

143778

**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Nebraska Commission on Law
Enforcement & Criminal Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

Crime Commission Update



E. Benjamin Nelson, Governor

Nebraska Commission on Law Enforcement and Criminal Justice

April, 1993

NATURE AND EXTENT OF NEBRASKA'S DRUG PROBLEM Part One

Nebraska is primarily an agricultural state with a large portion of its population residing in the metropolitan areas located in the eastern part of the state. There are 302 law enforcement agencies in Nebraska and of these, only three have over 100 sworn officers. The three agencies include the Nebraska State Patrol and two police departments which are located in cities with populations over 150,000. The size of other county and city law enforcement agencies across the state are representative of their jurisdictional populations with 233 agencies consisting of 1 to 5 persons; 50 agencies consisting of 6 to 15 persons and 16 agencies consisting of 16 to 99 persons.

Due to the lack of sufficient resources prior to the federal funds, limited drug control efforts were focused in the metropolitan cities by local law enforcement and on a statewide basis by the Nebraska State Patrol. However, there exists a recognized but unattended drug problem throughout the remainder of the state. With the implementation of the rural multijurisdictional task forces in 1987, the magnitude of the drug problem in rural Nebraska has become more evident to the citizens of Nebraska. The enforcement and prosecutorial activities of the multijurisdictional task forces have shown citizens that the amount of drugs and drug activity is significant. Major marijuana growing operations, distribution operations, and drug trafficking operations have become common in rural Nebraska.

For example, a western Nebraska multijurisdictional task force seized drugs, cash and vehicles worth approximately \$135,000 and arrested three suspects on drug and weapons charges. Two California men and one Nebraska man were arrested in what was described as a fledgling operation to bring drugs from the west coast to western Nebraska. The three were charged with possession and intent to deliver cocaine, marijuana, methamphetamine, being felons in possession of a firearm and three counts of failing to possess drug tax stamps. Law enforcement officials seized 12.5 pounds of marijuana, 29.5 ounces of cocaine, less than 1 ounce each of crack cocaine and methamphetamine, three vehicles, two semi-automatic handguns and \$5,000 in cash. The same task force was involved in another major case which resulted in the largest marijuana bust in the task forces area's history. Approximately 110 pounds of marijuana with a street value of \$120,000, two vehicles and \$1,200 in cash were seized. Much of the marijuana was found in compacted bricks wrapped in duct tape. The operation began in South Dakota and moved to western Nebraska. The arrested individual was considered a major supplier of marijuana to the area. The investigation and arrest were the result of coordination and cooperation of local law enforcement agencies in the task force, DEA, and the Nebraska State Patrol. Similar activities are occurring in other rural areas of the state.

printed on recycled paper

Various factors are contributing to Nebraska's metropolitan and rural drug problem. One such factor is the accessibility to populous areas of the state by interstate highway systems running east-west across the state and north-south along the eastern border. Interstate 80 which runs approximately 483 miles east and west across the state is used to transport vast quantities of drugs in big rig semi-trucks from California to New York to Florida. Interstate 80 is preferred because drug traffickers have the perception they will not be detected due to the rural nature of the state and the lack of sufficient law enforcement resources. A drug trafficking network exists through Missouri, Kansas and Texas from the south, from Colorado, Wyoming and California from the west, and from Iowa, Illinois and New York from the east. This network is enhanced by major airports in Omaha and Lincoln. There are also numerous public, private, and abandoned air fields throughout the state.

The officers of the Nebraska State Patrol have become more involved in the detection and apprehension of individuals moving drugs across the state in cars, pickups and semi-tractors. In the first eight months of 1992, the State Patrol stopped 1,882 vehicles. Of the 1,882 vehicles stopped, 416 were searched for illegal controlled substances. As a result, several large quantities of drugs and money were seized.

One example of such a stop occurred in the central part of the state involving a Kenworth tractor pulling a 1985 American 40 foot van trailer. Permission was given to search the trailer. The search revealed 270 kilos of cocaine wrapped in individual packages contained in cardboard boxes. The suspects were arrested and agreed to cooperate with the State Patrol and DEA. With the aid of an Army Military C5-A transport, the tractor and trailer were flown to New York City where a controlled delivery of cocaine was completed. The operation resulted in the federal indictments of three additional individuals for drug violations.

In July, 1992, three other stops on the Interstate in east central Nebraska involved two kilos of cocaine, \$970,000 in cash, and 211 pounds of high grade marijuana. One case resulted in the cooperation of the arrested suspect which subsequently lead to a controlled delivery in Chicago where three additional suspects were arrested and charged in federal court.

Drug abuse and associated crime among economically deprived populations is disproportionately high in Nebraska. Some individuals begin as users and form loosely organized groups for the distribution of drugs. Such loosely organized groups develop ties to established gangs. Loosely formed groups are occurring in several rural Nebraska cities. In one city, two different groups of adolescents, one consisting of white adolescents and one consisting of Hispanic adolescents, are hanging out together and referring to themselves as gangs. Graffiti is being painted on buildings. The city has experienced an increase in assaults. However, at the present time, it appears that the two groups are not controlling illegal drug trade or conducting drive-by shootings. Members of the two groups "hang out with each other" because they are friends from school and their neighborhoods. Members of the two groups have assaulted each other and one member of one of the groups was charged for firing a shotgun at another individual. Intelligence indicates a similar loose formation of groups and an increase in drug activity in other rural Nebraska cities.

Another Nebraska community has experienced unrest between the black and hispanic communities. Confrontations between the two groups have caused serious injuries to the participants. Law enforcement officials are working with individuals from both communities in an attempt to resolve the issues.

The illegal drug problem within the metropolitan areas appears to revolve around six separate operations: street gangs importing and distributing crack cocaine; Hispanics importing and distributing powder cocaine; indoor and outdoor marijuana growing operations; street dealers dispensing small amounts of illegal narcotics; out-of-town crack dealers infiltrating the drug market; and the importation of drugs through the U.S. mail.

Non-resident drug dealers infiltrate the metro area bringing quantities of crack cocaine for distribution. Market places are set up in motel rooms where the drugs are sold. Once the supply has been exhausted, the dealers abruptly leave the area, thereby avoiding detection. Swift law enforcement action in one case resulted in the arrest of three individuals from out of town and the seizure of 32 grams of crack/cocaine. While crack/cocaine is the predominate drug in the City of Omaha, powdered cocaine from Mexico has appeared in the city. Two separate and distinct groups of Hispanics are now operating in kilo amounts of powder cocaine in the metro area.

Another method used by drug dealers is to have illegal narcotics sent to them through the U.S. mail. During 1991, a postal inspector, working with the metro task force, profiled over 15 packages destined for delivery within the Omaha area. The Omaha Police Division's drug dog identified the packages thus enabling search warrants to be issued so the contents could be examined. The effort resulted in the seizure of over 7 pounds of marijuana, 3 pounds of crack cocaine, 8 ounces of powder cocaine, 5 ounces of methamphetamine, 2,063 hits of LSD and 4 grams of heroin.

Organized street gangs have drug couriers from California delivering crack cocaine into the metro area where it is dispensed by lower level gang members from open-air drug markets located in residential neighborhoods. This type of operation is usually associated with acts of violence between rival gangs. Drive-by shootings and assaults hold neighborhoods in peril.

An example of such an operation occurred in the City of Omaha during 1991. Gang members had effectively taken over a neighborhood in Omaha and used it to sell crack cocaine. Residents of the neighborhood were harassed, threatened and afraid to leave their homes or even sit on their porches, particularly at night. Fights, firing of weapons, vandalism, loud music during the night, drug use and drug dealing were commonplace. Empty beer cans, alcohol bottles, papers, plastic baggies, hypodermic needles, etc., littered the neighborhood. The Metro Task Force, which includes federal, state and local law enforcement officials, staged a two day undercover operation in the neighborhood. As a result of the operation, 63 persons were arrested. Further investigation into the major suppliers of the drug operation resulted in 30 federal drug trafficking indictments that were handed down in January, 1992. Conspirators from California, Oregon and Nebraska were arrested.

--Reprinted from Nebraska's Statewide Criminal Justice Drug and Violent Crime Strategy, published by the Crime Commission.

GOVERNOR'S TASK FORCE ON PRISON ALTERNATIVES

On October 22, 1991, a Governor's Task Force on Prison Alternatives consisting of 31 Nebraskans was appointed by Governor E. Benjamin Nelson to explore alternatives to incarceration. Specifically, the task force was charged with developing short- and long-term strategies to deal with prison overcrowding.

The Final Report and Executive Summary were released to state officials and the general public on April 15, 1993, and is available to interested parties for a fee to cover the cost of printing as follows: Final Report - \$8.00; Executive Summary - \$2.00. Also include \$2.00 with each order for postage and handling.

To receive a copy of this report, please send a letter of request and check to:

Department of Correctional Services
Attn: Judy Nelson, Administrative Secretary
P.O. Box 94661
Lincoln, Nebraska 68509

Questions regarding this report should be directed to:

Dr. G.L. Kuchel, Co-Chair
Criminal Justice Department
University of Nebraska-Omaha
Annex 37
South 60th & Dodge
Omaha, Nebraska 68182
(402) 554-2610

N. Steven King
Planning/Research Manager
Department of Correctional
Services
P.O. Box 94661
Lincoln, Nebraska 68509
(402) 471-2654

NOTES . . .

- o The Crime Commission will be awarding grant funds at its July 30 meeting in the following areas:
Victim Assistance - Applications will be accepted until 5:00 p.m. on May 14. Anti-Drug Abuse and Violent Crime - Applications will be accepted on June 16 between the hours of 8:00 a.m. and 5:00 p.m. For more information on these grant funds, contact Nancy Steeves at (402) 471-2194.
 - o The next meeting of the Police Standards Advisory Council and the Crime Commission's Education/Research Committee is scheduled for 10:00 a.m. on May 19 at the Law Enforcement Training Center in Grand Island.
 - o A limited number of copies of the 1993 Nebraska Criminal Justice Directory are available from the Crime Commission. The cost is \$6.00 per directory and they may be ordered from Barbara McCreight or Darlene Snitily at (402) 471-2194.
-
-

SUPREME COURT RULING WEAKENS FORFEITURE PROGRAM

The following article is reprinted from Drug Enforcement Report, published by PaceCom.

The federal government's drug crimes forfeiture program, a 15-year effort that has transferred an estimated \$2 billion in private assets to federal ownership, apparently has been weakened significantly by a Supreme Court decision nullifying the core theory behind that program.

By a vote of 6 to 3, the Court on February 24 gave broad new protection to innocent owners of property that the government has seized in drug prosecutions.

Innocent owners who can prove that they knew nothing about the crimes to which the property is linked are entitled to keep those assets, the court declared in the case of U.S. v. A Parcel of Land in Rumson, N.J. The government does not become the owner of those assets at the moment they are used in a criminal drug transaction if another owner acquired them later with no knowledge of the crimes, the court decided.

Although the court's decision dealt directly with the civil forfeiture part of the government program, the government has relied upon the same underlying theory in its use of criminal forfeiture authority, too. Although the criminal forfeiture clause is worded somewhat differently from the civil clause, the sweeping theory employed by the government applied to both.

Before Congress widened the government's forfeiture powers in 1978, in an amendment to the Comprehensive Drug Abuse Prevention and Control Act, the government could seize only the illegal drugs themselves and instruments actually used to make or distribute them.

The 1978 amendment gave the government the authority to seize and demand forfeiture of all the proceeds of drug crimes, as well as all property related to those crimes. That program, the Justice Department had told the Supreme Court in the Rumson land parcel case, provided "the remedy that strikes most directly at the economic dimension of the drug trade."

The Justice Department had warned the court, in advance, that a decision of the kind that ultimately did emerge "would allow drug dealers to distribute their wealth to minor children, other unknown family members, associates, and others with whom they seek to curry favor. . . It is not difficult for even close friends or relatives of a drug trafficker to contend. . . that they were unknowing recipients of gifts of drug proceeds. . . and it is difficult to assemble evidence rebutting such a claim."

In carrying out its forfeiture program, the government had relied heavily upon this broad legal theory: the government becomes the owner of the property at the moment a drug crime involving that property has occurred. Thus, the property becomes "tainted" at that point, and the government is entitled to demand its forfeiture, even from someone who acquired it innocently later.

The 4th and 10th U.S. Circuit Courts of Appeals had upheld that theory, in a pair of 1989 decisions. The 3rd U.S. Circuit Court of Appeals in Philadelphia, however, rejected the theory in the Rumson land parcel case in June 1991. The 1978 amendment, that Circuit Court said, clearly makes an exception to forfeiture when an innocent owner can make a claim to property. It ruled that a person claiming to be unaware of the criminal source of property must have a chance to prove that -- before government forfeiture could occur. If that claim of innocent ownership succeeds, the government does not get the property.

That was the ruling the Justice Department took to the Supreme Court, only to lose. The Court, in two main opinions (one written by Justice John Paul Stevens, the other by Justice Antonin Scalia, with slightly different reasoning), ruled that the government does not become the owner of drug crimes proceeds or property until after a federal court formally orders forfeiture.

Before forfeiture could occur, the Court said, individuals or businesses claiming ownership of the assets must be allowed to defend their ownership by showing that they had no knowledge of its criminal source.

"The property of one who can satisfy the innocent owner defense is not subject to civil forfeiture," Justice Stevens' opinion remarked.

The decision does not settle whether the individual claiming to own the New Jersey parcel of land was, in fact, an innocent owner. The Supreme Court sent the case back to lower courts to consider that claim under the new decision.

The case involved a house owned and occupied by Beth Ann Goodwin in the New Jersey coastal town of Rumson. Although she had lived for more than six years with Joseph Anthony Brenna, who was later indicted for drug crimes, Goodwin has always insisted that she knew nothing of those crimes. In 1990, Brenna was indicted in Florida for an alleged role in a \$24 million marijuana smuggling operation. He has never been tried because he remains a fugitive.

Before that indictment, Brenna had his accountant wire about \$216,000 to Goodwin, as a gift. She used the money to buy the Rumson house, and she has continued to live there while her right to own it was at issue in the courts.

In 1989, the government demanded that the house be forfeited, on the theory that it was bought with proceeds from Brenna's role in the marijuana smuggling, and thus the house belonged to the government.

The Supreme Court's decision against the government produced a sharp dissent by three justices. Speaking for them, Justice Anthony M. Kennedy protested that the ruling "rips out the most effective enforcement provisions in all of the drug forfeiture laws."

--Lyle Denniston

In accordance with the Americans with Disabilities Act, the State would like to provide reasonable accommodation with respect to persons with disabilities. If you need a reasonable accommodation, please contact the Nebraska Crime Commission (402) 471-2194. (TDD 800-833-7352).

Upon request, this publication may be available in alternate formats.

TRAINING CENTER COURSE OFFERINGS

Drug Enforcement Search Warrants (Regional Training)

Date: June 15-16, 1993 Chadron Police Department
June 23-24, 1993 Brown County Sheriff's Office

Time: 8:00 a.m. to 5:00 p.m.

Class Limit: 30

Who Should Attend: Certified or reserve officers. Those officers assigned to drug enforcement work within their agencies. Members of drug enforcement task forces throughout the state.

Course Description: A sixteen hour course designed to acquaint officers with the Nebraska State Statutes concerning search warrants, the procedures to follow when obtaining a search warrant, and preparation of affidavits and methods of verifying informant information.

Cost: No cost to Nebraska officers. Training funded with grant funds provided by the Nebraska Crime Commission. Anyone wishing to attend regional training must pre-register at the Training Center at least two (2) weeks prior to the date of the course. This is necessary in order for the proper amount of materials to be transported to the training site.

Drug Enforcement Special Enforcement

Date: May 25-28, 1993 Law Enforcement Training Center

Time: 8:00 a.m. - 5:00 p.m.

Class Limit: 30

Cost: None

Who Should Attend: Officers actively involved in drug enforcement or who wish to expand their knowledge in the drug enforcement area.

Course Description: This program will consist of 32 hours of classroom instruction in the following subject areas: Clandestine Lab Investigation; Asset Seizure and Forfeitures; Use of Informants; Intelligence Gathering; Ethics and Integrity; Raid Planning; Undercover Techniques; Reverse Stings; Pharmaceutical Diversion Investigations; Cannabis Eradication; and Utilization of Patrol Officers in Drug Investigations.

Defensive Tactics Instructor

Date: June 7-11, 1993 Law Enforcement Training Center

Time: 8:00 a.m. - 5:00 p.m.

Class Limit: 20

Tuition: \$75.00

Who Should Attend: Persons desiring certification as a Defensive Tactics instructor through PPCT Management Systems, Inc.

Course Description: This course is designed to provide participants the information and the hands-on skills necessary for certification through PPCT as a defensive tactics instructor. Successful graduates will receive an internationally recognized certification from PPCT. Course topics include: Use of Force, Passive Resistance Techniques; Active Countermeasures; Speedcuffing; and Lateral Vascular Neck Restraint. The majority of the time will be spent in the gym with actual hands-on training.

Note: Participants will be required to pass a comprehensive written exam and perform each technique with maximum proficiency in a practical test.

Drug Interdiction

Date: June 8, 1993

Time: 8:00 a.m. to 5:00 p.m.

Class Limit: 30

Tuition: None

Location: Law Enforcement Training Building in Kearney, Nebraska, 2025 Avenue A.

Who Should Attend: Any certified or reserve officer wishing to enhance their knowledge of drug interdiction techniques. This course is specifically aimed at those officers working in municipal and county law enforcement agencies.

Course Description: This course is designed to introduce officers not assigned to specific traffic enforcement in the techniques of drug interdiction on the streets and county roads of Nebraska.

Defensive Tactics Basic Recertification

Date: June 21, 1993

Law Enforcement Training Center

Time: 8:00 a.m. to 5:00 p.m.

Class Limit: 20

Tuition: \$10.00 plus room and board

Who Should Attend: Any certified officer who has not attended a PPCT Basic course during the last twelve months.

Course Description: This eight hour course will recertify those officers whose department does not have the availability of a PPCT certified defensive tactics instructor. Topics covered will include the force continuum; control principles; pressure points; active countermeasures; and straight baton. A written examination, as well as practical qualification, is included in the course.

Radar Operations

Dates: June 22-24, 1993 - Law Enforcement Training Center

September 14-16, 1993 - Cabela's; Sidney, Nebraska

Time: 8:00 a.m. to 5:00 a.m.

Class Limit: 30

Cost: None - Highway Safety Grant

Who Should Attend: Employed law enforcement officers not previously certified in RADAR.

Criminal Investigative Analysis

Date: June 23-25, 1993

Time: 8:00 a.m. to 5:00 p.m.

Class Limit: 40

Tuition: \$10.00 plus room and board

Course Description: Overview of Criminal Investigative Analysis (Criminal Profiling) to include Abnormal Psychology, Deviant Sexuality, and Sexually Motivated Homicides. Material will be presented regarding various research projects conducted at the National Center for the Analysis of Violent Crime (NCAVC), FBI Academy, Quantico, Virginia.

Operation R.A.I.D.D.

Date: June 29-30, 1993
Time: 8:00 a.m. - 5:00 p.m.
Location: Kearney Police Department
Class Limit: 10 Minimum
Tuition: None

Who Should Attend: Certified officers who enforce traffic laws.

Course Description: Emphasis on standardized field sobriety training to include horizontal gaze nystagmus and signs and symptoms of drug impairment other than alcohol. Two practical exercises with drinking volunteers will be conducted. This is a 16 hour course.

*Please mail application below for any of the Training Center schools to:
Nebraska Law Enforcement Training Center
3600 North Academy Road
Grand Island, Nebraska 68801*

COURSE: _____

LOCATION AND DATE: _____

NAME: _____ SOC.SEC.# _____

DEPARTMENT: _____ RANK: _____

DEPARTMENT ADDRESS: _____

DORMITORY ROOM: YES NO SMOKER NONSMOKER

SIGNATURE OF DEPARTMENT HEAD

This form may be duplicated.

LEGISLATIVE UPDATE

Listed below is the status of some of the legislative bills introduced during the 1993 Nebraska Legislature which related to law enforcement issues. The January and February issues of the newsletter also contained a listing of legislative bills. A toll-free number is available for anyone wanting information on the status of a bill. The telephone numbers are 471-2709 (in Lincoln) and (800) 742-7456 (outside Lincoln).

LB 113 (Lindsay) - Provides increases in "good time" for jail sentences. Status: Passed and signed by the Governor.

LB 191 (Crosby) - Allows for more than one chemical test to be performed on drivers of commercial vehicles who are suspected of a DUI offense. Status: Passed and signed by the Governor.

LB 299e (Robak, Pirsch, Schimek, Pedersen) - Clarifies definitions regarding the crime of stalking. Status: Passed with emergency clause and signed by the Governor.

LB 492 (Witek) - Changes motorcycle helmet law and makes it mandatory to wear a helmet only if under 19 years of age. Status: Killed.

LB 502 (Cudaback) - Allows the Law Enforcement Improvement Fund to be used for state university law enforcement (i.e. campus police from UNL and Kearney would be able to attend basic training at no cost.) Status: Killed.

LB 585 (Baack) - Mandates training and certification of public safety telecommunicators. Status: Killed.

Legislative bills which have been passed will take effect ninety days after the end of the current session. The Legislature is scheduled to adjourn on June 8. LB 299 was passed with an emergency clause and the effective date was April 12.

THOUGHT FOR THE DAY

"The older I get, the more often I agree with Paul Harvey."

-Anonymous



Crime Commission Update

April, 1993

Nebraska Commission on Law Enforcement and Criminal Justice
E. Benjamin Nelson, Governor
Jean A. Lovell, Executive Director

This issue contains

- o Nature and Extent of Nebraska's Drug Problem
- o Legislative Update
- o Supreme Court Ruling on Forfeitures

301 Centennial Mall South - P.O. Box 94946
Lincoln, NE 68509-4946 - (402) 471-2194

printed on recycled paper

Nebraska Commission on
Law Enforcement and Criminal Justice
301 Centennial Mall South
P.O. Box 94946
Lincoln, Nebraska 68509

BULK RATE
U.S. POSTAGE
PAID
Lincoln, Nebraska
Permit No. 212

78-94-12