

NAC 179A WORKSHOP MEETING MINUTES  
Nevada State Library and Archives  
100 Stewart Street  
Conference Room A  
Carson City, Nevada  
February 20, 2007  
10:00 a.m.

ATTENDEES on February 20, 2007:

Capt. PK O'Neill, Nevada Department of Public Safety, Chief Records and Technology Division  
Lisa Young, Nevada Department of Public Safety  
Kim Clementi, Nevada Department of Public Safety  
Mindy McKay, Nevada Department of Public Safety

**Call open meeting to order (Action)**

Captain PK O'Neill called meeting to order at 10:06a.m. All attendees were asked to sign in and the sign in sheet is attached to the original minutes as exhibit A.

Captain O'Neill provided the history of the bill and the purpose for the workshop. All attendees were provided the opportunity to speak after each section was read. No written submissions of public comment were received by the February 12, 2007 deadline.

**Reading into the record the proposed regulations by section (Discussion)**

**NAC 179A.150**

**SECTION 1:**

Senator Dennis Nolan, Nevada Legislature - This section was initiated in 1999 by Senator Nolan after previous attempts in 1995 and 1997. The intention was to establish a statute for organizations working with children to have access to background checks at a reduced rate or free of charge. The largest legitimate complaint was the cost associated with fingerprint background checks which should be addressed. There was not a funding stream at the time so an account was established by donations of approximately \$25,000. The intent was to offset costs of volunteers who work directly with children. That definition has since broadened to employees and non-501(c)(3) agencies which was not the intent at inception. To expand it would dilute the purpose and once it's known it would probably deplete the entire account.

Additional considerations for the impending code to consider for revision is the verbiage regarding fingerprint cards is if they can be substituted by digital imaging using livescan machines to transmit them to use that term instead of a hard card. Captain O'Neill clarified that statute states an impression card is generic for both inked and/or electronic so he would like for it to stay that way. Another consideration is rather than having someone physically goes to an inconvenient location and wait a long time, train officers to roll and submit fingerprints. Captain O'Neill stated that the officer being trained can be discussed at a later date.

Senator Nolan clarified that under the age of 16 is used because of the statutory age of consensual sex.

Captain O'Neill stated NRS 179A.140 states that the Central Repository shall not charge a fee for fingerprint background checks for employee, prospective employee, etc. which would need to be addressed back through statute in order to resolve this issue. Senator Nolan will determine today if there is a way to submit a request for an interim study to perhaps redefine or rewrite the statute next session. Captain O'Neill agrees that this has become confusing and complex and should be reviewed in totality to provide all of the agencies with the information and assist Senator Nolan with the request. Senator Nolan expressed his excitement about the workshop.

**SECTION 1 (cont.):**

Virginia Dugan, Coordinator of community education at the Fallon campus and rural centers for the Western Nevada Community College (WNCC) - Linda Whitehill is the coordinator of community education at the Carson campus, Diane Nungary is the coordinator at the Douglas campus. Community education is self supported and not state supported. The College for Kids Program offers enrichment activities and classes for children at the campus. WNCC realizes the importance of fingerprint background checks to protect the children. Currently they require their instructors to pay the \$45 fee because they are self supporting. They are excited at the aspect of expanding their program because a higher number of instructors will be more interested in the programs since they will not have to pay the fingerprint and/or rolling fees if WNCC qualifies. She is expressing their support for this regulation and is grateful for the Department of Public Safety (DPS), Records and Technology Division for the fingerprint responses being prompt. She checked with her Comptroller and they do qualify as a 501(c)(3) and is considered as a non-profit organization. They currently have an account with the Records and Technology Division. The professors can be a civilian part time instructor who conducts a part time class, a full time instructor, or a professor who has expertise in a particular area. Captain O'Neill asked if the professors are required at the college level to be fingerprinted. Linda Whitehill answered that they are not required to be fingerprinted if they are teaching an adult based class. Ms. Dugan asked if the professors are fingerprinted at the time of employment they wouldn't need a second check when beginning instruction for children.

Captain O'Neill clarified that DPS has no control over the rolling fees applied by the agency rolling the fingerprints. Captain O'Neill suggested contacting the Sheriff or Chief to ask if they would consider waiving the rolling fees.

Pamela Smith, Executive Director at Eagle Valley Children's Home – they are a 501(c) (3) required to do both fingerprint checks for every employee every 5 years. They manage 2 programs: 1) residential for children with mental retardation 2) sending employees out into the field to the client's house; therefore, it is very important to be fingerprint. She also sits on the Steering Committee for the background pilot project with Kerry McKinney. This revision will help them enormously. They were frozen last year so they have not been able to pay. Her question was if both State and FBI fees are waived. Lisa Young clarified that the fees are waived if the agency is working with children under the age of 16. Captain O'Neill asked if all employees at her agency could work with all ages. Pamela Smith answered yes. Captain O'Neill replied that both fees would be waived.

Trevor Snow, City of Henderson Parks and Recreation - Currently fingerprints approximately 500 volunteer youth coaches and 150 contracted coaches. Mr. Snow would like to maintain the verbiage in NAC 179A regarding employees and volunteers. Mr. Snow believes the city of Henderson is a 501(c)(3). He asked if there were any way to include those who are not 501(c)(3). Captain O'Neill stated there would have to be a change in statute. Captain O'Neill explained to Mr. Snow that statute currently supports employees. Mr. Snow referred to subsection 3 regarding FD-258 and asked how they obtain this? Captain O'Neill stated the standard livescan fingerprint card is sufficient.

**SECTION 2:**  
NO COMMENTS

**SECTION 3:**  
NO COMMENTS

**SECTION 4:**  
NO COMMENTS

NAC 179A.170 is hereby repealed. Text of the repealed section is included in the copy of the proposed regulations.

**SECTION 5:**

NO COMMENTS

**FINAL COMMENTS:**

Ann Hill, Roman Catholic Bishop of Reno – Ms. Hill asked a question about how responses are being distributed because they come in separate envelopes instead of one envelope and was concerned about the expense. Ms. Young stated that unless they are batched together they are sent separately. Ms. Hill stated their fingerprint background checks for all volunteers costs \$36 and employees cost \$45. She asked how this is going to change. There is a different fee charged for volunteers than what is charged for employees. She asked how that is going to change. Ms. Hill stated her agency is a 501(c)(3). Lisa stated the change will be when sending in a fingerprint request a form will have to accompany the fingerprint cards with every submission in order to waive the fee.

Captain O’Neill stated DPS is attempting to go toward more electronic submissions for a faster response.

Virginia Dugan, WNCC – Ms. Dugan asked if there is a form that will be submitted with each fingerprint request. Ms. Young responded with once the regulations are adopted the Records and Technology Fiscal Unit will provide forms via the DPS website. Ms. Dugan inquired on once the donations run out what the procedure will be. Lisa clarified the funds are available because of grants and gifts and once depleted will be covered by the Records and Technology Division.

Linda Whitehill, WNCC – Ms. Whitehill was wondering how the percentage is divided. Captain O’Neill stated they were originally established when the account was developed. Most requests were coming from the south. Ms. Whitehill explained that their Driver’s Education Program contains students over the age of 16 at times and if there is a cutoff if the student is 17 years of age. Captain O’Neill stated if the instructor is teaching all ages the fees are waived because the class is not solely made up of 17 year old students. Ms. Young clarified as long as there are children in the program under the age of 16. Ms. Whitehill stated most of their students are 15 years of age because they are so anxious to get their driver’s license.

Trevor Snow, City of Henderson Parks and Recreation – Mr. Snow asked if the state has definitions for what differentiates an employee from a volunteer. Ms. Young referred him to NRS 179A.190 subsection 4 which outlines what precludes someone from being a volunteer.

Pamela Smith, Executive Director at Eagle Valley Children’s Home – Ms. Smith asked how organizations will be notified when this is in place. Ms. Young responded with when the regulations are adopted they will be temporary until the Secretary of State files the adopted regulations. Everyone will be notified via multiple avenues of available correspondence.

NO FURTHER COMMENTS

WORKSHOP CLOSED AT 11:00AM

**Adoption of Regulations (Action)**

OPEN AT 11:13AM

Captain O’Neill formally stated that the regulations would be adopted on a temporary basis and would become effective when the final version is filed with the Secretary of State and expire by limitation on November 1, 2007. The regulations contained in LCB file number R-061-06 were hereby adopted.

HEARING CLOSED AT 11:15AM