

# Nebraska Criminal Justice Review

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## President Obama urges major prison reform

By John Krejci

In line with President Obama's bold moves to promote positive reform in the last year of his presidency, (e.g., immigration reform, reestablishing relations with Cuba, the Iran nuclear agreement), his address to the 106th NAACP National Convention outlined the need for major reform of the criminal justice system. He first laid out the numerous problems:

- Mass incarceration – over 2.2 million, five times that of the rest of the world.
- Disproportionate incarceration of minorities. African Americans 6 times more likely to be in prison.
- The \$80 billion cost of operating the prison system.
- The overuse of segregation, incarceration of the mentally ill, those with minor drug crimes, the use of mandatory minimum sentences, the underutilization of probation and alternatives to prison. Not to mention the disproportionate arrest of African Americans!

The President has already done some things in the Federal prison system:

- Eliminated the 100-1 sentencing disparity between powdered and crack cocaine.
- Eliminated some mandatory minimum sentencing.
- Shifted the focus to the worst offenders
- Commuted the sentences of some of those previously sentenced under old drug laws.

The President then laid out three key areas for focus on reform: the community, the courtroom, and the cell block.

**Community** President Obama stated, "The best time to stop crime is before it even starts. We need to invest in children. If we make investments early in our children, we will reduce the need to incarcerate those kids." He added that we need to continue to build trust between law enforcement and the communities they are obligated to protect and serve, i.e., police-community relations. (An  
(Continued on page 12)

## Holy Family Church and the NCJR: 2000-2015

By Mel Beckman, Editor

Readers of the *Nebraska Criminal Justice Review* may have wondered from time to time what kind of a church would publish something like the *NCJR*, and why? These few paragraphs will attempt to answer those questions.

The first Holy Family Catholic parish and church date back to 1876 and was located at 17th and Cuming Street. The present church was built in 1883. The parish formerly educated hundreds of children, Irish, Italian and others, in its first floor rooms. Today that same first floor is dedicated to helping the poor with food, clothing and other necessities. Upstairs, the Holy Family community celebrates the Eucharist each Sunday and chooses to make service to the poor its primary mission.

Fifteen years ago, the Holy Family Community recognized criminals, and their victims, too, as people in need. The *NCJR* was created to advocate for their well-being and for the development of a *less punitive and more restorative criminal justice system*.

Picture of Holy Family

Holy Family Church, 1715 Izard St., Omaha

# Reform of corrections: opening a can of worms

By John Krejci

## Background

The Nebraska Department of Correctional Services' (NDCS) "can of worms" was opened wide by the **Omaha World Herald** when they exploited the Nikko Jenkins debacle. Then came the revelation of the early release "crimes," violating the mandates of the Nebraska Supreme Court. Heads rolled, some were fired, and others resigned. But all this was not for naught. These scandals led to increased focus on and scrutiny of the prison system, particularly overcrowding. Nebraska prisons are at about 155% of capacity.

Legislators realized that NDCS was out of control and needed reform. They appointed Senator Lathrop to head a study committee, and more importantly, they engaged the Council of State Governments to coordinate with all the stake-holding agencies, conduct a year-long analysis of the shortcomings of NDCS, and provide concrete recommendations to NDCS and the Legislature. In 2014 the Legislature wrote and unanimously passed legislation to begin to address the problems. I commented on LB 598 and 605 in the June Issue of **NCJR**, "Prison Reform begins with the passage of LB 598 and 605 -- first steps in a long journey."

**LB 598 and 605,  
first steps in a  
long journey**

Despite the problems, the studies found that NDCS has some strengths: lower recidivism than nationwide (25% vs. 50-60%), a relatively low level of violence, competent probation and parole programs, implementation of many best practices programs and policies, and many committed administrators. But the analyses revealed that the "can of worms" was far from empty. A partial list of issues that need to be addressed would include:

- Inadequate mental health treatment. Over 25% of inmates have significant mental health issues.
- Programming, education, self-help, and religious activities are crucial in rehabilitation, but have been severely limited since the partial lockdown of 2013.
- Staffing problems due to understaffing, obligatory overtime, lack of adequate training and experience at Tecumseh, low pay and difficulty in advancement. Add to this, low morale.
- Inadequate and inconsistent policies regarding segregation. Overuse of segregation.
- Mandatory minimum sentencing laws that need reform. Updating of other outdated laws.
- Policies relating to sex offenders. The laws are oppressive and capricious. Treatment for sex offenders is often not available, but it is required for parole.

## First Response

The good news is that several of these issues have begun to be addressed. The legislature appropriated over \$3 million dollars to outside agencies who organize training and education programs for former inmates. The department was granted several million more for in-house programs. This money represents a good beginning.

Mental health treatment, as well as drug and alcohol treatment, were discussed in the 2014 legislature, but no major legislation was passed. A recent evaluation by a psychologist focused on some of the problems such as understaffing (unfilled positions), availability of treatment, and lack of addressing individual types of illnesses. The department has at least begun to address this issue. Senator Bolz is drafting legislation to address mental health in the next session. She has put it on the agenda of the Judiciary Committee.

Corrections issues are not on the public mind as are taxes and school funding, but they may be more important for a healthy society. The print media should be commended for keeping the issue before the public. I am not referring to the death penalty. That is an emotional, political, and moral issue that generates a lot more heat than light. It is important but it is symbolic. Corrections reform impacts thousands – inmates, their families, NDCS employees, and the community.

## Department response and inmate insights

Up to this point the Department's response to the Tecumseh riot has been quite disappointing. The focus has been on staffing, safety, and adjustment of policies to limit numbers of inmates in a group. Both the Nebraska State Penitentiary and Tecumseh have continued to suffer the consequences of lockdown.

Listen to what inmates have written: A 25 year inmate at Tecumseh wrote: ***"As for the riot report,... there is no concern shown for why the riot happened . It is as if they assume that this is just what we are and that we are prone to such behavior at any given time. No, the only question that remains is how to control us. This line of thinking is not only preposterous but dangerous. Ever heard of self-fulfilling prophecy? Instead of giving up on us, they should find a way to work with us... I tried for years to bring about cooperation, all the while warning against the direction in which the system was headed. I only wish I had been wrong. .. I haven't given up hope but things don't look great."***

A new inmate at NSP wrote to Director Frakes concerning the situation there: ***"Both staff and inmates are frustrated, bored and stressed. Almost every guard (and DOC employee) is 'looking for a better job;' none are happy here. Furthermore what was going on in 2012 was very mendable and manageable... Mr Frakes, you just simply wouldn't have had the problems in Tecumseh if they weren't being opp-***

**ressed by these kinds of lockdowns, and you wouldn't have these staff assaults here at NSP either. There wasn't this "us against them" boiling mentality that festers every day by being cooped up in these little over-packed dayrooms...The way we are living is unhealthy..."**

Most recently, the same Tecumseh inmate wrote, **"As for down here, things are moving painstakingly slow. Still no daily recreation time, no religious services, no daily showers, no phone calls (every other day for each), eating most meals in the cells, basic lockdown situation..."**

In response to an **Omaha World Herald** article, "Inmates dispute official riot report," I submitted a Public Pulse letter stating, **"The danger of inmate uprisings will continue to exist as long as inmates are not listened to, are overly restricted, and all inmates are punished for the misdeeds of a few. State Corrections Director Frakes faces an enormous challenge in r**

**reforming Nebraska's prison system. One hopes that he meant what he said, 'Prison is not to punish, prison IS the punishment.'** At present, inmates are being punished. And some are losing hope of meaningful reform.

As a community, we should all be concerned with inmate rehabilitation and prison reform because 95% will be released after an average stay of 2.7 years. One hopes that the Nebraska Legislature addresses this challenge in the next sessions.

Despite the report, Director Frakes' disappointing response to the Tecumseh riot and the continued lockdown, there may still be hope. He is attempting to respond to the needs of the mentally ill in prison. He has appointed a new leadership team. He seems open to change and the initiation of new programs and perspectives. And maybe he will listen to inmates, who understand the problems and have something to contribute to their solution. Time will tell. Meanwhile, we hope that more worms will not crawl out of the can!

## Questions on prison reform for the Department of Corrections

**Editor's Note: Given the challenges and positive movement in the reform of corrections in Nebraska, the Nebraska Criminal Justice Review, in conjunction with the Reentry Alliance of Nebraska (R.A.N.), and concerns expressed by inmates and other interested parties, have prepared a number of questions for Corrections Director Frakes. regarding the scope, extent, and timetable for reforms. In lieu of an interview, the Director sent the NCJR a written response.**

### **The questions:**

Corrections reform will be on the agenda for the 2016 Legislature. What specific plans and requests are being considered by the Department in moving the reform ahead?

Along the same lines, are there specifics regarding a new segregation policy, staff training, and better preparation of inmates for and after release?

When will the lockdown status of NSP and Tecumseh be terminated?

What about programming, education, and religious services? When will inmate clubs be allowed to return to 4 hours a month rather than the current 1-2 hours a month?

Several months ago, a new program initiative (Vocational and Life Skills Program) for inmate rehabilitation was begun, how far has this progressed? What are plans for system-wide implementation?

Recently, a study of mental health needs was reported. What are the present plans for improving mental health treatment?

Are inmate concerns being listened to? Inmates have articulated their grievances in numerous ways: in NCJR and other news media, petitions at NSP and TSCI, personal letter to the Director, Governor, ACLU, and the Department.

Given the problems former inmates encounter for housing, it has been rumored that Director Frakes is contemplating giving a rent subsidy in addition to the \$100 gate grant when inmates leave prison. Can you comment on that?

### **Director Frakes' response:**

The agency is actively working on a strategic plan covering the next two years. Until the plan is finalized, I'm not ready to provide further details. The Strategic Plan will speak to the questions about programming, housing, reentry, and other services.

Neither NSP nor TSCI are on lockdown status. Movement patterns at NSP are consistent with a maximum custody facility. We will continue to look for and implement improvements at NSP to safely increase out of cell time through programming, work, and recreational activities. Movement at TSCI continues to progress toward a level of activity that is consistent with the security designation of the facility/population. TSCI is not on lockdown, but movement remains tightly controlled.

I read every letter and petition from and the responses given to inmates—if the response does not come directly from me. I routinely interact with the Ombudsman's office and advocacy groups on inmate issues. I want to (need to) know what's going on from the inmates' perspectives. Although I can't personally manage the individual needs of 5400 inmates, I will continue to pay close attention to the common issues they raise.

I am not considering a proposal to provide vouchers for housing at this time.

# The Tecumseh Incident Report, from the Office of Director Scott Frakes

By Mel Beckman, Editor, NCJR

Fifty days after the May 10th Tecumseh prison riot, Corrections Director Scott Frakes released the 35-page report of a team assembled to review the disturbance. The team consisted of Thomas Fithian, Administrator of Security and Emergency Management at the Washington State Department of Corrections, along with six Nebraska Corrections personnel and Jerrall Moreland, Nebraska Deputy Ombudsman for Institutions.

Included in the report is a summary of happenings during the disturbance, a minute-by-minute listing of the events, an analysis of the response made to inmate actions and a critique of how personnel managed the incident. A small section toward the end speculates about possible causal factors, and finally the report lists a total of 83 recommendations for improvements for the physical plant, policy and procedure, staff training, and administration.

It is obvious that the Review Team's assignment was primarily to determine how the Department lost control of the actions of inmates at Tecumseh and what must be changed to prevent that in the future. For the safety of everyone living or working at the prison, that would seem to have been a good goal, and it appears to have been accomplished.

However, the section on causal factors behind the riot appears to be very weak. Inmates' family members and many others will want to know more. What would lead prisoners to begin breaking rules, assaulting staff and destroying property? A clear statement or admission of *the most likely reasons* why the riot happened is needed from the Corrections Department. It isn't enough for family members and the rest of the public to know that the Department now has 83 new ideas for "keeping a lid on the boiling pot" in the future. Equally important is knowing that a solid plan is being developed to stop the boiling in the pot.

## Causal factors

While nothing like a clear statement of probable cause is presented, the excerpts below, from the Review Team's section on causal factors, indicate that the team did at least have a discussion about possible causes of the riot.

***There is little pre-incident intelligence that leads to an incident such as this occurring...However, after the incident, while conducting interviews, a couple staff noted that inmates had grown increasingly upset with the Wellness League and modified yard schedule.***

***The review team noted that there were no out***

***of the ordinary complaints referencing staff and inmate professional interactions. Inmates did not discuss any major staff mistreatment or mistrust, and there were no documents reviewed that lead the team to another conclusion. In addition, staff did not report inmate management issues as their primary concern.***

***It appears that several inmates have a large amount of time during the day where they are not participating in meaningful activities, such as programming or idleness-reducing activities.***

***It would be beneficial for NDCS and TSCI to explore ways to increase the amount of programming and idleness-reducing activities available, and continue to find creative ways for a majority of inmates to participate.***

***The facility is currently managing both maximum and medium custody inmates, however there is no difference in how those two very different populations are managed.***

***TSCI maintains a higher than normal vacancy rate. This review identified that 60 positions out of a total of 431 authorized are considered true vacancies, which drives significant overtime.***

***The review also noted that the use of mandatory overtime to fill vacancies continues to be a concern of staff, which has led to low staff morale.***

***It is important to note that, of the 210+ custody staff that are employed at TSCI, over 35% have less than two years of NDCS experience.***

***Administrators made the decision to cancel two program areas and an additional court and gym period of the weekend of the disturbance. This decision was in response to a number of staff that wanted the time to attend school graduation events. In order to allow staff to be on leave, while avoiding the use of mandatory overtime, posts were closed to balance the staffing requirements. In addition, the notification of program and evening recreation cancellation was provided to inmates May 7, 2015, just two days prior to the change.***

## The two homicides

Events surrounding the inmate homicides were not within the scope of this review. The State Patrol is investigating the deaths. A Patrol spokesperson told the **NCJR** that the investigation is still on-going and a report will be delivered to the Nebraska Attorney General and the Johnson County Attorney when it is finished.

## Veteran treatment courts: a partial solution to prison overcrowding and prison reform

By Deborah Whitt, Wayne, Nebraska

This article is ask for your support to establish Veteran Treatment Courts in Nebraska (VTCs). VTCs have been around since 2008 and 37 states have them, with over 220 operating around the country. Approximately 11,000 veterans, who would otherwise be incarcerated, are currently participating in Veteran Treatment Courts in other states.

Two and a half million men and women have served in Iraq and Afghanistan since 9/11. Of that, the VA reports that 50% return with mental issues of depression and anxiety, 20% return with PTSD, and one-sixth suffer from substance abuse. Less than 1% of all Americans serve in the Armed Forces, yet the Department of Justice and the Substance Abuse and Mental Health Services Administration estimate that there are 703,000 veterans in the corrections system making up 25-30% of prison populations.

Our regular courts are not prepared or trained to deal with the trauma the combat veteran may have experienced during his/her deployment. Establishing VTCs can give the veteran a holistic approach to treatment utilizing an interdisciplinary team to support the veteran to successful completion of his/her sentence without incarceration. Team members not only include the judge, prosecutor, defense council, and law enforcement but treatment providers from the VA and veteran volunteer mentors. Veteran Treatment Courts evolved out of the growing need for a treatment court designed specifically for justice-involved veterans with diagnosed substance abuse and/or mental health issues. They build upon military camaraderie by allowing participants to go through the treatment court process with people who have common past experiences through the use of veteran volunteers.

Results of such courts have proven outstanding. Veterans participating in VTCs experience significant improvement with depression, PTSD and substance abuse as well as with critical social issues including housing, emotional well-being, relationships, and overall functioning ([www.JusticeForVets.org](http://www.JusticeForVets.org)). Recidivism rates range from 2% to 8%, significantly below the national correction systems' rates. Connecting the veteran with the proper treatment they need helps all of us build healthier families and communities.

Veteran Treatment Courts in Nebraska could reduce prison populations, save taxpayer money, and most importantly give veterans, who defended us, a second chance to restore themselves and their families without incarceration. VTC's are not a "free pass," but include rigorous programs committed to one's treatment. They offer hope, save money, and reduce recidivism. They demand accountability with regular court appearances, mandatory treatment sessions, and frequent and random

drug testing.

"Veterans fought for our freedom, now it's time to fight for them." Go to [www.justiceforvets.org](http://www.justiceforvets.org) website and learn more about VTC's. VTC's have been shown to work effectively in other states around our nation, and they can work for Nebraska too. It's the right thing to do to support all of our veterans. Contact your legislator for his/her support to formulate and implement these courts. VTC models already exist in 37 states. Nebraska can and should be the 38<sup>th</sup> state.

### The Inspector General of the Nebraska Correctional System is appointed

News Release, Sept. 3, 2015, by Marshall Lux,  
Nebraska Ombudsman

In the recent legislative session, the Nebraska Legislature passed LB 598, which among other things created the Office of Inspector General of the Nebraska Correctional System, an official who is charged with the mission of "conducting investigations, audits, inspections, and other reviews of the Nebraska correctional system," in order "to provide increased accountability and oversight of the...system." (The provisions of LB 598 relating to the IG position can be found in **Neb. Rev. Stat.** §§47-901 thru 47-918.) LB 598 gave the Ombudsman (Public Counsel) the duty of selecting and appointing the new Inspector General of Corrections. The provisions of LB 598 became effective on August 30, 2015.

After having solicited applications, and interviewed a number of candidates for the position, I am very pleased to announce that **Mr. Doug Koebernick has been appointed to serve as the first IG for the Nebraska Correctional System.**

The Corrections IG position is created to function as a component of the legislative oversight faculties of the Nebraska Legislature. Mr. Koebernick has a long history of service as a legislative staff member, working as a Legislative Aide for a number of Senators, beginning with former Senator Nancy Thompson in 1997. He has also worked for Senators Ray Janssen, Steve Lathrop, and Burke Harr. Mr. Koebernick has been a leader among legislative staff in examining correctional issues over the years, and has been especially interested and active in the analysis of correctional issues since the early 2000's. In addition, in 2014 Mr. Koebernick helped to staff the LR 424 Special Committee on Corrections, led by Senator Lathrop as Chairperson, and by Vice-Chair Senator Les Seiler, who is currently the Chairperson of the Legislature's Judiciary Committee. Mr. Koebernick's work for the LR 424 Committee gave him a unique opportunity for exposure to all of the critical issues that are most prominent in Nebraska corrections at this juncture. His work for the LR 424 Committee has also given him an opportunity to hone his investigative and analytic skills, as he assisted in the difficult job of assembling and reviewing the many thousands of documents that the LR 424 Committee received in response to its subpoenas.

**NEWS and MISCELLANEOUS**

By Mel Beckman, Editor, NCJR

**In prison in the State of Nebraska:  
How many and where?**

(Source: July monthly data sheet, Corrections Dept.)

393	Community Corrections Center—Lincoln
172	Community Corrections Center—Omaha
452	Diagnostic and Evaluation Center—Lincoln
510	Lincoln Correctional Center
306	Nebraska Correctional Center for Women—York
71	Nebraska Correctional Youth Facility—Omaha
1306	Nebraska State Penitentiary—Lincoln
745	Omaha Correctional Center
975	Tecumseh State Correctional Institution
188	Work Ethic Center—McCook
10	Buffalo County Jail
9	Lincoln County Jail
19	Saline County Jail
26	Phelps County Jail
83	Hall County Jail
26	Dawson County Jail
36	Platte County Jail

**5327 Total, July 29, 2015** (5127 July 29, 2014)**Plus 1049 on parole in the community****Frustration at Pardons Board hearing**

According to an *Omaha World Herald* account of the August 24, 2015 Pardons Board hearing by reporter Paul Hammel, the new Nebraska Pardons Board (composed of Governor Pete Ricketts, Secretary of State John Gale, and Attorney General Doug Peterson) has proven to be every bit as un-pardoning as past Boards. A “blanket denial” of a group of petitioners, including four first-degree murder cases, was especially frustrating for relatives and friends who had come to testify for their loved ones.

The Board appears to be following a policy of denying commutations for first-degree murders *in all such cases*, no matter the circumstances of the murders, in spite of it’s constitutional authority to show mercy, and in total disregard of the many successful commutations of first-degree murderers in the past.

**Smart thinking at Starbucks**

The quote below is from a letter by Howard Schultz at Starbucks to U.S. Senator Cory Booker, commending him and his colleagues for efforts to “ban the box” for those with a criminal record.

*At Starbucks, we support the idea that there are smart, compassionate ways to try to provide more individuals a second chance. We do not inquire about criminal histories on initial job applications and we run background checks only after a conditional offer of employment. Our intent is to provide applicants with a criminal history the chance to be evaluated as a whole person by having their circumstances considered on a case-by-case ba-*

*sis, including the opportunity to present any information they choose to ensure we have a full picture of who they are before making a final hiring decision. None of this is charity. We are simply giving people an opportunity—sometimes a second one—to prove themselves while helping to grow our company.*

(Starbucks Newsroom, July 8, 2015)

**A diversion program, Sarpy County**

Sarpy County Mental Health Diversion (MHD) was started in 2014 by Sarpy County Attorney Lee Polikov. Each Sarpy County prosecutor has discretion to refer an individual to MHD if they have been made aware of existing or potential mental health issues by a person’s defense attorney, or through screenings at booking. MHD Manager is Dean Loftus. Phone: 402-593-2206.

**The Nebraska Department of Correctional Services (NDCS) Reentry Initiative**

The Nebraska Department of Correctional Services’ Reentry Initiative, according to information received from Levi Bennett, Vocational and Life Skills Administrator, is a systematic method of helping the incarcerated and/or supervised individual return to his or her community as a law abiding and productive citizen. The NDCS reentry unit does this by providing resources for employment, housing, affordable medical and mental health care, transportation, food and other support services, *in the community*.

But the Reentry Initiative starts at the *beginning* of incarceration. Each individual is given a workbook that gets them thinking about their strengths and also the areas in which they may need improvement. Each person is encouraged to plan for reintegration from day one of incarceration. They identify their needs in housing, education, employment, health, family reunification and whatever else they may need.

Reentry staff encourages each individual to plan what they can do to take care of their needs for reentry while incarcerated. Staff try to meet with each individual at the beginning of their sentence, at halfway through and 120 days before their release. Reentry staff assist with applications, phone calls, phone interviews, housing referrals and provide available resources for whatever each may need.

At the final meeting, each individual is provided an **Action Plan for Success** booklet in which they can write their final plans, regarding housing medical care, addresses, phone numbers, etc. A discharge packet is also given. It contains information on what to do within the first 24 hours and two weeks after release, low-cost options, day reporting centers, affordable health care and emergency phone numbers.

Mr. Bennett explains that the Department’s Vocational and Life Skills Program is currently funding programs operated by eight organizations in the community. Those programs are:

**ReStart—Goodwill** in Omaha

**TRADE—Center for People in Need** in Lincoln  
**Bristol Station** in Hastings and greater Nebraska,  
**Metropolitan Community College** in Omaha,  
**Released and Restored** in Lincoln.  
**Mental Health Association of Nebraska** in Lincoln  
**Prairie Gold Homes** in McCook and Lincoln  
**ResCare Workforce Services**, Omaha and greater Nebr.

These organizations, according to Mr. Bennett, are a critical component of reentry. Reentry staff lay the foundation for reintegration. These organizations provide the direct services that ex-offenders desperately need for successful reintegration.

According to Mr. Bennett, current grant funding will end June 30, 2016. Another grant cycle will begin July 1, 2016. No date has been set as yet for acceptance of applications but information about it is likely to be available around April. Current grantees will be eligible to resubmit for funding.

Levi Bennett can be contacted at: NDCS, P.O. Box 94661, Lincoln, NE 68509. Phone: 402-479-5812

## A question about dental crowns

In a letter to the *NCJR*, an inmate voiced dissatisfaction with the Department of Correctional Services' provision of dental crowns when needed. James Foster, spokesperson for the Department, responded to our inquiry about the policy. He stated, *"The Department will, for restorable teeth, and determined necessary by the dentist, provide three types of crowns: stainless steel, plastic, and temporary. For a restorable tooth, and determined necessary by the dentist, the Department will provide single root canal therapy. Other determined dental needs may be referred to an oral surgeon or can be accessed through the elective procedure protocol."*

## The Lionheart Foundation

Established in 1992, the Foundation is a 501 [c] [3] organization dedicated to providing emotional literacy education programs to incarcerated adults, highly at risk youth, and teen parents, in order to significantly alter their life course.

The Foundation wants people released from prison to know about the support networks that can help them back into society. Toward that end, the Foundation publishes a state-by-state listing of reentry programs.

To find the list, go to [www.lionheart.org](http://www.lionheart.org) and click on "prison project." The mailing address is: P.O. Box 170115, Boston, MA 02117.

## Returning Citizens United

The Returning Citizens United organization will be a stepping stone for the population of returning citizens. Returning Citizens' support program offers pre-release and post-release services to incarcerated and formerly incarcerated individuals and has a peer mentoring program.

Black Men United will be doing training at the Kumani Center, 4200 North 30th Street in Omaha. The Center will be unique due to its wrap-around services. Other services include a Peer Support Group on Saturdays, 12:00 to 4:00 p.m., but please call before coming. We will also be having life and employment skills workshops and substance abuse classes. Please contact Gary Grayson at 402-686-4014 for an appointment.

(The above information was supplied by Returning Citizens United.)

## Ombudsman shares views on TSCI with FFI

Members of Family and Friends of Inmates in Omaha (FFI), being concerned about the riot at the Tecumseh prison, invited the State Ombudsman, Marshall Lux, to be a guest at their August 22nd meeting. Not able to attend, he sent some comments for discussion. The following are excerpts from those comments, shared with permission of Mr. Lux:

*"I can certainly understand why friends and family of inmates would be concerned in the wake of what happened at TSCI on May 10-11."*

*"I believe that we all need to be very patient as regards the restoration of 'normalcy' at TSCI. What happened there was extremely dangerous, and could have been much worse than it was, and I believe that the responsible thing for the Department to do is to 'go slowly' in restoring the facility to a normal 'business-as-usual' status. James Davis of our office is in frequent (almost daily) contact with Warden Gage, and we are following the situation very closely, and they do seem to be making progress in restoring the facility to normal operations."*

*"I believe that there was a certain degree of neglect by the previous administration of DCS when it came to the management of TSCI. Because of where it is located, there have been constant problems with staffing the facility in terms of having enough security staff and/or a sufficiently veteran security staff. Over time, TSCI did seem to be functioning satisfactorily, but the reality was that it was an accident waiting to happen. Of course, that is easy to see now, but as for whether it was 'foreseeable,' in the sense that we should have known that something like this was going to happen, that is another question."*

*"My expectation/prediction is that we are going to see a change in the fundamental nature of TSCI going forward...gradually, but inevitably. The idea would be to 'repurpose' the facility by placing fewer of the hard-to-manage inmates there than has been the Department's practice in the past. Instead of giving TSCI many of the system's more violent, more unstable, more gang-related inmates, what needs to be done is to move those inmates to the Penitentiary and LCC, and replace them with inmates who are easier to manage, for example, protective custody inmates. I realize that this may seem odd, since we are accustomed to thinking of TSCI as the system's MAX facility, but the reality is that, due to its persistent deficits in terms of staffing, we need to 'get real' about the capacity of TSCI, not in the sense of the numbers of inmate it can handle, but in terms of the overall character of the TSCI inmate population."*

**October** is the annual fund-raising appeal month for the *Nebraska Criminal Justice Review*. Please make a contribution if you can. Thank you for your help.

## Receiving this newsletter For the first time?

From time to time we send the Nebraska Criminal Justice Review to persons who, we think, might be interested in its content. It is our way of introducing the publication to a wider readership. If you don't want to receive it, please call 402-558-2085, or e-mail me at [melbeckman@cox.net](mailto:melbeckman@cox.net)

*Mel Beckman, Editor*

## Individualized assistance for re-employment: the “ReStart” program in Omaha

By Jana Dye, ReStart Program Coordinator for Goodwill Industries.  
*Editor's note: This program is funded by a Vocational and Life Skills grant from the Nebraska Dept. of Correctional Services.*

ReStart serves individuals who are currently Nebraska state inmates, parolees, or felony probationers or former state inmates or felony probationers up to 18 months after discharge from state prison, parole, or state probation. ReStart assists citizens with a criminal record as they return to the community by preparing them for work through transitional job opportunities and soft skills training. There are many aspects of the ReStart program to assist individuals with obtaining and retaining employment.

ReStart staff works with participants to develop an Individual Employment Plan that identifies short term and long term goals and then helps the individual to put this plan into action. ReStart staff then work to keep participants on track to meet their goals by providing support in order to reduce as many barriers as possible. Supportive services can include: providing bus tickets to and from work, assisting with resources for housing, food and other needs, providing work attire and/or work tools/ equipment helping eligible participants with identifying and enrolling into other programs as appropriate.

Readiness workshops are available and can assist with basic computer skills, work on developing a resume, creating a letter of explanation, and guidance on how to talk with employers about their criminal records. Peer mentoring groups are similarly accessible to address soft job skills and family support issues such as child support. Retention and advancement services are also provided by ReStart staff to ensure any issues that arise are addressed immediately. This is critical to maintaining unsubsidized employment.

Participants in the ReStart program are also eligible for transitional job opportunities. Transitional jobs can be a permanent or a temporary position. Through these temporary and/or permanent opportunities individuals are given the opportunity to experience the world of work, learn workplace customs/routines, acquire and/or improve job skills, establish an employment record, obtain employer references, and find permanent placement. These are great opportunities for participants to obtain current employment with the support of ReStart staff behind them to assist with navigating unfamiliar routines and other issues that may arise in order to help each person successfully reach their goals.

Participants are requested to maintain contact with ReStart staff to ensure any issues with employment or support services are addressed in a timely manner. ReStart focuses on each participant as an individual and

works to find employment that is a positive environment for both the participant and the employers. ReStart understands that, if you do not enjoy the job and environment you are working in, it can be difficult to reach a successful outcome in your career.

Persons interested in participating in the ReStart program will go through a simple enrollment process beginning with orientation. Orientation is an opportunity for potential participants to learn more about the program and determine if the services offered are a good fit for them. Following orientation, an enrollment packet and Kuder assessment are completed for enrollment. Individuals looking to enroll into the program should begin the process of obtaining copies of identification and a social security card and contact ReStart staff at: 402.934.2805

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## Lincoln’s Center for People in Need is a source of help for newly-released citizens—and many others

By Chris Triebsch, Program Administrator.  
*Editor's Note: The “TRADE” portion of the services listed below is funded by a Vocational and Life Skills grant from the Nebraska Dept. of Correctional Services.*

The Center for People in Need provides comprehensive services and opportunities to support low-income, high needs families and individuals as they strive to lift themselves out of poverty and achieve economic self-sufficiency. In support of this mission, the Center offers the following:

**Nebraska Truckloads of Help** – This program provides for emergency basic needs, including personal care items, household supplies, clothing, furniture and more to low-income families. Through the bonus point system clients may also earn points to purchase goods. Clients may earn points through class attendance and by obtaining and keeping a job, among other things.

**Neighborhood Food** – This program addresses food insecurity by providing low-income families with food from the Lincoln Food Bank. Food is offered Tuesdays and Fridays at the Center for People in Need, Thursdays at the Malone Center and Oak Lake Church and bi-weekly on Tuesdays at F Street Community Center.

**Job Training** – The Center is a designated work site for recipients of federal cash assistance such as Temporary Assistance for Needy Families and Aid to Dependent Children. Job training programs include basic computer, financial literacy, ESL, GED and vocational training in janitorial, institutional food and forklift/warehouse. Some programs, such as forklift training, offer clients the opportunity to become certified, increasing employment opportunities. Resume writing and job-search assistance are also offered.

**ACT Program** – This program helps low-income students pursue higher education and receive 45 free credit hours

at Southeast Community College. Students may participate full-time or part time. Students who choose to enroll full time can receive a laptop with internet access.

**TRADE Reentry Program** – The TRADE Program provides those transitioning out of incarceration, including those on work detail and those who have been released within the last 18 months, with life and vocational skills training and wraparound services to help them successfully reenter the community. Core training includes computer, domestic violence awareness, financial literacy, life skills and General OSHA. Participants then move into a six-week vocational track, including construction, forklift/warehouse, institutional food/event planning or janitorial/building maintenance.

**Refugee Resettlement** – Refugee resettlement assistance includes help with community resources, instruction on how to use medical services, help applying for housing assistance, green card renewal/replacement, citizenship documents, travel documents, U.S. passports, replacement naturalization certificates and employment authorization cards.

**Citizenship** – The Citizenship Program helps immigrants and refugees navigate the naturalization process by offering assistance in completing the N-400 application and classes to prepare for the U.S. naturalization exam and become U.S. Citizens.

**Other Services** - The Center also offers special events throughout the year, providing food and supplies to low-income families. Events include Thanksgiving, Toyland for Kids, Tools for Education, Teen Day, Senior Portraits, Mother's Day and Father's Day. In addition, the Center offers resource books for clients to connect them with other available resources. Additionally, General assistance is offered to help clients apply for Medicaid and SNAP (food stamps.) Clients may also obtain free zoo passes.

## Restorative Justice and a success story

*By Joanna Lindberg*

Restorative justice is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished through cooperative processes that include all stakeholders working toward a positive outcome for all. This is in contrast to the punishment approach of the traditional justice system where the state represents the victim; and the victim often is not involved in the process or given restitution.

Fred Ross, Education Specialist from Heartland Family Service has been teaching a Restorative Justice class for over seven years to the inmates of the Douglas County Jail and Day Reporting Center. During class, Fred tells the offenders, when they commit a crime, the crime does not define who they are for life. Their job is to

accept responsibility for the crime, repair the harm and then work towards becoming a productive citizen fulfilling the dreams they have for themselves and their family.

Fred reports that the class sparks a strong interest in offenders who are beginning to see a new path to their future by understanding the actual harm their crime caused and by realizing they may be able to do something to repair the harm to the community. Satisfaction surveys completed by the offenders show strong positive responses from the class, comments like: "the class gives me hope for my future;" "I never realized how many people were hurt by my crime, the victim, my family and the community."

### The story

A recent success story illustrates, in restorative justice, the importance of repairing the harm done.. A young man was jailed for a string of DUI's and a car accident that seriously injured a man. The offender was a vice-president of a company and from all outward appearances was leading a successful life. However, his negative behaviors continued after each arrest and time in treatment.

The serious DUI and accident resulted in prison time. It gave him the opportunity to reflect on his mistakes and the harm he caused to the victim and the community. He hated himself for all the bad choices he made to drink and drive time and time again.

Upon release from Corrections he began volunteering at a multi-service agency that helped the poor with food, clothing and health care needs. He shared that in his work, he identifies with every person who comes through the door, for he knows what it feels like to be down on your luck. He sees himself in every person he serves.

He took me on a tour of the multi-service facility and showed immense pride in the services available, the professionalism of the program and its welcoming philosophy. Coffee and donuts are provided for the guests while they complete paperwork in the comfortable waiting room. He warmly greeted the guests and staff he knew.

He has had the opportunity to apologize to the victim of his crime and it meant the world to him to have this conversation. What began as a volunteer position resulted in a full time job coordinating the programs and serving as relationship director. Today he feels he is the luckiest person in the world to be doing work that helps the community.

### **Family and Friends of Inmates**

Meetings are held on the fourth Saturday of each month except December, from 9:30 to 11:30 a.m. at First Christian Church, 6630 Dodge Street in Omaha. If you care about someone in jail or prison, you are invited!

**Next meetings:** October 24th and November 28th. For more information, call 402-558-2085.

# LETTERS

## Regarding recent events

After two months, I've yet to hear much on the issue of *why* the May 10th event really happened. The bottom line was overwhelming frustration over the closing of the yard, which was not needed. Nebraska is not Texas, California, or Illinois. The violence level is low. Yet, the Nebraska Department of Correctional Services is treating the inmates as if they are in the same category as inmates in those states. No one involved in the May demonstration attempted to harm any staff. The inmates were pretty peaceful until the inmate in front of the gym was shot. That one shot escalated all that happened afterwards.

The housing units that did not participate in the riot are still being treated as if they were. Punishing everyone for a few is what caused many to unite in the first place. There's no reason the day-room and yard, phones and showers shouldn't re-open now.

Brad Simmons 54479  
Tecumseh State Correctional Institution

## A state of emergency was needed

After Director Frakes was made aware that the Tecumseh State Correctional Institution was understaffed and over-populated with inmates, and that it housed long-term-sentenced violent offenders, it was part of his official obligation to call for a state of emergency. His failure to do so jeopardized the lives of staff and inmates and caused the death of two inmates on his watch.

Barry Fletcher, Sr. 67933  
Tecumseh State Correctional Institution

## Mother's Day mayhem: the prison riot

I'm writing on behalf of Rashad Washington and the false accusations of him being a violent mob leader. There was no one leader. The truth of the matter is that the majority of inmates here decided to come together in unity for one cause, and that cause was to lift the oppression here in Tecumseh.

Blacks, Hispanics, Natives, Whites—its impossible for one man of any race to be the leader of all these groups. For us, uniting was no easy task. We had to put aside all differences, find a common ground, reach an understanding and then come to an agreement. That took time and patience. This was no spur of the moment demonstration, yet it was organized to be a peaceful protest. We had no violent intentions.

When Rashad Washington was shot, he wasn't trying to gain access to the gym, he was standing on the walkway with his back towards the gym, facing the tower holding a bright yellow folder containing a petition in the air. No one was trying to get to any employees. We were encouraging the others in the gym to come outside and join the protest.

The fires, the chaos—Rashad Washington was

long gone by then—but they would place the blame on the person whom they happened to shoot. Could it be that they struck the match igniting the fire within the inmates of Tecumseh?

Joshua D. Ballew 79093  
Tecumseh State Correctional Institution

## Disheartened

This letter is in regards to a grievance that some of we inmates have with the editing practices of the **NCJR**. At times you are inclined to omit context when you reduce the letters. My letter in the last June issue was written with the intention of bringing light to contributory elements of the May 10th riot. The term "riot" was completely omitted from my letter.

Another example (since I'm getting things off my chest), I wrote a very solid article in June, 2013 relating to the deliberate indifference in our medical and mental health care system. You rejected it on the premise that it was too strong. To this day, I read this article and don't understand why you would reject it. It was rooted in case law and constitutional law and had all the legalese appropriate for a criminal justice review newsletter. Ironically, Nikko Jenkins got out a month after I wanted to publish my article and did what he did as a direct result of the system being deliberately indifferent to his mental health needs (these facts are proven). I can point to five more deaths specifically corresponding to Tecumseh State Correctional Institution's medical and mental health care's deficient system—but who really cares?

Well, I still care and I will continue my quest to expose the evils that I see in our prison system, as it relates to our prison policies/procedures—the evils that stifle life, health, and humane treatment. In the meantime, I hope you will stop softening the truths as they are told to you with regards to our prison system and the manner in which it operates. If you insist on reducing the letters then why not implement maximum word-limits? Just keeping it real.

Floyd Morrison 74703  
Tecumseh State Correctional Institution

## Nothing is changed

In his last correspondence, Director Frakes stated there would be some changes in the next 60 days, but there haven't been any. The general population is still locked down. They keep using the excuse that its for the safety and security of the prison. But the riot has been controlled., the inmates that caused it are in the hole and yet the administration isn't lifting anything. This is causing a lot of tension in the inmates.

Besides all this, staff claim that they have a company here to finish up the repairs, but its been months and this so-called company hasn't done much.

The general population is still suffering punishment and being locked down 23 hours a day while the protective custody inmates have their privileges back. How fair is this?

Paul Castonguay 70764  
Tecumseh State Correctional Institution

## Quotes from Legislative Bill 598

**Editor's note:** Direct quotes from this important bill are offered here to facilitate understanding of the significant changes/reforms enacted by the 2015 Legislature.

### Overcrowding

Until July 1, 2020, the Governor may declare a correctional system overcrowding emergency whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. Beginning July 1, 2020, a correctional system overcrowding emergency shall exist whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity.

### Office of Parole Administration

Until July 1, 2016, the office shall be within the Department of Correctional Services. Beginning July 1, 2016, the office shall be within the Board of Parole. The director and the board shall jointly develop a transition implementation plan. The plan shall be presented to the Governor and to the Legislature no later than December 1, 2015.

### Mental illness

Any committed offender with a mental illness shall be provided with the community standard of mental health care. The mental health care shall utilize evidence-based therapy models that include an evaluation component to track the effectiveness of interventions.

Any committed offender with a mental illness shall be evaluated before release to ensure that adequate monitoring and treatment of the committed offender will take place, or, if appropriate, that a commitment proceeding under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act will take place.

### Restrictive housing

The director shall issue a report to the Governor and the Legislature no later than July 1, 2016. The report to the Legislature shall be issued electronically. The report shall contain a long-term plan for the use of restrictive housing with the explicit goal of reducing the use of restrictive housing.

Beginning July 1, 2016, no inmate shall be held in restrictive housing unless done in the least restrictive manner consistent with maintaining order in the facility and pursuant to rules and regulations adopted and promulgated by the department pursuant to the Administrative Procedure Act.

The director shall issue an annual report to the Governor and the Clerk of the Legislature. The report to the Clerk of the Legislature shall be issued electronically. For all inmates who were held in restrictive housing during the prior year, the report shall contain the race, gender, age, and length of time each inmate has continuously been held in restrictive housing.

### Definition of terms

Restrictive housing means conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and out-of-cell time of less than twenty-four hours per week.

Solitary confinement means the status of confinement of an inmate in an individual cell having solid, soundproof doors and which deprives the inmate of all visual and auditory contact with other persons

## Inspector General

It is the intent of the Legislature to:

- Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska correctional system.
- Assist in improving operations of the department and the Nebraska correctional system.
- Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the supervision and release of persons in the Nebraska correctional system.

The Office of Inspector General of the Nebraska Correctional System Act does not require the Inspector General of investigate all complaints. The Inspector General, with input from the Public Counsel, shall prioritize and select investigations and inquiries that further the intent of the act and assist in legislative oversight of the Nebraska correctional system. If the Inspector General determines that he or she will not investigate a complaint, the Inspector General may recommend to the parties alternative means of resolution of the issues in the complaint.

### A long-term restrictive housing work group has been named

**Editor's Note:** This group was mandated by LB 598. The members are listed in the categories of membership prescribed by the legislation. Membership information was provided by Jeff Beaty, Research Director at the Department of Correctional Services.

**The Director and Deputy Directors:** Scott Frakes, Robin Spindler, Diane Sabatka Rine, Mike Rothwell, Randy Kohl, John McGovern

**The Director of Health Services:** Randy Kohl

**The Behavioral Health Administrator:** Lisa Jones

**Two employees working with inmates held in restrictive housing:** Brandon Noorhoek, Megan Cruickshank

**Additional department staff as designated by the Director:** Dr. Martin Wetzel, Chief of Psychiatry; Jeff Beaty, Research Director; Brian Gage, TSCJI Warden

**Four members appointed by the Governor (Two representatives from a nonprofit prisoners' rights advocacy group, including at least one former inmate):**

Kasey Moyer—Mental Health Association  
Heather Rhoden—Former inmate

**Two mental health professionals independent from the department with particular knowledge of prisons and conditions of confinement:**

Cassandra Dittmer, licensed Mental Health Practitioner and Marriage and Family Therapist  
Kari Perez— licensed Psychologist

Angela Browne from the Townsend Initiative (subject matter expert) and James Davis from the Ombudsman's office will also be participating with the work group.

# NEBRASKA CRIMINAL JUSTICE REVIEW

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**Editor:** Mel Beckman, 402-558-2085.

**E-mail:** melbeckman@cox.net

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**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.

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## President urges prison reform (Continued from page 1)

aside: Lincoln has one of the best police community relations programs in the nation. The NYPD is imitating it!

**Courtroom** He reiterated his call to reduce or eliminate mandatory minimum sentences, especially for nonviolent drug crimes. He called for penalties that would teach and reform, like drug courts, alternatives to prison, drug, alcohol and mental health treatment. Besides being effective these programs would save taxpayers thousands of dollars.

**Cell Block** Prisons should provide job training, education and rehabilitation and should be rid of overcrowding, gang activity and rape. He asked that their overuse of solitary confinement be reviewed as it makes inmates more alienated, hostile, and violent.

Nebraska has made a major commitment to prison reform. Nebraska's problems and shortcomings are similar to those outlined by President Obama. They have been studied, identified and are being addressed by the Legislature and the Department of Corrections. But the job has just begun. It is our task as citizens to promote, encourage, and get involved in this process. Talk to your neighbors and fellow church members, write letters to the editor, and contact legislators. There is positive energy. We can keep it going.

## Last minute news

by John Krejci

**1.** Another inmate petition, signed by 863 Nebraska State Penitentiary inmates, was sent to Director Frakes this month. Some of the grievances enumerated were: overcrowding, the continued lockdown and lack of programming, disrespectful and inhumane treatment by some staff, and some "smaller" issues that are magnified in a confined, restricted environment.

**2.** The Department of Correctional Services' newly-formed Restrictive Housing Work Group met on September 15th. It was mandated by LB 598 to reduce duration and usage of solitary confinement and protective custody, and improve mental health treatment. Director Frakes chaired the meeting and presented a proposal to improve mental health treatment at TSCI, alleviate overcrowding at the Diagnostic and Evaluation Center, and to increase by 196 the beds available for inmates. A cordial, extended discussion ensued. James Davis, from the Ombudsman's office, gave significant input from an inmate perspective. Director Frakes demonstrated a strong commitment to address the issues and stated his intent to eliminate long periods of segregation and to "get rid of disciplinary segregation" because it doesn't work.