

September 17, 2014

Nebraska Crime Commission
P.O. Box 94946
Lincoln NE 68509-4946

Dear Crime Commission members and staff:

The undersigned group of community organizations and individuals that share your concern about ensuring Nebraskans are not subject to racial profiling, write to request that this commission undertake four key steps to prevent racial profiling per Neb. Rev. Stat. § 20-504.

1. INVESTIGATE AGENCIES WITH THE APPEARANCE OF PROFILING

The commission was granted additional powers by the Nebraska Unicameral in the 2013 legislative session when it expanded § 20-504 to permit review and study of the individual law enforcement agencies which, based on the data they submit to the commission have the appearance of racial profiling.

The powers now specifically granted by Neb. Rev. Stat. § 20-504(7) to the Crime Commission permit and encourage the commission to “inquire into and study individual law enforcement agency circumstances” and then “make recommendations to any such law enforcement agency for the purposes of improving measures to prevent racial profiling or the appearance of racial profiling.”

The commission has collected traffic stop data for twelve years. In that time, there have been consistent patterns that show disproportionate traffic stops of drivers of color in several jurisdictions. We believe it is appropriate for the commission to now take action to individually study those agencies with a decades-long pattern that suggests racial profiling. As the most recent report notes, “The breakdown of types of stops and related data by race has stayed relatively consistent throughout the reported years,” and yet, no action has been taken to address the disparities in all that time.

While the commission is empowered to investigate and study every agency showing a possible racial profiling problem, we specifically call for study of the following four agencies with the most significant reported disparities:

- A. Omaha Police Department, where black drivers are stopped almost twice as often as white drivers.
- B. Lincoln Police Department, where black drivers are stopped almost three times as often as white drivers and drivers of color are more frequently searched than are white drivers.
- C. Douglas County Sheriff, where black drivers are searched nearly twice as often as other drivers.

D. Dawson County Sheriff, where Hispanic drivers are searched more frequently than other drivers.

2. FINALIZE POLICY IMPLEMENTATION BY ALL AGENCIES

The new power granted by the legislature in 2013 permits the Crime Commission to mandate model anti-racial-profiling policies for any agency that has failed to “timely create and provide” their own policy meeting the requirements set by the Commission. See Neb. Rev. Stat. § 20-504(2).

All agencies were required by law to pass a policy by January 1, 2014. We understand that several agencies have simply failed to pass any policies, and other agencies passed inadequate policies. Since the deadline passed nine months ago, we believe those agencies have all failed to be “timely.”

We believe it is appropriate for the model policy created by the Crime Commission to be reviewed by the Racial Profiling Advisory Committee and to be mandated for those agencies who have not submitted adequate policies and ask the Crime Commission to provide notice to those agencies that they are now subject to the model policy.

3. SEEK GRANT FUNDING TO FURTHER STUDY RACIAL PROFILING

Neb. Rev. Stat. § 20-504(7) empowers the Crime Commission to seek grant funding or state appropriations to carry out its work in studying and eradicating racial profiling. We call for the Commission to actively begin making grant applications to expand its capacity to address these serious issues. Whether the grant funds are used to hire additional Commission staff, to provide training to law enforcement agencies, or to expand capacity in another fashion, we call for the Commission to actively seek grant funding to assist with its efforts to ensure racial profiling is not being utilized in Nebraska. The Commission should also begin the process of seeking additional state funds to conduct its future work related to racial profiling.

4. IMPROVE COMPLAINT PROCESS

Neb. Rev. Stat. § 20-504(4) directs the Commission to “develop a uniform system for receiving allegations of racial profiling.” Yet there is no complaint process information on the Crime Commission’s website. In fact, under the “Frequently Asked Questions,” the Commission currently states “The Commission does not have the authority to investigate or discipline officers. Your best course of action is to make your complaint to the agency that employs the officer. They are the ones that have the ability to address any problems.”

We call for the Crime Commission to create an accessible and well-advertised process to receive complaints of racial profiling. We further call for the Crime Commission to work with law enforcement agencies to develop a uniform complaint process that employs best practices to ensure an impartial review of racial profiling complaints.

CONCLUSION

We call for these steps to begin providing solutions to the significant problem of racial profiling in our state. Nebraskans deserve accountability from their law enforcement professionals, and the Commission is charged with providing both leadership and guidance to end racial profiling. We appreciate your consideration of these requests and look forward to hearing how the Commission intends to address these issues.

Signed:

ACLU of Nebraska
Black Men United
Center for People in Need
Common Cause Nebraska
El Centro de las Americas
Inclusive Communities
Justice for Our Neighbors – Nebraska
Latino Center of the Midlands
Malcolm X Memorial Foundation
NAACP, Lincoln
NAACP, Omaha
Nebraska Appleseed
Nebraska Criminal Defense Attorneys Association
Nebraska Innocence Project
Nebraska Urban Indian Health Institute
Nebraskans for Civic Reform
Progressive Research Institute
Un Fremont Con Dignidad/One Fremont With Dignity
Unity in Action of South Sioux City
YWCA of Grand Island
YWCA of Lincoln
Craig M. Lawson, Professor of Law
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Kevin Ruser, Professor of Law