbreaking, on-line resource that provides broad access to federal, state, and tribal victims’ rights laws.

Developed by the National Center for Victims of Crime with funding from the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, *VictimLaw* is the first comprehensive, on-line database with more than **15,000** victims’ rights statutes, tribal laws, constitutional amendments, court rules, administrative code provisions, attorney general opinions, and case summaries of related court decisions. This user-friendly tool - located at

www.victimlaw.info - is available, free of charge, to victims, victim advocates, researchers, students, attorneys, criminal justice professionals, and anyone who seeks to understand the status of victims’ rights throughout the United States.

VictimLaw provides instant access to a wide range of previously hard-to-find legal information. Although all states have extensive bodies of legal rights for victims of crime..., locating this information is often arduous and time consuming...Before the availability of *VictimLaw*, searching for victims’ rights laws required finding a law library, identifying the applicable state code, and searching the code’s index to find the law. Although some victims’ rights information is now available on-line, access is difficult because laws are often not indexed and terms may not be uniform. *VictimLaw* eases many of these challenges.

The web site also offers overviews of the justice system, victims’ rights, legal terms, and links to additional resources on related issues. Researchers can search under each of the following rights: the right to **attend**, to **compensation**, to **enforcement**, to be **heard**, to be **informed**, to **protection**, to **restitution**, and to the **return of property**.

VictimLaw offers four ways to search: by topic, legal term, jurisdiction, and citation.

By clicking on “jurisdiction,” for example, researchers can find applicable statutes, amendments, court rules, and other key legal components for a state, tribe, territory, or the federal government. “We are so proud to place this resource in the public’s hands,” said Mary Lou Leary, executive director of the National Center for Victims of Crime. “Thanks to *VictimLaw*, researchers can accurately track victims’ rights, and more victims can learn, understand, and exercise these rights.”

VictimLaw will offer continually updated, accurate information in all listed categories. To access *VictimLaw*, visit www.victimlaw.info.

CRIMINAL JUSTICE VIDEO LIBRARY

The following videos have been added to the library and are available for loan:

DRUG CONCEALMENT UPDATE : HIDDEN COMPARTMENTS (DVD)

31 Minutes In the Line of Duty: 2008 AD

This program discusses and demonstrates the places of concealment for drugs, guns, and contraband in automobiles. Examples include: in the dashboard, a false floor in the trunk, inside the gas tank, inside the bumper, inside door panels and seats, inside the console, and inside the hatch door. The video describes what to look for during the vehicle search and what questions to ask the driver.

TRAFFIC STOPS AND INTERDICTION (DVD)

35 Minutes In the Line of Duty: 2008 AD

This program interviews a county sheriff in Maryland, who gives advice on how to improve law enforcement during traffic stops. His officers are self-motivated, understand the legal boundaries of a traffic stop, and receive proper supervision. This sheriff stresses that having an in-car camera is a necessity during traffic stops to protect against civil liability lawsuits. He discusses roadside techniques which include: criminal profiling (acceptable) vs. racial profiling (prohibited), suspect indicators, vehicle indicators, rules for searching vehicles, officer safety, the passenger side approach, wearing body armor, and preparing for your day in court.

CYBER BULLYING: A SCHOOL'S GUIDE TO PREVENTION, ASSESSMENT AND RE- SPONSE (DVD)

42 Minutes Omni Publishing: 2007 AD

This video captures a classroom discussion by Sergeant Corey McDonald, who has experience as a school resource officer at a high school in New Hampshire. He discusses aspects of teenagers' bullying behavior via the internet. Included are segments on (1) blogs, (2) cases he has worked on, (3) the impact of bullying on the victim, (4) who bullies?, (5) lack of on-line regulation, (6) school involvement, (7) investigations and due process, (8) preserving evidence, and (9) MySpace and Facebook sites.

DIGITAL FORENSICS AND INVESTIGATIVE HURDLES (DVD)

49 Minutes Law Enforcement Intelligence
Report: 2008 AD

This program contains a presentation by Sgt. Andrew Obushowski, a Massachusetts police officer with experience in computer crime investigations. Topics covered include adware and spyware, common forensic software programs, lab based and remote based forensics, cell phone and PDA technology, recent technology and cases, and investigation hurdles. This is an excellent video for general knowledge purposes.

NOTES

- We have limited copies available of the 2008 Nebraska Criminal Justice Directory. The cost is \$7.00 plus sales tax if applicable. Contact Sarah Schoen at (402) 471-2195 if you would like to order a directory.
- The Crime Commission's 2007 Annual Report is now available on our website at www.ncc.ne.gov.

THOUGHT(S) FOR THE DAY

“Courage is what it takes to stand up and speak. Courage is also what it takes to sit down and listen.”

~Winston Churchill

“In times like these, it helps to recall that these have always been times like these.”

~Paul Harvey

“It takes a lot of things to prove you are smart, but only one thing to prove you are ignorant.”

~Dan Herold