

# Nebraska Criminal Justice Review

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## Money from war on drugs flows to local law enforcement agencies in Nebraska

By Mel Beckman, Editor, NCJR

Each year, local law enforcement agencies receive hundreds of thousands of dollars from the U.S. Justice and/or Treasury Department as a result of their participation in drug investigations and arrests. The Omaha and Lincoln Police Departments and the Douglas County Sheriff's Department all have "equitable sharing" agreements with the Federal Government, and receive part of the money and property forfeited by those convicted of drug crimes.

The forfeited funds received by law enforcement agencies can be very substantial. Each year, a participating agency must submit a report on its usage of the funds. The reports submitted by the above three agencies listed the amounts they received in fiscal year 2012:

**Douglas County Sheriff's Dept.: \$971,179**  
**Omaha Police Dept.: \$860,914**  
**Lincoln Police Dept.: \$86,354**

The shared funds can be carried over and saved from one fiscal year to the next. The Douglas County Sheriff's office had a balance of \$2,497,661 from the previous year. The Omaha Police Department had a carried-over balance of \$512,376. The Lincoln Police Department had a carried-over balance of \$584,439.

In fiscal year 2012, the Lincoln Police Department spent most of its 2012 funds on communications and computers, ending the year with a balance on hand of \$597,856.

The Omaha Police Department spent \$504,708 during the year, on travel and training, communications, buildings and other expenses, ending the year with a balance on hand of \$389,705.

The Douglas County Sheriff's office spent \$919,348 during the year, and itemized 402 separate expenditures, from K-9 supplies to targets, to technology. The year-end balance was \$2,552,414. An August 22, 2011 *Wall Street Journal* article, "County Sheriff Enjoys Fruits of Forfeitures," noted that the Douglas County Sheriff's office had "just finished a new \$4.2 million crime lab and police-dog center thanks to money seized from people driving by on Interstate 80."

At first thought it might seem completely appropriate that the Federal Government would reward local law enforcement agencies with funds and property which they helped liberate from criminals. But there are critics (search for them on the web under "asset forfeiture") who worry, among other things, about the legitimacy of providing law enforcement agencies a financial incentive to go after law-breakers.

That concern was also expressed by long-time civil rights advocate and litigator Michelle Alexander in her book, *The New Jim Crow: Mass Incarceration in the Age of Color Blindness*. (The New Press, N.Y., 2010) In discussing federal forfeiture legislation, she wrote, "Despite all of the new procedural rules and formal protections, the law does not address the single most serious problem associated with drug war forfeiture laws: the profit motive in drug law enforcement. Under the new law, drug busts motivated by the desire to seize cash, cars, homes, and other property are still perfectly legal. Law enforcement agencies are still allowed, through revenue-sharing agreements with the federal government, to keep seized assets for their own use."

The rules governing the equitable sharing program can be found in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, published by the U.S. Department of Justice. The *NCJR* invites your views on this subject, for our September issue. See also page 9 for an additional article on this topic.

## Efforts to end "partial lockdown" at NSP and Tecumseh have led to modification...but more is needed

By John Krejci

Toward the end of 2012 the Dept. of Corrections initiated a partial lockdown that confined inmates to their cells (at TSCI & NSP) for up to 22 hours a day. The open yard policy was eliminated. The reason, as always, was the one reason that trumps all: "safety and security," the major goal of the Department's mission statement.

To the credit of Director Houston and DOC administrators, this policy has been modified. They responded to pressure from the Ombudsman's Office, a petition signed by over 500 inmates, and letters published by the NCJR from individual inmates. As of May 3, 2013, "Summary of Out-of-Cell Time" states that it is 8.75 hours

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**Lockdown (Continued from page 1)**

at TSCI and at NSP 8.5 hours. (There seems to be some question, however, whether an hour at TSCI was double-counted.) This is a substantial improvement from the 5 hours reported January, 2013. Besides the one and a half hours daily for meals about 7 hours are allowed outside cells in “dayrooms.” The Department describes this policy for NSP as follows:

*Dayrooms Open: 0830-1030; 1300-1530 and 1815-2015 (maximum capacity 20). Inmates can remain in the dayroom any of these times or opt to attend other scheduled outdoor recreation yard (minimum of 1 hour per day) (Editors note: Did DOC mean “maximum?”), gymnasium or program activities, shower, clean cells or use inmate calling system. During times of extended daylight, 2 evening yard sessions are scheduled and available for individual housing units on a rotating basis.*

Inmates can thank the Ombudsman’s Office for responding to their numerous complaints. The Ombudsman met several times with DOC administrators, toured facilities – particularly LCC, which is not under partial lockdown—and communicated inmates’ concerns to Director Houston. The dialogue is ongoing.

The Ombudsman reminded the DOC that they are guided by the American Bar Association’s standards on treatment of prisoners, Standard 23-36a: “To the extent practicable and consistent with prisoner and staff safety, correctional authorities should minimize the periods during the day in which prisoners are required to remain in their cells.”

In addition Standard 23-36b states: “Correctional authorities should provide all prisoners daily opportunities for significant out-of-cell time and for recreation at appropriate hours that allows them to maintain physical health, and, for prisoners not in segregated housing, to socialize with other prisoners.”

As part of the ongoing communication, the Ombudsman has pointed out that LCC, The Lincoln Correctional Center, has successfully managed general population inmates’ access to yard without compromising their traditional freedom of movement outside their cells. It will take some “thinking outside the box” to improve out-of-cell time for NSP and TSCI.

An issue that has not been satisfactorily resolved is access to programs and activities, e.g. clubs, programming and hobbies. Director Houston, in response to my letter questioning the wisdom of the partial lockdown, stated:

“1. All programs have been fully restored at both facilities, although access to these programs and activities have been modified as necessary to maintain scheduled and controlled inmate movement.” He later states:

“5. While the frequency of monthly club meetings has decreased, all clubs are afforded bi-monthly club meetings (Editors note: Does DOC mean by-

weekly?) and special events consistent with policy. Hobby activities continue to be available at all facilities. However, as has always been the case, hobby programs differ from institution to institution.”

If I understand this correctly, inmates complain that their club activities have been substantially curtailed. Jameson Hall (aka Ananzi), Vice President of HACO at TSCI wrote me :

“I can only speak to that which I have experienced directly, John. I have been a member and/or board member of these groups since my arrival at TSCI in 2010. They saved me.”

Now, the problem is that at a certain point in time (7 months ago, prior to modified operations), a well intentioned man could attend all of these organized meetings on a weekly basis for two solid hours worth of work. At this time, meetings have been cut to twice monthly for an hour and fifteen minutes. Which leaves little time to deal with club business (budgeting, votes, nominations, elections, reading of minutes, old business, new business general discussion), let alone time for our educational curriculum. This is completely exasperating as you can well imagine, because the educational curriculum is our reason for existence. If we can’t get to it, what is the point? The point that I am trying to make is that the self betterment/self help organizations here provide an invaluable service to the community and our efforts are being squelched by the myopic policies of NDCS. Not only do they not fund re-entry and rehabilitative programs, they strangle those that have arisen from their engineered void....

Our groups don’t ask for anything from the administration – nothing more than the ability to operate at our full capacity to have the greatest impact on people.” (Private correspondence of Jameson Hall, April 11, 2013)

Of course, the main concern with the partial lockdown is that it minimizes the hours available for inmates to be out of their cells. In this context one should reflect that most inmates are in two-person cells with about 30 square feet of usable personal space each and that presently inmates must spend 16 hours alone with their cellmate.

What needs to be negotiated further is the limiting of club time, access to programming, and other important activities. Whereas I acknowledge that safety and security are necessary for the operation of a correctional institution, I agree with Ombudsman Marshal Lux that “out-of-cell time is an issue that involves fundamental standards and principles of humane treatment of prisoners, principles that are the expression of the moral imperatives of our society in regard to how we treat each other as fellow human beings – concerns that are far from being minor matters or insignificant details.”

In conclusion the Department should be commended for stating that they “remain committed to expanding programs and activities to provide additional opportunities for inmates to engage in structured activities outside their cells...” I am confident that the Department will work with all interested parties to live up to this commitment.

**See also page 6 for comments related to this article**

## Three years of life sentences in Nebraska Racially, 73% are persons of color

By Mel Beckman, Editor, NCJR

In the past five years the *Nebraska Criminal Justice Review* has given considerable attention to the juveniles who were sentenced to life in prison for crimes they committed before the age of 18. Thanks to the passage of the U.S. Supreme Court decision in *Miller v. Alabama*, and Nebraska's LB 44, those individuals now have some hope of eventual return to the community.

But under the "other" death sentence in Nebraska are some 210 persons serving life without possibility of parole. Judges are adding about 8 more each year. The information below is about those sentenced during the recent past.

With the help of Nebraska Department of Correctional Services' records, the NCJR found that courts have committed a total of 25 men and one woman to prison in the last three years (May, 2010 to May, 2013), with sentences of a minimum of life and a maximum of life. Eighteen of the inmates are less than 30 years old at this time. Racially, 27% are white and 73% are persons of color. Sixteen (62%) were sentenced in Douglas County. Of those sixteen, twelve (75%) are persons of color. These statistics merit some discussion, especially the disproportionate number of people of color being sentenced to life in prison lately.

In addition to exploring the number, age and racial characteristics of Nebraska's most recent life-sentenced inmates, the *NCJR* also calculated the financial cost of sentencing Nebraska citizens to life, given a life expectancy of 75 years and the fact that they are denied parole, no matter how old they are. (The *NCJR* has no information about the actual life expectancy of life-sentenced individuals in Nebraska or the United States. If someone can provide it, it will be printed in our next issue.)

Starting with the inmates' current ages, we determined the number of years each would serve before reaching age 75.. The total number of years until age 75 yet to be served by the 26 as a group was found to be 1,175. That number was then multiplied by the average cost per year in prison for each inmate (\$35,981). The cost per year was found by averaging the Department's stated cost per year in the five prisons where lifers are housed. Using the above figures, the projected financial cost for the 26 life sentences is **\$42,277,675** when calculated in today's dollars. The high cost of life sentences also merits discussion.

Name/ Inmate #	Current Age	Entered Prison	Race	County	Years to Serve	Projected Cost
M. Patton 77313	23	2013	Black	Douglas	52	\$1,871,012
M. Williams 77189	37	2013	Black	Sarpy	38	\$1,367,278
A. Jones 77079	27	2012	Black	Douglas	48	\$1,727,088
N. Ely 77049	22	2012	White	Douglas	53	\$1,906,993
D. Dubray 77026	27	2012	N Am	Box Butte	48	\$1,727,088
S. Kirkpatrick 76915	21	2012	White	Red Willow	54	\$1,942,974
R. Elseman 76899	21	2012	White	Douglas	54	\$1,942,974
J. Tamayo 75799	29	2012	N Am	Douglas	46	\$1,655,126
S. DeJong 97824	57	2012	N Am	Jefferson	18	\$ 647,658
D. Morgan 75590	29	2012	White	Scottsbluff	46	\$1,655,126
D. McClain 75419	22	2012	Black	Douglas	53	\$1,906,993
K. Watt 75261	27	2012	Black	Douglas	48	\$1,727,088
S. Lopez 75247	34	2012	Hisp	Sioux	41	\$1,475,221
J. Watson 74508	54	2011	White	Douglas	21	\$ 755,601
R. Nave 74280	39	2011	Black	Douglas	36	\$1,295,316
L. Alarcon-Chavez 74196	34	2011	Hisp	Madison	41	\$1,475,221
M. Camacho-Dejesus 74006	33	2011	Hisp	Dakota	42	\$1,511,202
E. Ramirez 72835	22	2010	Hisp	Douglas	53	\$1,906,993
J. Castaneda 72833	21	2010	White	Douglas	54	\$1,942,974
M. Fox 72761	25	2010	White	Lancaster	50	\$1,799,050
D. Smith 72627	29	2010	Black	Douglas	46	\$1,655,126
J. Foster 72626	25	2010	Black	Douglas	50	\$1,799,050
P. Baldwin 72614	49	2010	Black	Douglas	26	\$ 935,506
J. Nolan 72379	23	2010	Black	Douglas	52	\$1,871,012
M. Abdulkadir 72241	24	2010	Black	Hall	51	\$1,835,031
T. Taylor 72022	21	2010	Black	Douglas	54	\$1,942,974
<b>Total:</b>						<b>\$42,277,675</b>

## Pledge for peace “*behind the wall*”

### Is it worth it?

By Teela A. Mickles,  
 Founder/CEO of Compassion In Action Inc.

Several years ago, I spoke with community leaders regarding progressive interaction with incarcerated men, in a way that would benefit the men serving long term and life sentences as well as the community they once offended. Compassion In Action conducted surveys in several institutions; Tecumseh, Lincoln & Omaha. Tecumseh was the most consistent and committed in response. The surveys resulted in the community interacting with and supporting the mission and efforts of prison self-betterment clubs. Compassion In Action responded with our *Community Corrections Connections Initiative* (CCC).

As a result of the development of relationships between community partners and the self betterment groups in TSCI, a combination of the self-betterment group leaders gathered together on April 23, 2013 to join Compassion In Action, in partnership with Empowerment Network of Omaha, to sign the **Omaha 360 Pledge for Peace “Behind the Wall”**. (See insert on page 5)

The Omaha 360 Pledge for Peace has been signed by Omaha Public Schools, neighborhood associations, civic and civil leaders including Omaha Mayor Suttle, Omaha Police Department, businesses, faith groups, service agencies and a number of organizations and individuals. It was revised to accommodate incarcerated persons. Bob Houston, Director of the Nebraska Department of Correctional Services (NDCS), also signed the pledge and spoke at the symposium.

This may have been the first time in the history of the Nebraska correctional system that representatives from all the cultural self-betterment groups were allowed to be in attendance at the same symposium.

Tecumseh State Correctional Institution is also probably the only correctional facility in the country that has men in leadership committed to peace behind the walls, in partnership with the community they once offended. So one may ask, just how beneficial is it for inmates and the community to be in partnership with a pledge for peace?

In 2010, Compassion in Action began teaching classes to boys incarcerated at the Nebraska Correctional Youth Facility. Since that time, we have graduated 6 classes of young incarcerated boys from our Pre-Release, Education/Reentry Preparation class and will begin a new session this month.

In response to the hunger these boys have for a man to speak to their lives, I asked my class if they would listen to an ‘Old G’ (Old gangster) who was in the “Big House”, (where they all believe they are destined to go) Their response was an overwhelming ‘yes’ as if I

were going to introduce them to a celebrity. I received special permission to make this happen and the men in self betterment clubs in Tecumseh were excited for the opportunity to give words of encouragement and warning to young boys, in hopes it will keep them from giving their lives away to negative and criminal behavior.

Through an extension of Compassion in Action’s Pen Pal Program, the men write Compassion in Action, (anonymously) to “Little Bro,” or “Lil Homey,” and I give the letters to the Warden for his approval.

The response was a serious **GOD THING** as these young boys hungrily receive input from a **MAN**, who really had “walked a mile in their shoes.” Some times the boys had tears in their eyes as the Big Brothers shared their personal experience which sounded exactly what the young boy was going through right at that moment. Through the letters, the boys are encouraged to pay attention to the people trying to help them and make different choices for a successful future and a hope.

So is it worth it? Is getting word out to the community about the positive efforts being made by committed men working in unity and consistently pressing through the difficulties of being incarcerated, worth it? Is it worth it, for men who may never see life outside of concrete walls and barbed wire fences, to care enough to still reach out and touch?

Maybe one day we will hear from some of those young men who took heed to the wisdom shared by the “Old G’s” and write about it in their college theses. Or maybe one will hire a returning citizen in his own company because he remembered the days when a big brother in TSCI led him in the right direction.

As long as there is life, there is hope, and God is able to make a difference through anyone willing to step outside of themselves, breathe in the gift of life and dare to give back. YES, IT IS WORTH IT!

### See the Nebraska Board of Pardons in session

The Board’s next meeting is on August 15, 2013. at 1:00 p.m. in the Governor’s hearing room on the second level of the State Capitol in Lincoln. On the agenda are 44 items involving requests for pardons, reprieves from driving license suspensions, and requests for restoration of the right to possess firearms. No requests for commutation of sentences are included on the agenda. The Board is composed of the Governor, Secretary of State and the State’s Attorney General.

## Take the Omaha 360 Challenge!

United for PEACE AND PROSPERITY!

### A Community pledge for peace and action behind the walls!

We have lost too many of our friends, family, neighbors, co-workers, and community members to gun violence. Please join in our efforts to help save lives and transform our community. Let's come together to make our community safe! We all deserve a safe and peaceful place to live. Help keep our families and community safe! This is a community call for PEACE Behind the Walls and PEACE On the Streets!

### DO YOUR PART! TAKE A STAND FOR PEACE

Make a formal commitment to PEACE and PROSPERITY for our families and community!

1. **Parents and family members**, make a family commitment to peace and non-violence. You have the greatest influence. Tell family members it's time to put down the guns.
2. **Students and young adults**, make a commitment with friends and peers to peace and non-violence. Talk to your friends about keeping the peace.
3. **Gang members and former gang members**, make a commitment to peace, solve issues "beefs" in a non-violent way, and get connected with groups and organizations that are providing positive alternatives and opportunities.
4. **Become a positive role model for current and new inmates.**
5. **Join a self-betterment club or other self improvement classes.**
6. **Maintain a positive peaceful attitude toward administration when concerns arise.**
7. **Support efforts of all self-betterment groups and positive classes & initiatives.**
8. **Adopt a new inmate.** (select and direct a new inmate in the positive direction)
9. **Partner with community volunteers, colleges, employers for opportunities to give back.**
10. **Speak up and step forward to promote peaceful solutions in the time of crisis.**

### Omaha 360

*A City United for Peace & Prosperity in Every Zip Code and Neighborhood*

**PLEASE SUPPORT OMAHA 360 Collaborative Partners & others making a difference every day!**

**FOR A COMPLETE LIST, please go to [www.empoweromaha.com](http://www.empoweromaha.com) and click on Omaha 360.**

**Facebook: Omaha 360 and Omaha 360 Challenge**

The next Nebraska Criminal Justice Review advisory meeting will be on **August 7th 10-11 a.m.** at Holy Family Church, 18th and Izzard St. in Omaha. Your ideas for the newsletter are invited.

If you cannot attend the advisory meeting but have a suggestion about something that you would like covered in the newsletter, call the Editor at **402-558-2085** or send an e-mail to [melbeckman@cox.net](mailto:melbeckman@cox.net)

## Prairie Gold Homes: Helping the incarcerated learn construction

*By Renee' Bauer, Executive Director, Prairie Gold Homes*

Prairie Gold Homes (PGH) is a 501(c)3 non-profit organization that provides training for incarcerated individuals with a goal of reducing recidivism rates. We offer a certificate program in partnership with the Home Builders Institute based in Washington D.C. Our pre-apprentice certificate and jobs skills training, combined with OSHA and first aid training, provide incarcerated persons with the background and skills set to become employed upon release from the prison system. The program allows graduates an opportunity to earn a livable wage in a growth industry throughout Nebraska. Incarcerated persons selected for the program must meet high standards: they must obtain a GED and score in the upper range of TABE testing. The individuals in the program must apply for admittance and participate in an interview process to assure they qualify and are good candidates. Program participants are taught construction skills beginning with classroom training followed by hands-on building.

One of the positive outcomes of the program is PGH students' construction of affordable housing for Nebraskans. We build both modular homes that are shipped to rural Nebraska where affordable housing is in short supply and affordable housing on site in partnership with the City of Lincoln's Urban Development Department, NeighborWorks and other housing groups.

PGH began a new cohort of 6 students on June 3, 2013. We continue to grow and expand our training opportunities and provide opportunities to incarcerated individuals to succeed in numerous ways upon release. Perhaps the best way to convey the impact that Prairie Gold Homes is making is by reading stories written by two recent PGH graduates. You will find them on page 11 of this newsletter.

# NEWS and MISCELLANEOUS

By Mel Beckman, Editor

## Important new publication

**“Tinkering with Life: A Look at the Inappropriateness of Life Without Parole as an Alternative to the Death Penalty”** *By Ashley Nellis,*

This article was published in the Winter, 2013 issue of the University of Miami Law Review, Volume 67, pp. 439-457. The author is a Senior Research Analyst at the Sentencing Project in Washington, D.C. She leads the organization’s research and legislative efforts on juvenile justice matters and monitors state and federal statistics on individuals serving life sentences with and without the possibility of parole.

Ashley will speak in Omaha on June 29th. See article on page 12.

## Visit an inmate whom you know

Corrections officials assure us that they are happy to facilitate prison visiting and they say that inmates who have visitors have a better chance of doing well after release. Most inmates look forward to having a visitor but some rarely or never get one. So, this editor urges that, if you know of a prisoner from your neighborhood, church or hometown, consider visiting that person. Write to the prisoner and offer to visit. The prisoner will need to send you a visiting form which you will fill out and return to the prison. After some weeks you will probably be approved and can visit.

To find the specific prison, inmate number and picture of the prisoner, you can go to the website of the Nebraska Department of Correctional Services ([www.corrections.state.ne.us](http://www.corrections.state.ne.us)). Click on the section entitled “Inmate Locator”. Then see the various prison [mailing addresses](#) listed below.

Nebr. State Penitentiary, Box 2500, Lincoln NE 68542  
 Lincoln Correctional Center, Box 22800, Lincoln NE 68542  
 Nebr Corr Cntr for Women, 1107 Recharge Rd, York NE 68467  
 Omaha Corr Cntr, Box 11099, Omaha NE 68111  
 Tecumseh State Corr Instit, Box 900, Tecumseh NE 68450  
 Diagnostic & Eval Cntr, Box 22800, Lincoln NE 68542  
 Comm Corr Cntr Omaha, 2320 Ave J, Omaha NE 68110  
 Comm Corr Cntr Lincoln, Box 22800, Lincoln NE 68542

## Prison population up after slight decrease

From 2006 to 2011, Nebraska’s prison population decreased by 3%, and ended with 4,511 inmates in 2011, according to a Pew Charitable Trusts Infographic printed in the March 31st monthly data sheet of the Nebraska Department of Correctional Services. However, the April 30, 2013 data sheet of the Department showed 248 more inmates in custody at the end of April this year, compared to the 4511 at the same time last year. That represents an increase of 5% in the last year, and a population at 149.89% of capacity.

## Nebraska law enforcement offices cautioned by ACLU Nebraska

A May 10, 2013 news release from ACLU of Nebraska said that the agency recently sent a letter to 90 county sheriff’s offices, 130 police departments and the Nebraska Law Enforcement Training Academy. The agency urged them to refrain from participating in voluntary “immigration detainer” programs, citing concerns of constitutional violations and that the programs are costly to local tax payers.

The detainer program, run by the Federal Immigration and Customs Enforcement Agency (I.C.E.), involves a request from the federal government asking a local law enforcement agency to hold an individual while the federal government determines the individual’s immigration status. In Nebraska, some law enforcement officials have been participating in the program and others have been concerned about holding someone when no warrant has been issued and no charge of a crime has been made.

## National website for sex offender travelers

A reader sent in the following observation. “Every state (and even different municipalities within some states) have conflicting and confusing information “sources” for what a sex offender must do in order to remain in compliance for reporting being away from one’s ‘primary residence’. I have not been able to find a single resource for what is required if you plan to go on a vacation, visit someone out of your primary residence area, etc. To whom do you report, what to report, and when and how is this reporting done? A great project for someone who knows how to set up and maintain websites!!!”

## Petition

In April of this year, a change in the shower schedule at one of the housing units at the Tecumseh State Correctional Institution prompted signing of a petition in opposition by 62 inmates. The inmates were concerned that gym and yard activities would be curtailed by the schedule.

## Comments by Corrections Director Robert Houston in reference to an article by John Krejci, pages 1-2

I appreciate John Krejci’s perspective and conclusion in his article that addresses our scheduled yards at LCC, NCYF, TSCI and NSP.

I would like to add that from the moment we modified operations at each facility, we were determined to maximize out of cell time under a much more controlled operation at each facility. These changes will continue as we work to the benefit of the inmates and enhanced facility safety. We are especially interested in extending yard time at some point in the near future.

The complaints we have received have been surpassed by inmate comments that they feel safer and by an immediate drop in the predatory behavior carried out by multiple inmates. Staff members are noting greater inmate engagement in education and treatment programs; specifically, better attendance and participation.

## Unresolved questions concerning sex offenders and civil commitment in Nebraska: And some answers, Part II

By John Krejci

In the March issue of NCJR, I made some observations and asked questions about sex offenders and civil commitment in Nebraska. The article took exception to the "War on Sex Offenders" mentality that has made sex offenses the most common cause of incarceration in Nebraska (18.2 % vs. 14.1% for drug offenses). Evidence was presented to refute the myth that sex offenders are more likely to recidivate. The rate of recidivism for sex offenders is between 5% and 15 per cent whereas that of non-sex offenders is 25% and as high as 65% nationwide. I took exception to the wisdom of LB 1199 which has complicated and lengthened the stay of civilly committed offenders.

The March article generated some response from Dr. Shannon Black, Clinical Director of the Lincoln Regional Center. She pointed out that sex offender treatment is not a simple problem. Some sex offenders are treated while in prison. Some are uncooperative and refuse treatment. Others are committed under the Sex Offender Commitment Act, while mental health boards have committed 42 patients since 2006. There are approximately 100 patients currently receiving sex offender treatment at the Lincoln and Norfolk Regional Centers. As was stated in the March article, the price for this is in the \$30 million range annually.

Dr. Black stated: "From 2010-2012, about 700 sex offenders were discharged from the Nebraska Department of Correctional Services. Of those 427 were evaluated due to the statutory requirements. Only 61 were found to meet "dangerous sex offender" criteria and 29 were placed under "committed for inpatient services" which is less than 10% of those evaluated. Another 13 were placed under "outpatient" commitment. The remainder were in some pending status or had some other outcome."

Dr. Black confirmed my statement that about 10 Committed Sex Offenders were released from 2006-2010, but noted that more had been released in 2011- 2013. We still need to know more about rates of release and years of confinement, but this information is a welcome addition to our knowledge.

This article will primarily address the wisdom and effectiveness of the sex offender registries. It is based on the Nebraska Sex Offender Registry Study: Interim Report, produced by the UNO Consortium for Crime and Justice Research, Dec. 10, 2012. The final report to the Judiciary Committee is due out later this summer.

The goal of that report is to evaluate the effectiveness of sex offender registries. The purpose of registries is to lessen the chance of sex victimization. The precise question proposed is "Do registries required by acts such as Adam Walsh using type of crime predict risk as well as evaluating sex offenders using a validated risk assessment instrument?" In 2009, joining the national trend, Nebraska passed LB 285 which "abandoned psychological assessments in favor of rankings based solely on the type and seriousness of crime of which they were convicted... According to the Nebraska State Patrol's website, "the classification or 'risk levels' will no longer be used and all registered sex offenders will be categorized by registration duration." (Nebraska Sex Offender Study, 2012, p.4)

As a result of this, many sex offenders who are in fact at low risk of reoffending are lumped with high risk sex offenders. About 65 per cent of Nebraska sex offenders, out of a total of 4222, fall into this category. This large number on the public registry actually makes it more difficult for the public to identify potential offenders who might be a danger to them, but also makes housing and job attainment more difficult for many sex offenders. I know of one middle aged woman, who never actually offended sexually but "aided and abetted" by not protecting her children. After serving ten years in prison, she is required to be on the registry for her whole life and has to re-register every three months. Note that failure to update information on whereabouts and employment for sex offenders is a federal offense! Another young man pled guilty to a misdemeanor sexual offense in the 1900s and instead of getting off the registry in 5 years, the new legislation requires him to carry the stigma for his whole life.

Another example of misguided legislation is Nebraska Statute Article 40, Section 29-4002, which states: "The Legislature finds that sex offenders present a high risk to commit repeat offenses." Research indicates exactly the opposite! A meta-analysis involving 61 studies over 29,000 sex offenders found an aggregate sexual offense recidivism rate of 13.4% over 4-5 years. And an update of this analysis conducted in 2005 that included 82 studies found a similar re-arrest record. Additional research indicates that registries using risk assessment are much more accurate in predicting recidivism than the Adam Walsh tiers based solely on seriousness of crime. (Nebraska Sex Offender Study, p. 5)  
The Study concludes:

"In nearly all cases, adoption of the Adam Walsh Act tiers results in the community being notified about more sex offenders. With the increase of cases, it becomes more difficult for citizens in the community to discern which offenders on the list are the most dangerous and the most likely to recidivate. If the purpose of the registry and community notification laws is to promote public safety, this widening of the net of offenders placed on the public list is directly in conflict with the primary purpose of sex offender registries." (Nebraska Sex Offender Study, p. 8.

So what are we to conclude? First, recent legislation, both nationally and locally, is headed in the wrong direction. More severe restrictions on former sex offenders have not been proven to be effective. These punitive restrictions isolate, stigmatize, and limit the opportunities of former sex offenders to re-establish themselves in the community and live normal lives. And the registries further stigmatize, without providing greater safety to the public. We keep forgetting that "stranger danger" is involved in about 15% of crimes whereas a large majority are acquaintances or family members.

A re-evaluation must be done of the current legislation and the wrongheaded attitudes that are producing it. I had hoped that a Legislative Resolution would have been introduced for an interim study of sex offender legislation, but I am not aware of any such resolution at this time. Meanwhile, I will continue to research, write and act to move the public, legislators and those who treat sex offenders in the right direction. I would welcome readers to contribute their insights and suggestions for future action.

**Family and Friends of Inmates** Meetings on the 4th Saturday of each month, except December, at First Christian Church, 6630 Dodge St., Omaha, at 10 a.m.

## “Turf Talk”

*By Chevist Johnson, Gang Specialist and liaison between the Omaha community and the Omaha Police Department's Gang Unit. His article was written in response to an invitation by the Nebraska Criminal Justice Review.*

With a population climbing close to 450,000; making Omaha, NE the 42<sup>nd</sup> largest city in the US, one issue that has plagued us as with any other city is gang violence. Gang members from all demographics have taken to our streets, homes, and prisons and have added to the many other issues we face in our communities. There are many contributing factors in gang membership including broken homes, the death of a loved one, the allure of fast money, material possession, attention from the opposite sex, as well as a plethora of other factors. The problem when dealing with issues contributing to gang activity is that most don't address the core issue but instead attempt to attack the symptoms of the sickness that has placed a dark cloud over our city, especially in North and South Omaha as well as in our prisons.

In December of 2010 I was hired by the City of Omaha to act as the Gang Specialist and liaison between our community and the Omaha Police Department's Gang Unit. I was offered this position after working tirelessly in our community for about 10 years. A former gang member myself, I am very familiar with the culture of gangs and the mindset that keeps gangs and gang members active. One distinct advantage I have is that I was part of the first generation of gang members in Omaha after the California Crips and Bloods came through our city. Because of this, I also remember what things were like before the late 80's when crack and gun violence began to take over our streets. Most of the individuals that I interact with have a false perception that gangs have always been here.

This brings me to my next point. We are now looking at third generation gang members in our city. Most are born into a family, neighborhood, and community which holds the belief that gang activity is the norm and worst of all, that it's acceptable. Selling drugs, carrying and using guns, fighting over respect for a street sign and color is seen as a badge of honor. Even more frightening is that to get incarcerated or even die as a gang member almost deifies you in many people's eyes. All of these mindsets and actions are a symptom of one thing... lack of purpose!

As I do interventions with both adults and youth the biggest contributing factor to why they are displaying abnormal social behaviors is because they lack a sense of self worth, value, and vision or purpose for their lives. It's not a shock to me because it's the same thing I lacked, and once it was brought to my attention, it changed my life forever! See, no one had ever told me that God created me for a purpose and that it wasn't to spend my life in and out of prison, have babies by multiple women, sell the same drugs that tore apart my family to addicts who also had families, or to die for a street corner and neighborhood that I didn't own and will never be

named after me regardless how much work I put in.

Many of the men in my family were pimps. Some of the women were involved in prostitution. A lot of my family were dealing and addicted to drugs and I saw first hand how they destroyed those I loved growing up. The worst part was that, not only did I see what they were doing, but many encouraged and taught me how to do the same. Most of the people I interact with have the same story and that is why I focus on purpose in my Turf Talk sessions and interventions.

If a person has a vision and is focused on his purpose in life, he won't have time to get involved in activities that have nothing to do with his purpose. Instead of hitting up the clubs, going to a kick back, or riding four deep with the homies, they will *We are now stay at home and study, go to the gym looking at 3rd generation and shoot jumpers, hit up the studio and create life changing masterpieces, or gang members whatever else their heart desires.* Instead of looking for immediate gratification, they will put in the work now and reap the benefits later. It took me 7 and ½ years to graduate college due to me NOT getting this concept. Once I finally finished, I realized that all my homies were either dead, doing Fed time, or stuck in the same spot they were in when I left the block.

Valuable time was wasted on activities that actually perverted instead of adding value to my purpose, and once I get others to recognize that same thing in their own lives, the change is not only welcomed but action is put forth to obtain the life they truly desire. In every session the mission is to Challenge the mindset, Change the thought process, and Commission them to do greater things!

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## A new program and new hope for those released from Prison

*By John Krejci*

Steve Thomas, who heads up Better Futures Enterprises in Minneapolis, gave a stimulating presentation on BFE's innovative model for success for those recently released from prison. In addition to jobs and safe, affordable housing, the men are provided access to health care: behavioral health, substance abuse treatment and health insurance. But perhaps more important is participation in a supportive community and life coaching by BFE staff and the support of the community of their peers, who are equally motivated to change. Participants are expected to be accountable and committed to succeed at their second chance. As soon as possible they attain employment and begin to pay their own way.

The project is primarily supported by grants and donations at this stage but the goal is to make it sustaining. It embraces an entrepreneurial model. Mr. Thomas came to Nebraska through the efforts of the Douglas County Re-Entry Initiative and was available to our Lincoln groups through the graciousness of DOC Administrator Larry Wayne. The Re-Entry Alliance of Nebraska (RAN) sponsored the presentation and was joined by members of the Lincoln Homeless Coalition,

Continued on page 9



## The war on drugs: Searching travelers on Nebraska I-80

*This article was submitted by Joseph Howard, an attorney with the Omaha law firm of Dornan, Lustgarten and Troia, at the request of the Nebraska Criminal Justice Review.*

Recently I was contacted by a writer from the Wall Street Journal who was very interested in the forfeiture process, especially in how it works in Nebraska. Having represented a number of travelers who have lost their life savings, I was very interested in his call. He was comparing various states' totals of forfeited money. As he concluded, Nebraska is one of the highest in the country. He was interested in how the process works so I explained the following.

I-80 serves as the source of most Nebraska forfeitures. Interstate travelers with out-of-state license plates are frequently stopped by county sheriffs and state patrol officers. Any minor traffic infraction can serve as the basis of a stop. Frequently vehicles are stopped for "following too closely", or "failing to signal a lane change." One interesting trap I recently encountered was set by a two cruiser team of officers. One officer pulled over a vehicle and remained ahead on the side of the road with its overhead lights on. The second vehicle then quickly pulled out and accelerated behind the next out-of-state plated vehicle which came down the interstate. When the driver of the vehicle saw the officer quickly approaching in his review view mirror, he instinctively changed lanes into the lane next to the stopped cruiser. The pursuing cruiser slowed and pulled the traveler over because he was in the lane closest to the stopped cruiser. Not all out-of-state motorists know the Nebraska rule that motorists must change lanes to avoid stopped emergency vehicles. Nevertheless, this trap was considered a "routine traffic stop."

Routine traffic stops quickly become more than simply routine. Once a traveler is stopped, the investigating officer requests the driver to exit from the vehicle and accompany him to his cruiser. In the cruiser, the officer runs the driver's license through his dispatcher's office in an attempt to determine if the driver has a warrant or criminal history. While the dispatch center runs the name, the officer engages the traveler in a conversation. The conversation which sounds innocent, is designed to elicit statements which can raise suspicions of illegal activity. Officers have designated cities as "drug hubs," and when they learn that a traveler is heading to or from a drug hub, the officer's suspicion is raised. Determining a hub is certainly subjective as there are few, if any cities or towns which are clean of drugs. The officer asks more details about the trip and the more the motorist says, the more evidence the officer can use to support a reason to search the vehicle. Oftentimes, passengers are also questioned. Any inconsistencies between the driver and the passenger's statements are used to support a reason to search the vehicle.

Toward the end of the traffic stop the officer will advise the motorist, who is still in the cruiser, that part of his job is to intercept people transporting guns or drugs. He will then ask for consent to search the traveler's vehicle. At that point, most motorists agree to a search of the vehicle because the preceding statement so couched the request to search. Under pres-

sure to prove nothing illegal is in the vehicle, most travelers consent to a search. Should the traveler not consent, the officers often will have K-9's on hand or nearby. The K-9's handler leads the dog around the vehicle, and if the dog indicates the presence of drugs, the officers then have probable cause to search the vehicle.

The rift between Nebraska State law and 8<sup>th</sup> Circuit law allows for more money to be seized under a federal law analysis. State case law holds that once the purpose of the traffic stop has been effectuated, the traveler must be freed to leave and no K-9 search is to take place without probable cause. However, per the 8<sup>th</sup> Circuit case law, once a traffic stop is over, the officer can further detain the motorist for a minimal amount of time for the purpose of a K-9 search – without any probable cause. This provision allows the government to conduct a K-9 search of any vehicle stopped, so long as the K-9 search only delays the motorist for a minimal amount of time.

The minimal amount of time will prove anything but minimal if the K-9 indicates the presence or even the scent of drugs. Along I-80 this proves to be problematic as motorists who have no marijuana in their vehicles, can still be searched because the K-9 indicates on the lingering odor of legal marijuana. As marijuana becomes legal in more states each year, many interstate travelers will smell of marijuana despite having none in their vehicles. Because the lingering odor alone can cause a canine to alert, many motorists who have been in contact with marijuana, will be subject to full vehicle searches. The minimal search turns into a full blown search.

Once the vehicle has been searched and no drugs found, the officers may still seize the traveler's money. The long process to have the money returned begins after the owner or innocent owner of the currency claims the money. Rules dictate how the process proceeds and an experienced attorney is necessary at this point. Should the government decide to retain the money despite the claim, a law suit will be filed by the government. The government then has the burden of showing the court that the money is somehow connected with illegal activities. The case law here is rather broad and makes the job of the government rather easy. Once the government has met that burden, the burden then falls on the claimant to show that the money was legitimately earned.

While it is rather easy for officers to stop, search and seize, the process to challenge the forfeiture process is rather complex and lengthy.

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### A new program (Continued from page 8)

Department of Corrections, Probation and Parole employees, Voc Rahab, and other interested persons. About 40 attended the presentation in Lincoln.

Mr. Thomas generated a great deal of enthusiasm, so much so, that the attendees scheduled a follow up meeting on June 17 in Trabert Hall at 9 a.m. to further discuss new implementation possibilities for Nebraska. More information on the program can be found at [www.betterfuturesenterprises.com](http://www.betterfuturesenterprises.com) or at 1-612-325-7856.

## LETTERS

### Inmate reentry and human services delivery

With millions of dollars saved by avoiding expensive new prison construction, and with fewer inmates each year as a result of intermediate sanctions and reduced sentencing structures, Nebraska could develop a whole range of human services, inside and outside of Nebraska prisons. In the spirit of both restorative and social justice, both offenders (and victims) need access to programs in transition, employment, counseling, education, job training, and other types of reentry programs.

Warehousing is not the solution. The real solution is prison reform.

Michael Ellington 67175  
Omaha Correctional Center

### Paroled lifers pose little risk

It's a fact that paroled lifers are not committing new crimes. Their recidivism rate remains a barely registering, less than one per-cent. It is irresponsible to use fright-inducing rhetoric or exaggerated claims of danger to oppose the release of individuals who have proven themselves rehabilitated and safe through 20 or 30 years of introspection and self-progress. The law supports rehabilitation and a second chance.

Because we are dealing with humans on both sides of the equation, emotions cannot be totally removed from the discussion. The pain and loss of the victims will never go away. But similarly, the remorse, shame and burden of the crime will never leave a rehabilitated lifer or his family. Paroled lifer would settle into unremarkable, average lives and not again cause harm to their fellow citizens or communities.

Clayton Kern 36658  
Nebraska State Penitentiary

### Minimum custody and privileges denied

In the past 25 years, lifers were allowed to classify through the system to minimum custody, just like all other sentenced inmates, moving from maximum to medium custody, and from medium to minimum, by staying out of trouble and showing reform by their attitudes and actions. They were also able to attend immediate family funerals, to be rehabilitated, and to enjoy the same privileges as all other inmates confined in the department of corrections. But not any more. Why?

Only inmates with minimum custody can go to immediate family funerals. Only inmates with minimum custody are placed in some programs. Only inmates with minimum custody are allowed fresh air and yard and association with other inmates in the facility for most of the day. If you are a first degree lifer you cannot obtain minimum custody.

Lifers in Nebraska are now forced to basically do segregation time with no release. Why are lifers denied a chance for advancement no matter how productive they

are, or how much time they have done? Why are lifers being denied equal classification procedures and the same incentives as all other inmates?

Victor Carter 37068  
Nebraska State Penitentiary

### Prison Politics

*The following lines are excerpted from a speech written for Toastmasters by Thomas Henderson 72699, Tecumseh State Correctional Institution.*

Where a murderer is respected and accepted...but someone who has raped is not.

Where thieves are okay...unless you are the one stolen from.

Where burglars brag about all the things they had...but never bought.

Where dope dealers tell stories about all the drugs and money they had...as they try to bum some coffee from you.

Where all punishment...seems an injustice.

Where crime is accepted...but law is forbidden.

Where we have all been judged...yet no one is guilty...but innocence is a lie...yet we continue to judge others.

Where rehabilitation is preached...but never taught.

Where exercise is your release...food is your treasure...coffee is your addiction.

Where silence is sought out...but is never found or heard.

Where you are always lonely...but never alone.

Where we are all counted so often...but never count.

Where running out of time is a good thing...having a life is not.

These are the prison politics...  
and the irony that goes with them.

### This Editor is just an editor

From time to time, I am sent copies of material that is legal in nature or that relates to communication between individuals and the prison administration. I would like to be helpful, but I have no legal background, nor any way to judge who is in the right and who is in the wrong in situations inside the prison walls.

What I can and will gladly do is receive your letters, poetry, drawings, book reviews, and opinion articles. I'll publish as many of them as I can. The NCJR is meant to be a vehicle for communication between all who have a serious stake in the criminal justice system.

## An opportunity to be “constructive” while still incarcerated, provided by Prairie Gold Homes

*Editor's Note: The testimonials below are from two graduates of Prairie Gold's cooperative venture with the Nebraska Department of Correctional Services. See page 5 for an introduction.*

### **I was incarcerated at N.S.P. for 13 months, until I came across what possibly could be the best opportunity of my life.**

While attending Destination Dad classes at the N.S.P. school I read a flyer for a class called Prairie Gold Homes. There were a few things that interested and intrigued me, like “Paid Job Training Opportunity”, “Working on actual home construction”, and “Certificate from the Home Builder’s Institute of the National Association of Home Builders.” Immediately after reading this flyer I walked into Mark Wentz’s office and asked him how I could get into the class. He told me the guidelines and I headed back to my cell with a new goal, to get into this class. Mr. Wentz explained to me that I would need a High School Diploma or G.E.D., complete a T.A.B.E. test, have enough time left in my sentence to complete the 10 week course, and be eligible for community custody. Having already completed my G.E.D. and a T.A.B.E. test, and having 3 years until parole giving me more than enough time to complete the class. All I needed was a Parole Final to make me eligible for community custody. July came around and after a review the Parole Board gave me a 30 month final. So I went back to Mr. Wentz’s office and asked for an application. Mr. Wentz had already chosen the class that started in August, and I didn’t make it into the November class, but after 6 months of hard work and dedication I was hired for the February class. So with 23 months until parole I was transferred to Community Corrections Center-Lincoln and began the Prairie Gold Homes program. Today is May 30<sup>th</sup>, 2013 and later tonight I will receive my certificate of completion at our graduation ceremony. In the last 10 weeks I have learned so many valuable skills. When we started the build at 1520 Van Dorn Street there was just a foundation to a house poured. We framed the house from ground up. We learned how to build floors, walls, and roofs. We installed all of the windows and doors. We installed vinyl siding on the house and shingled the roof. We built a deck out the back door. We built a two car garage. And we even built 2 retaining walls. On top of job history with legit job contacts and the confidence to get back into the job world with a wide variety of options, it’s great being able to add to my resume having built a 1,400 sq. ft. 1 and a half story 3 bedroom 1 and a half bath home and a 2 car garage. With this program only being able to hire 6-10 inmates every 3 months, this opportunity will probably not fall in your lap. You may need to work for it. But I highly recommend this program to all inmates who get the chance to take it.

### **I have been incarcerated since 2004 and I am a Prairie Gold Homes graduate.**

One of these things I am not proud of but the other one is the best thing that has happened to me during my time. My time in Prison has been filled with regret, pain, disappointment and hope that I thought I would never be able to realize. In March 2013 I was given an opportunity, the 1<sup>st</sup> opportunity, to actually create a positive difference in my life. That opportunity is Prairie Gold Homes. I spent my Prison sentence looking for opportunities for change in myself and the “System”. I learned very early that opportunities are based on your time structure and who you know in the system. Six years at L.C.C. and 3 at N.S.P. seemed like the biggest waste of my life that could have occurred. Then I was selected for the Prairie Gold Home’s program. Even this I thought was just another “carrot” that was going to be yanked away due to my time structure or some other reason. Needless to say the system had created in me over a 9 year period of expecting the worst and thinking that I was never going to be able to get a 2<sup>nd</sup> chance, let alone move past my past and have a life in society. At the time of my selection to P.G.H. the Prison system underwent a change that very nearly took away this opportunity. I had an April 2015 T.R.D. (tentative release date), with no final Parole hearing set, so I was 26 months away from getting out. The new rule was that you had to be within 6-12 months of a final or your T.R.D. in order to be transferred to the work release center. There was a 2 week period where Mr. Wentz, Mrs. Bauer and the professionals at P.G.H. fought tooth and nail to get me into the program and transferred. This was one of the worst and best things about this process because it showed me exactly what I had to lose if I went to work release and messed up. Another 2 years inside! Thankfully I was allowed to participate. For the past 3 months I have participated in building a home for Urban Development to be sold to a disadvantaged family in the city of Lincoln. A crew of 9 felons took an empty lot with a foundation and built a home from the ground up. I have learned framing, roofing, siding, electrical, plumbing and many other skills all of which on their own are valuable skills but they all pale in comparison to the reintegration that the people from P.G.H. have given me. I have a new found faith in humanity. I have gained a confidence in the fact that someone will see me for who I truly am instead of a number or a “convict”. I have faith in getting that second chance and I have skills that will actually translate into a job and those first critical steps of becoming a productive, full member of society again. Not only am I helping myself to not become another statistic but I am more importantly helping the community that I hurt with my actions and have a feeling of being of value and use. The P.G.H. program is one of the best programs for someone who wants a second chance at life in the right way that the N.D.O.C. has to offer. I can confidently say now that I have more than a chance, I have the beginning of a very good life. Thank you Prairie Gold Homes for seeing me as a person and for who I really want to be!

# NEBRASKA CRIMINAL JUSTICE REVIEW

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

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

**Website:** www.holyfamilyomaha.org. Look for the NCJR under "publications." (We'll be back online soon)

**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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## Breakfast for families and friends of lifers June 29, 2013

On June 29th, Crossover Prison Ministries and Family and Friends of Inmates will host a free breakfast for family members and friends of persons in Nebraska who are serving sentences of life in prison without possibility of parole. By hosting the breakfast, members of the two organizations hope to become acquainted with lifers' family members and friends, extend support to them, and explore ways of working together for a restorative correctional system in Nebraska, one which offers hope and the possibility of personal growth to all who are incarcerated, including lifers.

**Guest speaker** Dr. Ashley Nellis, a Senior Research Analyst at the Sentencing Project in Washington D.C., will speak at the breakfast. She is the author of "Tinkering with Life: A look at the Inappropriateness of life without parole as an alternative to the death penalty." Her article was published in the Winter, 2013 issue of the University of Miami Law Review, Volume 67, pp. 439-457. She has an academic and professional background in analyzing disparities among people of color in the justice system. She is actively engaged in federal and state efforts to eliminate life without parole sentences for juveniles and to reconsider lengthy sentences for all prisoners.

**Place:** First Christian Church, 6630 Dodge Street, in Omaha. The church is most easily approached by coming from the east on Dodge Street.

**Time:** 10:00 a.m. until noon.

**Late Registration:** 402-558-2085 or e-mail: mabeck3636@cox.net.

Lifers are asked to contact their family members and friends to invite them to the breakfast and hear the speaker.

Ashley Nellis