

Nebraska Criminal Justice Review

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Prison Dog Program is Beneficial for All

By Erin McCoy Arellano

“All you need is love and a dog” is a saying found stitched on pillows or stamped on door mats, and this image came up repeatedly during interviews with individuals involved in the dog programs run inside Nebraska prisons.

Multiple dog shelters are involved in this program. *Second Chance Pups* partners with NSP. The *Nebraska Humane Society (NHS)* works with the OCC dog program and has dogs at NCYF as well. At NSP, RTC, and NCCW in York, *Domesti-Pups*, out of Lincoln, provides service dog training vs. basic training. They also have dogs inside TSCI where they train adoptables.

Lynn Pozehl, a Unit Case Manager, is currently the only staff helping with the OCC dog program. He explained individuals are eligible to participate in the program so long as they are in the programming assigned for them, and specific mental health approval has been given. They also must be misconduct-free for a specific amount of time. Some are recommended by staff.

As with any job on the outside, participants are interviewed by a staff representative and representatives from the animal shelter. In the case of the Nebraska Humane Society, they provide an orientation explaining how dogs should be treated; basic training needs such as house training; and commands such as sit, shake, and lie down. Thomas Cole, a man incarcerated for 47 years and currently at NSP, said he had to write an essay about why he wanted into the program. Later, Melissa Ripley, of *Second Chance Pups*, said Tommy has been with the program since they started working with NSP (~ 15 years). He has trained over 80 dogs.

NDCS and the animal shelters consider the needs of the dog and the limited capabilities within the institution. Pozehl stated that sometimes dogs “are not yet ready for adoption due to minor medical reasons or perhaps they need to be more socialized with people.” Many dogs have been adopted by staff. Pam Wiese, VP of Public Relations and Marketing at NHS, says, “For the dogs, the benefits are impressive. Dogs, who need one-on-one attention for longer periods of time, get very immersive training through the corrections center programs. Dogs who may be very uncomfortable in the shelter environment get a less stressful place (without the presence of other dogs) to recover from medical issues, receive training, and get 24/7 human company.”

But the dogs are not the only ones who benefit. Merri, from *Domesti-Pups*, talked about an incarcerated individual named Bob who takes the dog he is training into the mental health area to help the guys. One gentleman there had not spoken to anyone, including family, nor was he physically connecting with anyone. So, Bob always made a special trip to visit this gentleman. Eventually, the man started petting the dog, and slowly over time started interacting with him to the point he finally spoke his first words to the dog. This is not an isolated story.

Johnny Ray, one of the primary handlers at OCC, said the dog program allowed him to experience unconditional love. He said, “Many of the men haven’t had a chance to experience this in life or may have lost it in their life journey.” He said the dog program has changed him by giving him more patience. “I had a dog that wouldn’t eat from the dog bowl.

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Reforms that work: The need to implement Smart Justice policies in Nebraska

by Scout Richters Senior Legal & Policy Counsel ACLU Nebraska

With Governor Pillen’s recent announcement of plans to build a new \$350 million prison just outside of Lincoln, the ACLU of Nebraska and our partners have reinvigorated our calls for the state to prioritize people, not prisons. As we have seen year over year, surging state spending on prisons, the persistent overcrowding crisis, and racial injustices within the system demand Smart Justice reforms, not the construction of a new prison.

Smart Justice policies mean those that actually meet our collective goal to improve life for all Nebraskans and policies considering that the majority of those who are incarcerated will reenter our communities. We know that current criminal legal policies leave most in a far worse position

upon leaving prison than when they were sentenced to prison in the first place. We need to build on reforms like those we saw last legislative session when state senators passed an incremental but important criminal legal reform package, breaking the gridlock of recent years. LB 50 expanded problem-solving courts, increased parole eligibility, reduced bloated habitual offender terms for some Nebraskans, and created the Nebraska Sentencing Reform Task Force—a group tasked with recommending further changes to Nebraska laws, policies and practices. While this was certainly a step forward, we recognize it as the beginning of many more.

Moreover, research, including polling results, clarifies that

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I would have to hand feed him first, then coax him by making a trail of food to the bowl. That went on for a while. Having a dog breaks the selfishness being in prison instills in you. I say that because prison rules say that there can't be any sharing of basically anything. However, I wanted to make sure that the dog was fed properly, so I would bring things for him to eat besides the dog food furnished for him." He said he wasn't the only one. Other men would sometimes spend the little money they had to buy a sausage or beef jerky for the dog.

Tommy Cole talked about a Boxer/Lab mix he had trained. He said, "He was a smart dog, but when someone else was walking him and he would see me, or I would call him, he would start wiggling his tail and he would hit the other person's leg with his tail. You felt it when he did! I can see why they dock a boxer's tail."

When asked why he wanted to be in the program, Johnny said that because he had spent 32 years in prison, he wanted to get his mind on "outside life." The dog program was his way to do that.

Pozehl explained that sometimes more than one person is assigned to a dog. There are primary handlers and alternate handlers. If the primary handler needs to go to a job or programming, then the alternate handler steps in in his absence.

Michael Jackson, an alternate handler currently housed at NCYF, is an adult acting as a mentor for the youth incarcerated at that facility. He thinks the program is beneficial to everyone. One of the reasons that he recommends the program is "it gives the dogs a chance to feel love and a sense of being welcomed. We all need love, and we want to feel welcome – wherever we are." He also said, "I've seen a drastic change in some of the dogs' behavior as well as some of the peers' behavior as this [program] is twofold."

Ms. Wiese says the experience has been mutually beneficial for the trainers and the dogs. Not only do pets lower stress and provide other physiological benefits, but she also believes that for the trainers, who are in a very stressful environment, those benefits are magnified. For the dogs who need one-on-one attention for longer periods, they get immersive training through the program at the correctional centers.

Wiese says, "NHS thinks that the program works, largely because pets don't judge. They are happy for the companionship and unconditionally offer their affection. The men get a chance to break the monotony of their stay and also make a difference in the life of an *under-dog*. The dogs may come in scared and worried – much like the inmates. But they leave competent, and ready for a new life. Maybe that message also translates."



Continued from Page 1—Reforms that work...

most Nebraskans understand that building a new prison is not the way to solve the overcrowding crisis. In fact, estimates show that the new prison will be full soon after it opens. The majority of Nebraskans believe that we should reduce the number of people in prison, stop the outrageous spending on locking people up, and ensure that those with substance abuse and mental health disorders get the treatment they need rather than prison sentences that do not solve the underlying issues.

It is important to remember that several Smart Justice related bills that Nebraska state senators introduced in 2023 remain active in 2024. In 2024, senators have the opportunity, for example, to end the unjust two-year voting waiting period for those who have completed their sentences, enact overdue marijuana reform, ban police

from lying to minors, enhance police oversight, add more perspectives to the parole board, and place a limit on the number of days someone can be placed in solitary confinement.

While the ACLU and Smart Justice advocates have for years called for reforms that actually improve the lives of all Nebraskans, the recent announcement of the construction of a new prison has not deterred, but only energized, our efforts to create change. We will continue to work with champion senators to introduce and pass reforms. We will continue to educate Nebraskans about what is really happening with respect to our prison overcrowding crisis. We will work to combat the persistent racial injustices we see within the prison system. In short, regardless of any misguided plans to build our way out of this crisis, we will continue to prioritize people, not prisons.

Senator Conrad responds to AGI Opinion

By Jeanie Mezger Editor

In a September 1, 2023 Lincoln Journal Star opinion piece, Senator Danielle Conrad responded to an opinion recently issued by Nebraska Attorney General Mike Hilgers. An excerpt is provided below:

Attorney General Mike Hilgers published an advisory opinion concluding that the oversight and investigatory powers of the Legislature's Child Welfare and Correctional Services Inspectors General are unconstitutional.

This opinion was requested by the departments of Health and Human Services and Corrections, which are subject to this oversight because of their well-established and ongoing actions perpetuating harm against vulnerable Nebraskans and mismanaging taxpayer funds.

I appreciate the attorney general sharing his opinion, but I disagree with it. He spends most of his time talking about separation of powers but forgetting about checks and balances.

His conclusions are rebuttable as the Legislature's oversight and investigation power are undeniable, enjoy the presumption of constitutionality and do not conflict with executive functions. In fact, these issues were negotiated among policymakers and lawyers in Nebraska when the watchdog positions were created. I know because I was there as a state senator.

Nebraskans should be troubled by the attorney general's callous disregard of the shameful and uncontroverted facts that led to the creation of the inspectors general, his disregard for their professional, objective work and the ongoing crises plaguing these agencies....

The attorney general failed to mention why the inspector general for corrections was established in 2015. Following a series of scandals including the wrongful release of numerous offenders, the troubling use of solitary confinement for the mentally ill, [and] ongoing challenges that hard-working corrections staff face that jeopardize their safety and deadly riots.

The inspector general for corrections has provided seven years of comprehensive reports regarding staffing crises, a lack of medical and mental health care and mismanagement resulting in injury and deaths of incarcerated Nebraskans. We should not forget that corrections remains in an overcrowding crisis under law and a staffing emergency.

The attorney general forgets to mention that in his six years in the Legislature, he never asked for an attorney general opinion on these topics or introduced a bill to abolish the inspectors general.

Interestingly enough, the same week his opinion was published the attorney general hired a former state senator for an unadvertised position that was not sought nor approved in his most recent budget request to the Legislature, and state officials made a now-reversed, surprise announcement about locating a massive new prison near schools, homes and businesses in one of Lincoln's fastest growing areas without community input.

Under Nebraska law the attorney general could use taxpayer funds to sue the Legislature in an attempt to enforce his opinion. The attorney general should not manufacture a constitutional crisis. However, his opinion is now being weaponized by lawyers at HHS and corrections to subvert existing law, which allows access for independent watchdogs to do their work.

Nebraskans should pay careful attention to bureaucrats who seek to hide their work from other branches of government and from the people of Nebraska and to the elected officials who facilitate obfuscation.

While the attorney general has needlessly made the present legal landscape murky, I remain optimistic about our future. I am confident collaboration among all branches of Nebraska government will result in updates to the Legislature's robust tools of oversight and investigation in 2024 because Nebraskans deserve transparency and real solutions to big government abuses, not legal shenanigans and political posturing.

Senator Conrad's fiery oped also detailed some of the crises that exposed the need for the Child Welfare Inspector General. Read the whole oped at: <http://tinyurl.com/yc6sk5cf>

Research Underway on Programming Effectiveness

By Dr. Michael Campagna Research Associate for the Nebraska Center for Justice Research at UNO

Editor's note: This article refers to the Nebraska Center for Justice Research (NCJR) at the University of Nebraska Omaha as the UNO-NCJR. There is no connection between the UNO-NCJR and the Nebraska Criminal Justice Review (NCJR, the newsletter in your hands).

In 2022, the Nebraska State Legislature passed NRS 83-182.01(1-5), which defined structured programming for individuals committed to the Nebraska Department of Correctional Services (NDCS). Structured programming is said to include clinical treatment programs, non-clinical treatment programs, and other structured programming administered within NDCS's secure facilities. The statute also requires that structured programming be evaluated for quality, including whether program participation reduces recidivism. NDCS contracted with the University of Nebraska at Omaha's Nebraska Center for Justice Research (UNO-NCJR) to conduct the evaluation over a four-year period. The primary goals of evaluation activities are to determine if programs are being delivered with fidelity and if they are achieving their intended outcomes. Seven clinical programs and three non-clinical programs are planned to be evaluated during the project period ending June 30, 2026.

NRS 83-182.01(1-5) also requires that the evaluation shall make recommendations regarding the availability of programs throughout the correctional system, the ability to deliver the programs in a timely manner, and the therapeutic environment in which such programs are delivered and shall include a cost-benefit analysis of each program, if applicable. Thus two required steps for the evaluation are to provide useful feedback to address existing challenges and barriers to effective program delivery, and conduct a cost-benefit analysis.

The first program UNO-NCJR is evaluating is the Violence Reduction Program (VRP), developed by Canadian psychologists Audrey Gordon and Stephen Wong in the early 2000's. Creators Gordon and Wong claim the primary goals of VRP are to: 1) decrease the frequency/intensity of violent behaviors; 2) decrease or eliminate the antisocial beliefs and attitudes that support the use of aggression and violence; and 3) assist program participants to acquire appropriate interpersonal and cognitive skills that are effective in reducing the risk of recidivism, and in particular, violent recidivism. VRP is intended to be administered over the course of 12 months, with regular clinical assessment and milestones directing the intensity of intervention.

The VRP curriculum utilizes cognitive-behavioral and social learning techniques to teach individuals how to identify their antisocial thinking patterns that lead to aggression and how to substitute them with pro-social thoughts and actions that circumvent the antecedents of violent behaviors (Gordon & Wong, 2016). Further, the VRP uses principles of the risk-need-responsivity (RNR) model to assess each participant's needs that must be addressed to facilitate behavior change and their risks that lead to the problem behaviors. Adhering to the RNR model is meant to ensure participants are learning skills to identify and change behaviors related to engaging in violence (Gordon & Wong, 2016).

UNO-NCJR has completed the process evaluation on VRP to determine the degree to which the program is operating as intended. This included interviewing 9 staff members involved in the program and 6 randomly selected participants who had previously taken the program. Many had reasonable but crucial suggestions on how to improve the program.

UNO-NCJR is currently finalizing the outcome evaluation that will determine the degree to which the program achieved its goals of reducing violent tendencies and anti-social beliefs that support the use of aggression and violence. This includes examining in-prison misconduct reports before, during, and after programming, along with returns to prison and new violent or felony charges. While the cost-benefit analysis is in the middle-stages of completion, all three components of the full evaluation of VRP are expected to be completed by the end of September 2023. The next planned clinical program for evaluation is one of the NDCS drug and alcohol treatment programs. The first non-clinical program for evaluation has not yet been selected as of the date of this writing.

Carceral clinical and non-clinical programming in Nebraska have for too long been left unexamined by third-party evaluators. While the Inspector General's office for years has provided the NDCS and legislature with insights gleaned from their observations, a scientific examination of program effects has yet to be conducted. The current evaluation will provide Nebraska residents with evidence of the effects of their state-implemented programming that was designed for those returning to our communities to reinvent their way of thinking and behaving. The many programs NDCS implements are but a few of the efforts in Nebraska to help reduce barriers to reentry, and to keep our communities safe.

Programs just like the ones NDCS is implementing have been shown in other locations to work to reduce violence and recidivism. However, caution is warranted on expecting drastic reductions in recidivism and violence here in Nebraska, and anywhere in the U.S. for that matter. Many national studies/evaluations find that such programs result in small reductions – in the range of 1% -15% absolute reductions. The relative risk reduction, which is the percentage reduction in risk of recidivism in the treatment group compared to the comparison group, is always higher than the absolute reduction in risk and often the percentage reported. We advise readers to differentiate between the two and know that conducting and participating in programming designed to restructure cognitive thinking is extremely difficult. With the insight gained from the evaluation and the dedication of career practitioners in NDCS, we have no doubt that all programming, regardless of current effectiveness, has the potential to change someone's life for the better – affecting our communities in ways that are very often unseen.

Dr. Michael Campagna's current academic focus is on evaluating correctional and reentry policies and practices with the goal of informing stakeholders and developing case management solutions to improve the efficiency and efficacy of the criminal justice system.

Untapped Talent: How Second Chance Hiring Works for Your Business

and the Community By Jeffrey Korzenik

Book Review by Jeanie Mezger Editor

Because of the current very low unemployment rate, Nebraska employers already know they must increase the scope of their search for employees. Korzenik, Chief Investment Strategist for Fifth Third Bank in Cincinnati OH, says people with criminal records are the answer. He encourages employers to consider this group of applicants for the same reason they look at other groups: to increase the chance of finding good employees. The author writes:

This is a business book about conventional business topics: talent acquisition, talent development, and risk mitigation. The argument for second chance hiring must stand alone as a business case to be sustainable and scalable.

In a chapter on the question of who is a criminal, he writes that we should “reexamine [our] assumptions about the meaning of a criminal conviction.” The author makes it clear that circumstances and jurisdictions result in wide variations in consequences for the same action. A person arrested for DUI in one state might be charged with a felony; in another, the offense can result in a traffic violation. Korzenik:

I fully accept that sentencing laws are not always appropriate nor evenly applied, and more alternatives to incarceration should be developed, but it is important to recognize that those incarcerated in state and federal prisons committed a serious crime. *It is even more important to realize however, that a person convicted of a bad action is not necessarily a bad person.*

He recognizes the challenges facing people returning to the community after incarceration and wants employers to see what it means when someone meets those challenges. He writes:

Employers could not ask for a better test of character than the willingness to face fear, humiliation, ostracization, and invest copious amounts of time and energy, all to try to do the right thing with an uncertain return and a best-case scenario of a lower-wage job. Yet this is common for people coming out of prison.

This book is full of data, much of it presented in helpful graphics. The number of people who are incarcerated, the disproportionate number of black people with felony convictions—Korzenik is well aware of mass incarceration and what it has done to the job market for those who have done prison time.

Korzenik talks about how a company can become a second chance employer, problems that can crop up, and how to avoid them. He suggests that a nonprofit partner that understands employment needs can be a continuing source of suitable applicants. Employers can

develop a “pipeline” for good candidates by working directly with Corrections departments or with work release programs.

A wise employer will prepare to accommodate employees who need extra help returning to the community, and Korzenik provides plenty of suggestions. For example, some people may not have a cell phone, and some are not allowed to have a computer—those people cannot submit an online job application, no matter how perfectly they match job requirements, so the employer could provide an alternative to online applications. Another example is the employee whose parole officer wants to visit the client at work; the employer could provide a private meeting space for those occasions.

Employers who want to be known as a second chance company must consider the needs of employees still acclimating to life outside prison walls, according to Korzenik. They must also be aware that some employment policies exclude suitable applicants.

Employers may need to change policies so that doors are opened to better opportunities for job applicants—and more opportunity for employers to find good employees.

Korzenik says, **“When employers view people who are in prison or otherwise touched by the criminal justice system as their future workforce, we’ll get better criminal justice policies.”**

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Reading Prisoner Mail: Constitutional Protections of Legal Correspondence with Your Attorney

By Terri L. Crawford JD

"History teaches that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure" - Thurgood Marshall

Our imprisoned population includes some of our most vulnerable citizens due to the very nature of incarceration. Knowing that fact, it is also not an unreasonable belief that there are few others, if any, in our society who have more need to communicate in complete confidence and confidentiality with his or her legal counsel.

("Reading the Prisoner's Letter: Attorney-Client Confidentiality in Inmate Correspondence", Gregory Sink, et al., 2019).

When a correctional system pries into the substantive content of legal mail, there is a heightened risk of jeopardizing constitutionally protected rights of prisoners—the rights to due process, freedom of speech, effective assistance of counsel, and the right to access the courts.

Imagine if you will the chilling effect on attorney-client relationships where an inmate feels reluctant to confide in his or her lawyer regarding facts of a crime he may be charged with, other crimes, or possible plea options, if he knows correctional institution personnel will be privy to the intimate details of the communication before the mail even reaches the lawyer.

However, the Supreme Court along with a substantial majority of correctional systems in the country recognizes that, compared with the constitutionally protected rights of the inmate population, the security concerns with respect to outgoing mail are minimal at best. The Sixth Circuit said in *Reemer v. Sewell* (975 F.2d 258, 6th Cir., 1992) that it is difficult to understand why prison officials would ever have to read an inmate's legal mail in search of such "contraband." Further, the Court stated, attorneys are unlikely to send contraband, and a prison has no legitimate basis to go beyond a mere physical inspection for contraband that takes place in the presence of the person who is incarcerated.

Reasonable minds can agree that this is problematic for fundamental rights guaranteed in the United States Constitution to all its citizens, including those incarcerated. When the government attempts to encumber or limit them, there is an automatic heightened degree of protection to ensure these rights are not infringed upon without adequate showing of penological interest sufficient to justify the extraordinary step of reading a prisoner's legal mail to his or her attorney (*Martinez v. Ryan*, 132 S. Ct. 1309, 2012).

In the Ninth Circuit, the Court rejected Arizona's claimed power to read a death row inmate's legal mail as long as it was read in the "presence" of the inmate sending out the correspondence. The Court said Arizona failed to explain how that practice did not contribute to the chilling impact likely to result from an inmate's knowledge that every word he writes to his or her lawyer may be intercepted by prison guards or other personnel and possibly used against him (*Nordstrom v. Ryan*, 762 F.3d 903, 910, 9th Cir., 2014).

In *Nordstrom v. Ryan*, the Ninth Circuit joined other circuits in prohibiting the reading of prisoner mail intended for his attorney, and did so in a case that fell squarely within the scope of the Sixth Amendment right to counsel. This

reasoning was based on the premise that when confidentiality is compromised by invasive prison rules, regulations and practices, the attorney may face an ethical dilemma leading to possible withdrawal from the case.

On the flip side, an inmate with the knowledge of a prison's restrictions on legal and other communications, the surrounding circumstances lends itself to a climate of distrust of both the judicial system and the adequacy of the legal representation. The Sixth Circuit stated that while the confidentiality of mail to a prisoner from a court had not been well-settled, attorney mail is, of course, an altogether different story.

In a 1974 case, *Wolff v. McDonell* (418 US 539), the Supreme Court addressed a Nebraska case from the Eighth Circuit Court of Appeals, where an inmate challenged a prison policy allowing prison officials to read all incoming mail, which included any mail clearly marked as legal mail from an attorney. The Court opined that "the fact that prisoners retain rights under the Due Process Clause in no way implies that these rights are not subject to restrictions imposed by the nature of the regime to which they have been lawfully committed." The Court then went on to say that the prison's policy of inspecting all incoming and outgoing mail to and from attorneys "violated prisoners' rights of access to the courts." A critical component of the right to access the courts is the opportunity to receive privileged communications from legal counsel. The Supreme Court has not retreated from the *Wolff* findings over the past four decades.

No other group in our society has a more compelling interest in the need to communicate confidentially with their attorney than our prison population.

Those rights of inmates encompassed in the Constitution include, but may not be limited to, religious freedom, freedom of speech, access to courts and legal counsel, the right to legal assistance, access to law books, due process in disciplinary actions, and formal grievance procedures for inmates.

Reading prisoner mail is not only a violation of constitutionally protected rights, between attorney and client. This extreme interference with mail will discourage correspondence between family, friends and loved ones. People who send mail to prisons don't want their letters and artwork scanned into a searchable database and/or destroyed, two common features of mail scanning in prisons. According to the Prison Policy Initiative, scanning is a needlessly complicated and costly practice that violates privacy and stifles communication.

The Prison Policy Initiative (2021) also said "...mail scanning is having little to no effect on the frequency of overdoses and drug use, the type of issues that prisons claim mail scanning will address."

Courts, legal representatives and advocates acting on behalf of inmates must remain vigilant in assuring that a prisoner's right to effective and engaged counsel is not compromised by policies, practices and processes of correctional facilities who invade the privacy of confidential communications.

Misunderstanding and Misusing Registry Laws Causes Harm

By Jeanie Mezger Editor

The Nebraska Sex Offender Registration Act is laid out in state statutes. One would think that it would be easy to follow the law, since registrants, law enforcement, and community members all start from those statutes.

- Instead, we see that the Nebraska State Patrol tells registrants that they must report any change in vehicle ownership within three days, even though Nebraska Revised Statute 29-4006 clearly does not require three days. People have been arrested and convicted of registry violations on the basis of those three days, making this much worse than a simple misunderstanding.
- Landlords turn down registered applicants because they incorrectly believe that all registrants are subject to residence restrictions or because they think registrants cannot live near parks. Residence restrictions do not apply to every person on the registry, and cities are not allowed to restrict residence near a park (NRS 29-4017). When parents are unable to find housing for their family, the registry is not protecting those families.
- Some people on the registry are put on lifetime supervision (NRS 29-4019) even though their circumstances do not match what is required in the statute. In addition, the statute requires that the person be notified by the sentencing court that "...he or she shall be subject to lifetime community supervision...upon release from incarceration or civil commitment..." and yet the notification document signed by one man was dated *after* he was released from prison. If the sentencing court made the decision to require lifetime supervision, why wasn't he notified at sentencing?
- According to the law, people reporting to the sheriff's office are supposed to sign the verification form, but some counties have nothing for registrants to sign. This can result—and has resulted—in people reporting as required but being charged with failure to register because there is no proof that the person reported.

These misunderstandings and misapplications needlessly get in the way of registrants finding solid ground after they return to the community. Law-abiding registrants can end up with a felony charge for violating the registry when "plain language" of the statute is not as plain as it ought to be. When laws are unclear or when they are allowed to disintegrate into an "anything goes" situation, people cannot count on the law to protect them.

The registry encourages the community to view the people listed there as dangerous. It says in 29-4002 that "The Legislature finds that sex offenders present a high risk to commit repeat offenses." That one simple statement—repeated again and again in municipal ordinances across the state—encourages people to fear registrants, even though there isn't a lick of truth to it.

Do we fix the messy language? Given the results of the original legislation, written by someone trying to fix some-

thing, "fixing" it looks like a bad bet. A better bet would be to recognize that the registry has fulfilled none of its promises to protect people and that it does more harm than good — rescind the Nebraska sex offender registry altogether.

As was true before there was a registry, the next arrest for a sex crime in your community will most likely be of someone not on the registry.

Know someone in prison? Why not arrange a visit?

By Mel Beckman Consulting Editor

A person might ask, "why would I do that?" Haven't the people inside all done bad things, been in front of a judge, and are now getting what they deserve? Once in a while they fight with each other or with the prison staff. Sometimes people get hurt. Why should I spend my time with criminals when I could be doing something good for people who have not offended?

The *short answer* to these questions is that we do it **because those in prison need us**. When we visit, we represent the community telling them that we still care about them, that they still have worth, and that we look for them to be our neighbors again some day. They need that!

This is a somewhat longer answer: **We believe there are no "throw away" citizens in the state of Nebraska. While the freedom of those who commit serious crimes needs to be restricted for the sake of public safety, their right to live and to develop their human potential should not be taken away. We all grow by helping those who are more needy than we are. It is possible that we who live in the free world will reach our full human stature by helping those who are incarcerated to reach theirs. (NCJR, Feb. 2000)**

But, just how does one go about doing it? Is it even permitted? Yes, it is permitted and facilitated, but prison staff need to be cautious and first determine whether the visitor is likely to be a help to the person being visited without being a security problem for the prison.

An incarcerated person first sends an application to the potential visitor, thus indicating his/her willingness to have a visitor. It can also begin by the potential visitor contacting the incarcerated person by mail and making an *offer to visit*. In either case, permission to visit will be granted by prison authorities based on answers to questions on the visitor's application. If permission is granted, the incarcerated person will be told about the approval and he/she notifies the applicant.

After visitation is approved, the applicant is free to schedule a visit. Visiting times for persons in prison are specified for specific housing units at certain hours and certain days of the week. Find that information on the website of the Department of Corrections (<https://www.corrections.nebraska.gov>). Applications to visit at a particular time must be made at least a week in advance. Approval is sent to the applicant by email. At the prison, one signs in with the authorities in the lobby and puts all possessions in a locker. One can also take in coins

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LETTERS

Incorrigibility? Or Possibility?

By JoHelen Williams 92476 NCCW

Her remarks as a graduate at their ceremonies:

I want to talk about self-fulfilling prophecies and labels. At a young age, I became rebellious and disobedient as a result of circumstances beyond anyone's control—no blame, no excuses. My rebelliousness led me to an appearance in front of a judge. He used a lot of words I don't remember, but one stood out and stuck with me: incorrigible. He said I was incorrigible.

Though I was a bad-acting kid, I was a studious one. I got a dictionary and looked it up. The definition for incorrigible is "having a bad habit that cannot be changed." Imagine...an 8 or 9 year old child being told by someone in authority that there is something bad about her that can't be changed. I bought into that authority by embracing the judge's assessment of me as a fact. And I took that belief with me into my adult life. Making poor choices and decisions every step of the way: that belief brought me here.

During the many decades of my incarceration, I have had opportunities to meet and interact with some phenomenal forward-thinking volunteers and staff who saw me, not my circumstances. No labels and no expectations. They were able to see purpose and value in me at a time when I felt thrown away—worthless. Today you will be introduced to a cohort of women who, too, were deemed incorrigible by past judges and the current penal system. However, due to our acceptance into the Second Chance Educational Program through York University three and a half years ago, various volunteer interactions; and of course, friends and family support, we now see what we once were unable to see.

During the pandemic, on many occasions, the York University professors were unable to conduct classes with us. Constant lockdowns were routine. We all persevered, however, and this day has finally come. By faith, we vow to continue on our paths of self-renewal and to make our time mean something, both to ourselves and to those we come in contact with. We now realize our personal value and no longer accept others' definition of who we are.

We will ensure that our experiences during the past three and a half years not only benefit us, but also our environment as a whole, even though some of us will spend the remainder of our natural lives here. I believe that each of us graduates today share a common goal: to uplift and foster possibility in the women with whom we interact everyday—paying it forward.

That judge who labeled me as incorrigible is not here today. He can't see me today. Three and a half years ago, neither could I.

Nevertheless, my fellow graduates and I are a testament to what is possible when those who can affect change

have the courage to do things differently in search of different results. They are individuals who realize that the words we use to describe others matter, particularly to young children. These individuals stand in the gap and shore up what looks to everyone else as incorrigible, and choose words like *possibility*, *grace*, and yes, *forgiveness*, that change our perception of ourselves. They show us how to change. They've shown us that we matter. No matter the list of labels once assigned to the women before you, after today, someone will have to add to that list: *College graduate!!!*

Educating Boys, Teenage Boys, and Adult Men

By Elvin Siebert Retired Therapist/Social Worker

Why wait until they're in the legal system? Let's do prevention!

As a sex offender treatment therapist/social worker, I taught offenders what they could have been taught before offending. We need to focus on preventing boys and men from offending first through education. This education has to be age appropriate, mental age appropriate, and culture and family appropriate. On the other hand it needs to challenge ideas and practices surrounding males as social and sexual beings. (Is it better to offend against someone than to masturbate?) Boys should learn about their own bodies as is physical and mental age appropriate. Learning about hormonal changes as is appropriate. Learning about boundaries, informed consent, social norms, and appropriate interaction with others. Hopefully this would be taught in the home, but in many cases it is not taught. Education alone will not solve all the issues but it would be a good start. My point is why wait til they offend against someone?

News Briefs and Resources

Compiled by Linda Ohri Publisher

Calculating Torture: Analysis of Federal, State, and Local Data Showing more than 122,000 people in Solitary Confinement in U.S. Prisons and Jails.

- Report by Solitary Watch and the Unlock the Box Campaign, May 2023: <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Final-Report-May-2023.pdf>

- For this time period, Nebraska confined 334 in restrictive housing out of 4732 total inmates (7.1%) vs 6.28% for the country as a whole.

Suggested topics for December Letters:

1. How do letters from the outside affect your state of mind?
2. Has the availability of illegal drugs inside been reduced since NDCS started copying incoming mail?

Letters on any topic are also welcome. We look forward to receiving responses to these questions. We will publish them as space allows.

Please submit your letter to: NCJR.editor@gmail.com or to **NCJR, Holy Family Community Center, 1715 IZARD ST. OMAHA, NE 68102**

LETTERS continued.....

Sooner than later

By Derek Dixon 36413 Tecumseh

Suzanne Geist's LB 50 is "*Bad Legislation!*" And just last session, Senators refused to pass, "bad prison reform" bills. And I really hate to say this publicly, but the worst part of the bill may be the add-on (LB 352) that Sen. Wayne added. Specifically, the provision which says, "create geriatric eligibility for *certain offenders over 75*, who have served 15 years, *excluding Class 1, Class 1A felonies, those serving life sentences, etc.*" A better geriatric/compassionate release policy than this trash legislation was already in place, it just wasn't being implemented. This shows a complete lack of understanding of who's getting old (and dying) in the Nebraska prison system. It's the lifers. It's very sick people of any and all ages. And geriatric/compassionate release (in my mind), only became a "new" legislative issue when *lifer* Mr. George Carter (R.I.P.) (who was under 75 years of age), became ill with cancer and died in prison. A push was made to release him (and later Bro. Mondo R.I.P.). Now to pass this trash-type bill is a "Historic" slap in the faces of everyone who made this *initial push* to release Mr. George Carter (R.I.P.) before his physical demise. Terrible! And shame on you, Sen. Wayne. And now Mr. Ed Poindexter deserves a geriatric/compassionate release *immediately!* But with (LB 352), a door that was previously open has all but been slammed shut. Sen. Wayne knew this. Sen. Wayne has sold out.

The Abortion Ban and Transgender bills. These are "historically" racist, male chauvinistic, homophobic and critically invasive.

And as for Gov. Jim Pillen, the "collective" senators, et.al, who praised this 108th session as "historic", they only prove the point that "*ignorance is bliss!*"

Meeting Announcements:

- **FFI (Family & Friends of the Incarcerated)** Meetings monthly, 4th Saturday, 9:30am - 11:30.
- Location: Underwood Hills Presbyterian.
851 N 74th St. Omaha
- **Fearless—Nebraskans Unafraid:**
- 2nd Thursday evening—Lincoln
- 2nd Saturday morning—Omaha
- 3rd Monday evening—Omaha

* For details, 402.403.9250;
nunafrd@gmail.com

I'm finding my purpose

By Sha-Biko da-Poet! 36413 Tecumseh

On the surface, devils is lurkin'.

The right way is right,

But most times that aint workin'.

It's a blessing, I know,

Just hearing the birds chirpin';

But every day with death

It's like the whole world is flirting.

Behind penitentiary walls,

Every single soul is hurtin'.

Some don't wanna see the mirror;

Others closing their own curtain.

One thing for sure;

Two-things 4 certain

I'm fighting for my life,

Holding back death merchants.

(And) if it aint God,

You in the way of my purpose,

Since birth, spirits been warning me,

About flesh serpents.

© 7-1-23

Abbreviations for NDCS Facilities:

CCC-L - Community Corrections Center - Lincoln

CCC-O - Community Corrections Center - Omaha

NCCW - Nebraska Correctional Center for Women

NCYF - Nebraska Correctional Youth Facility

NSP Nebraska State Penitentiary

OCC - Omaha Correctional Center

RTC - Reception and Treatment Center

TSCI - Tecumseh State Correctional Institution

WEC - Work Ethic Camp

NDCS Could Make Positive Change

By Jeanie Mezger Editor

When people are released from incarceration, the goal is to get them back in the community where they can contribute in meaningful ways to family and community life. Perhaps there are ways to smooth that transition, and to further reduce the number of people who return to prison on parole violations. The following ideas come from conversations with people who have experienced incarceration in the Nebraska prisons.

Currently, a person in a Community Corrections Center (CCC-L and CCC-O) and employed in the community, pays \$390 each month to NDCS. If that same person were in a different facility or not employed in the community, NDCS would not require him to pay rent. If the idea is to help this person become accustomed to managing money and paying bills, perhaps that \$390 could be put into an account that, upon release, the person could use for first and last month's rent, or for the purchase of work clothing and tools, or a vehicle. Setting the money aside to help with successful reentry into the community would be wise, since stable employment and housing are two predictors of a good reentry.

A person confined in the federal halfway house, as in the state CCC facilities, is expected to find a job on the outside. That person in the federal system can own a vehicle and use it for transportation to and from that job. State Community Corrections does not allow vehicle ownership, severely restricting access to employment. People at CCC already can take a bus, walk, or ride a bicycle to and from work at all hours of the day and night. A car would provide safer transportation, and reduce travel time for those who want to work and attend classes.

If a person at a CCC facility needs medical or dental care, he or she is required to utilize the care provided by NDCS. Why not allow him or her to pay for their own medical or dental care on the outside if they have money to pay their own way? That would reduce the workload of an already overburdened medical staff in the prisons.

When a parent goes to prison, he or she can spend years not knowing that they need to file a Complaint for Modification of Child Support. They come out of prison—where they may have earned \$1.21/day—to face child support debt of tens of thousands of dollars. Why not apply those modifications automatically? Also, letting interest accrue, even on a reduced payment, sets the parent up for failure. That failure affects both the parent and the children. Coming out of prison to face seemingly insurmountable debt puts that parent in an immediate financial bind.

Families eagerly anticipating the return of an incarcerated parent suffer when the children are not allowed to visit. Parents who were convicted of sex crimes are sometimes not allowed visits from their minor children, even when those children are not their victims. Ostensibly, this policy is to protect children, but visitation rooms are well supervised. Encouraging families to be together in visitation

rooms is good policy, if we are interested in strong families.

Sometimes people are not allowed to return to their own homes when they are released on parole. If they will return to those homes after parole, why not let them go directly there? Families in this situation are left with the financial burden of paying for a second home for the person on parole, whether it is a halfway house or a separate apartment. Increasing the financial burden just as the person is able to start contributing to the family, seems mean-spirited and counterproductive.

More effort should be made by the state to alleviate the financial burden of having a family member in prison. Paying for phone calls and emails—not to mention music, games, and books—is hard for a family left without one of its wage-earners, and left to care for the person inside as much as they can. Transparency around the contracts arranging those services for NDCS would build trust for families who can see how much they are spending for those services and wondering if there isn't a better way. If the NDCS mission is to "keep people safe," financial security ought to be part of that.

When NDCS introduced the reentry specialists, they made progress toward a better reentry for everyone returning to the community. More can be done to help people succeed, though. Helping them to attain a better financial footing and helping them maintain and improve family relationships before leaving prison would be another stride toward better reentries.

Continued from Page 7—Visitation...

(up to \$20.00) per visitor, to buy snacks, pop, coffee, etc. in the visiting room. When your name is called, you walk through a metal detector and also send your shoes and belt through in a basket. Next comes a quick pat-down, a check of the underside of your feet, and a request to see in your mouth, all to be sure that no contraband is being brought in. Then doors open and visitors proceed to the visiting room.

In the visiting room, seats on either side of a low table are provided and the incarcerated person soon comes in if they are not already waiting. As long as some simple visiting rules are followed, the visit takes place without problems and not much differently than it would in one's own home. Children can visit too. The visiting room is a relaxed place in which people on both sides of the table are enjoying themselves. A couple of prison staff are in the room keeping watch and occasionally reminding visitors about rules.

Why not arrange a visit? You will like it and the person you are visiting will too!

LB 50 is Not Enough

By James Fisher 84220 RTC

While I applaud the efforts of many Nebraska senators who, year after year, brought sound studies and reason regarding judicial reform—and not taking away from what LB 50 has accomplished—it's just not enough in terms of what was recommended and really needed for prison reform on the back end.

It's ridiculous, really, to make geriatric parole at age 75 when the national life expectancy is 64-75 (National Vital Statistics Reports Vol. 62 No. 7, 2014), and don't forget that for every one year spent incarcerated, it takes two years off typical life expectancy. I understand some say this is a start, but think on it, just like previous reform attempts, it only benefited a few who probably already benefited by a good plea deal, while denying others regardless of evidence-based data or clinical programs completed.

Much has been said about Trump, and I'm no advocate, but he signed the First Step Act which focused on rehabilitation. It set the geriatric age at 60 which is 15 years less than Nebraska. I understand LB 50 was only the first step but if it took that much effort to get this little bit from 2015 to 2023, I hesitate to think that much more will be given anytime soon! Especially after allowing another \$350 million to build another prison as if a shiny new prison will attract more employees, As for more programming space as a selling point for public interests, the fact is we can do a million programs and not move one step closer to the door until we are a certain year from our jam date.

The NDCS idea of public safety is that as long as you are within three years of your jam date you have been rehabilitated, even if people spent 90% of their time in a maximum facility.

NDCS prison history:

In 1976, NDCS first reported the rise in prison overcrowding, and three years later in 1979 LCC was built, adding 500 prison beds. At this time NSP got funding to add units 1-4. However, the prison population kept growing due to the start of mandatory minimum sentences and the three-strikes law for habitual criminals.

In 1984, OCC opened to house medium and minimum people aiming to transition and to give relief to both NSP and LCC facilities. By 1985, CCC-O was built to house work detail and work release prisoners. By 1990, the prison population reached another overcrowding crisis, so housing unit 5 was built at NSP, adding 160 beds.

From 1991-1994, more crime bills were passed, targeting drug crimes, adding more mandatory minimum sentencing schemes. At the same time CCC-L was built and housing units 7 and 8 were added at NSP. By 1997, the Legislature approved \$70 million to build TSCI in Tecumseh to house Max1 and Max2 security inmates, adding 960 beds for overcrowding. This included the WEC facility with another 100 beds. But crime bills kept coming to stiffen penalties by 30 percent or more.

In 2001, Tecumseh and McCook were finished but about 40 more crime bills came with it, adding to the mandatory

minimum schemes. By 2005, the prison overcrowding again began to rise to 145% of its designed capacity due to these crime bills.

From 2011-2013, the NDCS overcrowding saga continued, and the good time scandal and escape happened. In 2014, Scott Frakes was hired and an Omaha World-Herald article said that "he believes Nebraska classifies too many prisoners as maximum security." This alludes to the classification crisis we now face with low risk inmates being forced to remain in maximum facilities due to lack of lower custody bed space. All was ignored by Legislative committees that were formed to watch over the NDCS lack of progress.

By 2015, some minimal prison reforms started on low end crimes which ended up doing very little to reduce the overcrowding. Then the Tecumseh riot took place, taking two inmate lives.

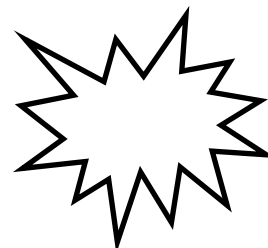
Two years later in 2017, another 100 bed dormitory for women opened up at CCL, while the overcrowding continued for men. Legislation was sought, placing an emergency overcrowding bill with a deadline at 2020.

By 2019, former NDCS director Scott Frakes openly admitted that NDCS was unlikely to meet the 7/1/2020 deadline to reduce a rising prison population. It didn't.

Now it is 2023, three years past the overcrowding deadline, and again, NDCS has brought to the table the idea to build another high security maximum facility costing taxpayers another \$350 million on top of the already approved \$75 million to improve and add to LCC, including the \$49 million high maximum facility in the back of LCC that just opened this year. Plus a \$5 million dollar housing unit 9 added to NSP, a total of \$129 million or more. That is \$479 million from 2019 to today.

The above information was out of the Lincoln Journal Star, 2020, showing those law officials lied to the public when they said Nebraska prisons have been underbuilt. What has been underbuilt is what former senator Steve Lathrop pointed out in his \$52 million dollar proposal to expand CCC-O that already has the land, and his idea would have saved taxpayers \$220 million from the \$350 million while helping many low risk inmates transition to their proper classification facility consistent with their risk score.

Keeping low risk inmates in Max1 or Max2 facilities is the new NDCS scandal. Historically, the least restrictive facilities are underbuilt!



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CRIMINAL JUSTICE REVIEW**

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Select Issue Archive. In Archive, see **Viewing Note** for more direction on accessing past issues.

Mission: To improve public understanding of the criminal justice system in Nebraska and the needs of offenders and victims. To improve communication between those who administer and staff the criminal justice system, those who make plans and laws for it, those who are personally affected by it, and the community which pays for it and should be involved with it.

Submission Deadline: The first day of publication months: March, June, September, and December.

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