

Nebraska Criminal Justice Review

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Legislature takes significant action to reform criminal justice in Nebraska

By Mel Beckman, Editor, NCJR

After months of discussion among themselves and consultation with the Ombudsman and the Council of State Governments' Justice Center, legislators enacted some changes in Nebraska's justice system which look promising. It would not be accurate to attribute the changes solely to the public concern which arose after the Nikko Jenkins release and crimes. Discussion and debate was certainly in progress long before those crimes. Still, they no doubt intensified the debate and made the public much more attentive to whether prisoners are being prepared for re-entry into the community—a good thing, since most prisoners do come back!

The reforms enacted this Spring will be found in **LB 907** and **LB 999**. The bills can be read by going to the Nebraska Legislature's website at: www.nebraskalegislature.gov. Some of the highlights are listed below. Quotes from the bills are in italics.

- **The Office of Probation Administration** will receive \$5,000,000 *to expand mental health services, with priority population being participants in the specialized substance abuse supervision program and problem solving courts.* Probation will also receive \$3,800,000 *for new reporting centers and expanded services.*
- **A Vocational and Life Skills Program** is created *within the Department of Correctional Services, in consultation with the Board of Parole. The program shall provide funding to aid in the establishment and provision of community-based vocational training and life skills training for adults who are incarcerated, formerly incarcerated, or serving a period of supervision on either probation or parole.* \$5,000,000 was appropriated to carry out the program. The Department, in awarding grants, *shall give priority to programs, services, or training that results in meaningful employment.*
- **A “ban the box” provision:** *A public employer shall not ask...concerning the applicant's criminal record...until the public employer has determined the applicant meets the minimum employment qualifications.*

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Prison reform: Where do we go from LB 907 and LB 999?

By John Krejci

Advocates for prison reform tell me that 2014 and 2015 are critical if we are to solve the major problems of our prison system. The basic challenges are:

1. Present rehabilitation, training, and education efforts are inadequate.
2. Supervision of former inmates needs to be intensified. SSAS, the specialized substance abuse supervision program, has been successful, but needs to be expanded. Supervision of former inmates was taken out of LB 907. Economics trumped good policy!
3. Response to the housing, employment, treatment needs of former inmates need to be intensified. Many come out of prison with little or no support.
4. Mental health services in prison are a huge challenge. Senator Lathrop's interim study is charged to assess this. Anecdotal reports of failures, such as the Nikko Jenkins case, should not prevent the study from focusing on the larger problems of inadequate resources and treatment.
5. Although not addressed in the legislation and seldom explicitly discussed, increased efforts to educate and involve the community are critical. Members of the community need to be aware that almost all inmates will be released, return to the community, and need some level of acceptance and assurance. A community that remains ignorant, hostile, or apathetic will suffer the consequences of continued crime and high recidivism.
6. The cost of caring for aging inmates and need for “compassionate release” legislation, both recently addressed in the **Omaha World Herald** and **Lincoln Journal Star**, should be on the agenda for reform. The aging population in prison is growing. They present high medical costs and little threat to the community.

(Continued on page 5)

Nebraska's rising prison population

May 31, 2013.....**4796**
May 31, 2014.....**5175**

Source: Monthly data sheet, Nebraska Dept of Correctional Services

Turning Point: The power of offender-victim dialogue

By Tom Fleming 37756, Tecumseh State Correctional Institution

I am currently serving a 48 to 117 year prison sentence. This is a true story about a violent, uncaring, resentful, hate-filled individual, and how I made the transformation into an empathetic, God-fearing, accountable, loving man today. The core of the message deals with the power of Victim/Offender Dialogue Program and the positive results thereafter.

It was about half-way through what ended up being a 13 year stretch of hole time (segregation) when I realized that the only thing lower than the 7' x 9' segregation cell I dwelled in would be death.

You see, at a young age, I learned to steal, and my teen years were full of booze and drugs. My idols were the bikers who rode hard and wore patches and lived all around my neighborhood. As I grew older, the booze and drugs became a daily part of my existence. Add motorcycles and biker bars into the mix and that was the extent of my life.

Over the years I have had good jobs, a promising career in the Navy, relationships, a marriage and children, but the booze and drugs would always take priority over everything. In the end, I would lose it all—jobs, relationships, family, and finally, freedom.

By the end of 1986, after losing everything I had, I turned back to what I knew (stealing), but even this escalated to robbery. In the spring of 1987, I was sentenced to 3-7 years in the state penitentiary for three counts of robbery. For the next three years I would spend my days preaching hate, getting high, and lifting weights. Drugs were easily available back in those days.

I paroled in the spring of 1990, and all I wanted to do was make up for lost time. It wasn't long before I was back in jail for a drunk driving charge, followed by a 30 day stay at an alcohol and drug treatment facility. By the beginning of winter, I had lost another job, another failed marriage and was back in jail waiting sentencing for three more counts of armed robbery and parole violations.

The judge sentenced me to 15-30 years, on top of what I was already serving, totaling a new sentence of 18-37 years. I was full of resentments, lonely, and embarrassed to be back in the state pen exactly one year from paroling. The only way I knew how to handle this new reality was to revert back to how I always coped with my failures—blame others and get right back into the drugs and prison scams. My heart was harder and colder and more full of hate and blame.

I was extremely full of hate and blame...

One day I was observing the daily route of the prison garbage truck. My mind was set on breaking out of prison. I was approached by a couple of lifers who informed me that they had put a plan together using the garbage truck to escape, and they wanted me to join them. I said, "yes," without any hesitation.

August 31, 1991, Labor Day weekend and a Saturday morning, we attempted to take over the truck during its round and crash it through a weak spot in the fence. The plan went bad and in the process, a correctional employee was stabbed and set afire. He foiled the escape attempt and was badly injured in the process.

For my role in the escape attempt, which was stabbing the correctional employee to obtain the keys to his truck, I plead guilty to attempted murder and received a total of 80 years. Add this to what I was already serving and we have a grand total of 48-117 years.

My new living quarters for the next 13 years was a 7' x 9' cell in

the segregation unit, 23 hours a day, with one hour outside for fresh air—but that was only for five days a week and the little caged yard was surrounded by 30' walls so all I could see was the sky. My daily mantra was "I will not be broken." I was extremely full of hate and blame at this time.

January 6, 2004, after serving a long 13 years of what I call an emotional hell, I was released from segregation and placed back into general population. The first thing I did was I made up for lost time. I got high, as I didn't care much about life anyway.

In 2006, my life would change and never be the same again. I was approached by a counselor for the Victim/Offender Dialogue Program (V.O.D.). I was informed that the correctional employee that I stabbed during the escape attempt 15 years prior, wanted to sit down and talk with me, face-to-face. It seemed he was searching for some answers. I said "yes," without any hesitation.

My victim has a name, but out of respect, I will only refer to him by his initials. After some preparations and guidelines the day arrived. I was nervous and didn't know what to really expect. Was I going to be belittled with words, cursed at, anything could happen, but I was instructed to just sit and speak when asked.

Mr. F. walked in and thanked me for meeting with him. Over the next couple of hours we sat across from each other and talked. During this dialogue, Mr. F. explained to me how my actions affected his family, especially his children who had to witness their father endure years of pain and suffering. Mr. F. continued to explain to me how my actions affected his job, his co-workers, and his community—things I have never thought about before. Then Mr. F. asked me how my family was affected, especially my children. Feelings that were shoved deep within me were now being brought to the surface.

We sat across from each other and talked.

Mr. F. thought for the past 15 years that these things happened to him because he walked funny. I was able to explain to Mr. F. the real reason things ended up the way they did, and I also explained to Mr. F. that he was a hero for stopping that escape attempt and that many lives were saved because of his actions. Mr. F. put his hand on my shoulder at the end of our dialogue, and he thanked me for meeting with him, and he also forgave me.

Something changed in me that day. It was like a heavy burden was lifted, but yet there was something else, a feeling I have never felt before and I did not know what it was. At the end of that year, on December 31, 2006, I was celebrating my 45th birthday. I had some hooch (prison beer) and some weed. After a few gulps of hooch and a couple tokes off the joint, I found myself staring at it and I said to myself, "I do not want to do this anymore. I am done getting high." For some odd reason, I had lost my appetite for the drugs.

Over the last eight years, I have not only lost my appetite to get high, but I also quit participating in preaching hate and I formally renounced all of my ties to the White Supremacist hate group. I have been, and I am currently involved in, self-help groups—7th Step, AA and Toastmasters. I have successfully completed a nine month residential Substance Abuse Program, and a twelve-week 7 Habits of Highly Effective People course (I am currently an inmate assistant to the facilitators who teach the course). I am also participating in the Inside/Outside criminal justice class that is being offered through Peru State College and taught by Dr. Kelly Asmussen. I am a mentor in residence in the Substance Abuse Unit, where I help other inmates with not only their addictions but also with their life struggles. I am proud to say that I share my life story and my experiences in the V.O.D. program with high school and college students when they tour the prison.

These are the changes that have occurred as a result of an effective Victim/Offender Dialogue program.

In closing, I would like to thank the Department of Corrections for their open-mindedness and allowing me to participate in this program. I implore the Department of Corrections, State legislators, victim advocate groups, and community activists to implement not only the V.O.D. Program, but more programs that will shed light on victims, their families, and their communities, and how they are all impacted by criminal activity.

I believe these programs are vital to the habilitation of prisoners within the prison system. My experience of the last 27 years of incarceration, specifically over the last eight years, can attest to the fact that victim-oriented programs work. I am proof of that.

Editor's Note: The Victim-Offender Dialogue Program continues to be available through the Department of Corrections. It is victim-initiated. See www.corrections.nebraska.gov/victimdialogue.html to learn more about how it works and how it can be beneficial to both victim and offender. Or call the Victim Services Coordinator at 402-479-5614.

Caring for seriously ill and dying prisoners in Nebraska

Editor's Note: A recent showing of the film "Prison Terminal: The Last Days of Private Jack," at Creighton University in Omaha, prompted considerable discussion about hospice care in prison. The film showed how hospice workers (inmates) at an Iowa prison cared for an elderly veteran during his final months. NCJR asked the Nebraska Department of Correctional Services to provide information about hospice care in Nebraska prisons. Director of Nursing, Diana Tomek, BSN, RN sent the following reply:

"Health care within the correctional environment must be provided efficiently, effectively, and equitably to the entire correctional population. High rates of chronic care diseases as well as the aging population in the Nebraska correctional population has required Healthcare administration to examine end-of-life issues within the correctional environment.

The Nebraska Department of Correctional Services has partnered with AseraCare and provided end-of-life care over the past ten years. AseraCare is one of the nation's premiere providers of hospice care and palliative medicine services. The palliative medicine services support those who are living with a serious illness, and a family-centered approach to hospice helps ensure that the

needs and wishes of both patients and their family members are met.

Professionals from AseraCare (social workers, nurses, and bereavement team) help manage the entire spectrum of challenges and needs related to a progressive illness or terminal diagnosis. The objective is to help reduce the stress and pressure on patients and their families, allowing them to experience an enhanced quality of life and make the most of their remaining time together while in the correctional environment.

ACLU Nebraska considers conditions of confinement in state prisons

Editor's Note: In a March, 2014 publication, *The Tipping Point*, ACLU Nebraska asks whether Nebraska's prisons have crossed into unconstitutional territory. ACLU writes that the line between permissible and impermissible conditions of confinement is blurry and courts struggle to define it, but conditions at Nebraska's overcrowded prisons have been teetering on the edge for some time and may have reached "the tipping point." The Conclusion section of *The Tipping Point* appears below.

Nebraska's prison system is at 155% capacity as a whole, with some institutions much higher. Overcrowding has led to deteriorating conditions of confinement and the system may have crossed into unconstitutional territory. We have received hundreds of letters describing an overburdened system that seems incapable of providing the basic necessities our shared conception of decency demands.

Our research has revealed at least six areas where a lawsuit over the appallingly overcrowded conditions within Nebraska's prison system could be successful. Our top priorities for litigation will be mental and physical health care and the housing of inmates with mental illness in segregation. Other areas that may be actionable now or in the near future are inmate safety, a lack of exercise opportunities for inmates, excessive noise and inadequate ventilation.

This list should be considered preliminary. Even at this early stage, however, we may be able to convince a court that the conditions in Nebraska's overcrowded prison system violate the Eighth Amendment. Given the high priority ACLU places on this issue, we will continue our work and may uncover additional litigation opportunities.

Legislative efforts such as LB 907 and LB999 may alleviate some of these unlawful conditions and the associated risk of litigation. Passage and vigorous implementation of these bills would be a positive step and would lessen the immediate pressure for court-ordered relief. If combined with further efforts in the coming years, particularly sentencing reform, our prisons may yet become an example to be followed rather than a lesson to be learned from. We remain both willing to work with all willing partners and ready to litigate if necessary.

Juvenile justice reform and LB 464 (All that glitters is not gold)

By Shakur Abdullah #30012, Omaha Correctional Center

In the last ten years we have witnessed the United States Supreme Court define and revisit laws regarding juvenile rights. Most states have attempted to keep pace with the changes directed by these legal precedents.

2005: In a 5 to 4 decision, the juvenile death penalty is declared unconstitutional and in violation of the Eighth Amendment ban on cruel and unusual punishment for persons under 18 years old. **Roper v Simmons, 125 S.Ct. 1183.**

2010: In a 6 to 3 decision, mandatory juvenile life without parole (JLWOP) sentences are banned in non-homicide cases. The sentence is declared unconstitutional and in violation of the Eighth Amendment ban on cruel and unusual punishment for persons under 18 years old. **Graham v. Florida, 130 S.Ct. 2011.**

2011: In a 5 to 4 decision, juvenile confessions are revisited, citing that, given a juvenile's diminished culpability and vulnerability, special care and consideration must be given in determining the voluntariness of any statement made by a juvenile during an interrogation. **J.D.B. v. North Carolina, 131 S.Ct. 2394.**

2012: In a 5 to 4 decision, mandatory JLWOP sentencing laws in homicide cases are declared unconstitutional and in violation of the Eighth Amendment ban on cruel and unusual punishment for persons under 18 years old. **Miller v. Alabama, 132 S.Ct. 2455.**

2014: In a 5 to 2 decision, the Nebraska Supreme Court rules that *Miller v. Alabama* applies retroactively to cases on collateral review (Postconviction). **State V. Mantich, 287 Neb. 320.**

Former Omaha Senator, Brad Ashford, introduced legislation the last two years aimed at reforming juvenile rights. This session he introduced LB 464 which in part would have limited the county attorney's discretion on where (Juvenile Court or District Court) to file charges on a juvenile. LB 464 was signed into law by the Governor on April 15, 2014 (www.nebraskalegislature.gov/bills).

As originally proposed, LB 464 would have required all charges against a juvenile be filed in the Juvenile Court. Through amendments or sellouts, changes were made to the bill. Those changes left the county attorney with the discretion to file felony charges against juveniles 14 years old and older. Those felony charges include: **Class IA** (40 years to life), **IB** (20 years to life), **IC** (5 years to 50 years), **ID** (3 years to 50 years), **Class II** (1 year to 50 years) and **Class III** (1 year to 25 years). This is virtually no change at all.

LB 464's only accomplishment regarding where

felony charges must be filed against a juvenile is limited to **Class IIIA** and **Class IV**—those charges must be filed in Juvenile Court. Under the current laws, even this becomes inconsequential.

Under the guise or euphemism of "trying a juvenile as an adult," a case filed in the Juvenile Court can be transferred to the District Court. R.R.S. §§ 43-247 and 43-276. The transfer hearing allows for a case filed in one court to be transferred to another court of equal jurisdiction (Juvenile Court to District Court or vice versa). By initially filing charges in the District Court, the County Attorney practically guarantees that the case will stay there. The District Court rarely transfers jurisdiction of a juvenile case to the Juvenile Court.

LB 464 never offered any substantive change to Nebraska's Juvenile Code because it didn't eliminate the transfer hearing provision. As long as the transfer hearing provision exists, juveniles will continue to be tried as adults. In Nebraska, the age of majority is nineteen (R.R.S. § 43-245(1)). No child should ever be subject to an adult sentence before that age. Being charged, tried and convicted as an adult doesn't emancipate a juvenile.

With all that has been said in **Roper, Graham, J.D.B., Miller and Mantich** regarding juvenile rights, LB 464 was a lackluster effort to comply with the weight of legal precedents regarding juveniles. Hopefully, this important issue will be revisited next legislative session, emphasizing the elimination of the transfer hearing provision.

Legislature takes significant action (continued from page 1)

- Established the **Nebraska Center for Justice Research** at the University of Nebraska at Omaha. The mission of the Center: *to develop and sustain research capacity internal to the State of Nebraska, to assist the Legislature in research, evaluation, and policymaking to reduce recidivism, promote the use of evidence-based practices in corrections, and improve public safety.* The Consortium for Crime and Justice Research at U.N.O. is to receive \$200,000 to establish the Center.
- **The Legal Education for Public Service and Rural Practice Loan Repayment Assistance Fund** was created and will receive \$500,000. It will help make it possible for more lawyers to consider a practice in under-served rural areas of Nebraska.
- **Authorized study of feasibility of a Correctional Behavioral Health Treatment Center at the Hastings Regional Center.** *The Legislature finds that a need exists for additional behavioral health treatment beds for inmates in the state correctional system.* The Division of Behavioral Health of the Department of Health and Human Services is to prepare a complete program statement for the Center by 12/15/14.

A reciprocal agreement

By Dr. Kathleen Rettig,
Creighton University

A decade ago, Penny Boykins introduced five Creighton faculty to the idea of using the Douglas County Department of Corrections as a service site for a service-learning course. We took a tour of the jail and met with a few of the staff members. Weeks later, I signed on as a volunteer, sure that I wanted to contribute in some way, but skeptical that I would take responsibility to mentor undergraduate student volunteers. After researching and volunteering for four years, I designed a service-learning class and have been teaching a senior-level service-learning course ever since. Most of the seniors choose to volunteer at the jail, but a significant number work with CrossOver Prison Ministries and Family and Friends of Inmates.

This last year, as Creighton University implemented a new set of core classes, I designed a first-year class. Unlike my senior course, as we examine race and identity in the United States, incarceration will be one of a few topics we will discuss and research, rather than the only topic of the course. First-year students will not volunteer at the jail; they will choose to work with the Boys and Girls Club, Family and Friends of Inmates, or CrossOver Prison Ministries.

Creighton seniors and I were aware, before our more intense research and study, of the connections among race and economics and incarceration. Most of us were surprised by how many inmates were young, college age, and in jail (some on their way to prison), for crimes many others pay for with fines.

Research shows, if people can avoid serving a jail or prison sentence until they are past the age of 24 (again, college age), they are significantly less likely to become incarcerated (Samuel Walker, *Sense and Non-Sense about Crime, Drugs, and Communities*, 251). Part of the self-discovery involved in completing service is to become better aware of the many privileges we take for granted.

The Douglas County Department of Corrections, a close neighbor to Creighton University, holds hundreds of men and women whose aspirations are deferred and potentials curtailed until they serve their given time. Many of us on the Creighton campus had never met the incarcerated until we volunteered for the Douglas County Department of Corrections or Family and Friends of Inmates or CrossOver Prison Ministries. Many of the incarcerated had never met anyone who had attended Creighton University. Despite our sharing the same neighborhood, we live in different worlds. Hopefully, as we learn from each other, the most positive portions of our worlds will intersect more often.

Those volunteering with CrossOver meet the people transitioning out of jail and prison, as well as some who were released years ago. When they work with

Family and Friends of Inmates, they get a sense of how the community is affected by incarceration. As long as incarceration stays hidden from the view of a large portion of the population, the needs of the incarcerated and their friends and families remain known to only a few.

Most of our fears of the incarcerated stem from ignorance and false assumptions. As volunteers share their talents and earnest desire to live life more intentionally, we find ways to give our neighbors a hand up. As re-entering citizens share their talents and experiences with us, they help bring to our conscious understanding the many people who did the same for us.

Prison reform (Continued from page 1)

Working with former inmates has given me a heightened awareness of the multiple barriers that they face. Even with housing, a job, and social support, the challenge is daunting. Just managing their personal lives—scheduling, cooking, transportation, health care, finances, normal social interactions, not to mention loneliness, minor frustrations and conflicts—can be overwhelming. Add to this a stress, almost a paranoia, that others are watching them and judging them because they know that they have been in prison. This is intensified for minorities—about 40% of former inmates are non-white!

LB 907 has allocated resources to address some of these challenges. There is hope that some of the private, fledgling groups serving former inmates will be funded so they can intensify their efforts. The Center for People in Need, a one-stop shop in Lincoln, has offered to coordinate these efforts. Groups like Release and Restore, Bridges to Hope, Nebraska Aftercare in Action, Community Justice Center, the Feast, House for New Life, and others, could greatly increase services and promote success for their clients. It has been suggested that the State of Nebraska start its own halfway house to aid former inmates in successful adjustment.

The Council of State Governments' Justice Group is currently evaluating Nebraska's prison system and will report its recommendations by the end of the year. Sources indicate that they will focus also on sentencing practices, i.e., efforts to change policies that send too many non-violent persons to prison. This approach includes increasing diversion programs, drug courts, electronic monitoring, house arrest, and other types of community corrections.

There is a movement and momentum to reform corrections in Nebraska. Good minds are working together for the common goal. Prison reform is one of those rare issues on which both sides of the political spectrum can agree and join with moderates. No one wants to build a new prison. Everyone wants to save money or spend it more efficiently. 2014 and 2015 are critical years for Nebraska to seize the opportunity.

NEWS and MISCELLANEOUS

By Mel Beckman, Editor

No more JLWOP in West Virginia

On April 8th, the Washington, D.C. based Campaign for the Fair Sentencing of Youth announced that West Virginia had abolished life without parole as a sentencing option for children. House Bill 4210 was signed by Governor Earl Ray Tomblin, ensures that every child convicted of a serious crime has an opportunity for parole after 15 years.

Want to help expand "ban the box" where you live?

The National Employment Law Project (NELP) is offering a new on-line "tool-kit" that one can use to promote a fair chance for employment for those who have been convicted of a crime in the past. Pulling together information on starting and winning fair chance campaigns, best practices for city and state policies, new research, and tips on using media, NELP's tool kit provides a step-by-step guide for creating fair chance policies. Find the toolkit at www.nelp.org/banthebox.

As a result of the recent passage of LB 907, public employers in Nebraska are now bound to delay inquiring about a person's criminal history until they determine whether an applicant has qualifications for the job in question. However, the new law does not apply to private employers, thus allowing discrimination against former offenders to continue in most work places.

According to a news item in the April 25th *Omaha World Herald*, the City of Omaha's Personnel Board has given it's okay to a policy that would remove a section from city job applications requiring job seekers to list their criminal history. Under the revised policy, an applicant would be asked about his or her criminal history only after the city had narrowed the field of candidates to a few finalists.

ReConnect2Success Re-Entry Program

This is an adult re-entry program of ReConnect, Inc., located at 1941 S. 42nd Street, Suite 502, Omaha, NE 68105. (Phone: 402-934-4933) According to ReConnect's informational material, the services provided include:

- Employment Readiness (Communication, critical thinking, networking)
- Pre-Employment Assistance (Resume development, on-line job search, and interviewing skills)
- Public transportation assistance to help get to job interviews, first week of work, or appointments with community resources
- Pre and Post Release Family Reunification Support
- G.E.D. preparation and tutoring
- Assistance in obtaining social security cards, birth certificates, and identification
- Entrepreneurship to address limited employment opportunities
- Community and civic engagement

Des Moines church provides rides to prison

Trinity United Methodist Church, in inner city Des Moines, has a program which makes van rides to prisons available to families who have loved ones who are incarcerated. The church administrative secretary handles the sign up list for drivers and riders.

According to the May Iowa CURE (Citizens United for the Rehabilitation of Errants) newsletter, rides to prisons in Mt. Pleasant and Fort Madison are available on the 4th Saturday of each month. The van leaves the McDonald's parking lot on the corner of 6th and University at 7:30. Rides to prisons in Oakdale and Anamosa are on the 2nd Saturday of each month and the van leaves from McDonald's at 8:30.

A rides program has been talked about in Omaha from time to time, but to this Editor's knowledge, no such program is currently available. The *NCJR* would be happy to be informed of any local ride program.

Sentence modification plan: Illinois HB3668

HB3668, filed in the Illinois General Assembly on September 4, 2013, provides that a prisoner who is at least 50 years old and who has served at least 25 consecutive years of imprisonment, could petition to participate in a "Sentence Modification Program." The petitioner would first be screened by the Department of Corrections to determine whether he/she should be considered. The bill provides that the victim or the victim's family shall be notified of any public meeting at which the Prisoner Review Board intends to deliberate on the committed person's participation in the Program.

An early version of the bill referred to the Program as the "Elderly Rehabilitated Prisoner Sentence Modification Program." The amended bill, which applies to all prisoners, had its second reading in the House on April 9th and was re-referred to the Rules Committee on April 11th. The bill was introduced by Dem. Representative Arthur Turner, Assistant Majority Leader, and has a dozen co-sponsors.

Overcoming recidivism symposium

On May 13th, members of the 7th Step Organization at the Tecumseh State Correctional Institution held a symposium focusing on the obstacles they face in overcoming recidivism. The gathering included, besides inmates, Department of Correctional Services administrators, community activists, ground level staff at the prison, and a member of the Board of Parole. Five small discussion groups were formed. The need for an increased focus on job training and educational opportunities was spoken of in all five groups.

NCJR received a report from 7th Step on the meeting. Space doesn't permit printing it in this newsletter but *NCJR* will mail a copy to anyone interested upon request. Contact: melbeckman@cox.net.

How are Parole and RFP (Reentry Furlough Program) different?

By Cathy Gibson-Beltz, Nebraska Adult Parole Administrator. This article was written in response to a NCJR request for clarification.

There are similarities between the Re-entry Furlough Program (RFP) and Parole, but as you will also see, there are important differences.

A tentative release date (TRD) is the earliest possible date an offender can be released from prison with good time. Most offenders who have a tentative release date that is different from their parole eligibility date will be considered for parole. An offender does not “apply” for parole; however offenders do have to apply for participation in the RFP program. Parole may be granted to an offender once they have reached their parole eligibility date, which is determined by the structure of their sentence. After reaching their earliest parole eligibility date, parole is discretionary based upon a hearing before the Nebraska Board of Parole. The Board of Parole considers many factors when making a determination to parole an individual. Included are the seriousness of the offense, programs the offender has completed to address criminogenic needs, their adjustment to incarceration, and the potential parole program.

To be eligible for the RFP, the offender must have been set for a parole hearing or nearing the end of their sentence. Offenders on RFP apply for the program through the Department of Correctional Service's classification system. Classification committees look at an offender's criminal record, his/her adjustment to incarceration and any history of violence. Offenders serving sentences for violent criminal histories are not considered for the RFP program, yet they may be considered for Parole. Ideal RFP and Parole candidates have a stable residence, and a job, or a very good chance of finding one within weeks of being on the program. They most often have completed required programming in the facilities and have stability in the area of substance abuse and mental health. They often have the benefit of pro-social companions.

Whether an offender is being considered for Parole or for the Re-entry Furlough Program, community input is solicited from interested community members and any victims of record. In the case of RFP, the prosecuting attorney's office, and law enforcement are consulted prior to placing an offender in the community on the program.

An offender on parole is a parolee in the custody of the Board of Parole and is supervised by a Parole Officer. Re-entry Furlough Participants are inmates and are in the custody of the Nebraska Department of Corrections, being supervised by a Parole Officer and a community corrections center. Offenders on both parole and RFP follow a personalized plan, meet with their Parole Officer at designated times and are required to follow certain conditions...for parolees, these conditions are set by the Board of Parole; for RFP inmates, they are set by the

furlough agreement. Curfews and itineraries maybe required of parolees and RFP participants, and electronic monitoring devices may be required by either as well.

The Re-entry Furlough program is usually more restrictive than a parole in that offenders participating in the RFP program may not leave the state, must have prior permission from the Warden to drive a vehicle and will be required to adhere to strict itineraries pre-approved by supervising staff. An RFP offender is required to meet with their supervising officer at least weekly for several months after their release into the community.

Both parole and RFP are designed to assist offenders in re-entering society with support, structure and guidance. Successful re-entry involves returning offenders to the community as productive, law abiding citizens where they can take care of themselves and their family and have a stable life. In both Parole and the Re-entry Furlough Program the safety of our communities is foremost. There are indications offenders who go onto parole after a period of RFP participation are more successful with their paroles. DCS is currently gathering data that may give a definitive answer to that question.

There are many similarities with Parolees and RFP participants. However, there are also important contrasts. For further information, or if you have specific questions, please contact NDCS.

Some NDCS statistics, May 31, 2014

- Total prison population—5175
- Sentenced to capital punishment—11
- Sentenced to life without parole—254
- Sentenced to life with parole—88
- Maximum custody level—1420
- Medium custody level—1172
- Minimum custody level—1556
- Community custody level—574
- Not yet classified—453

Offense category for most serious offense Of prisoners currently confined

- Sex offenses—876
- Drugs—680
- Assault—605
- Homicide—516
- Robbery—432
- Theft—419
- Motor Vehicle—360
- Burglary—340
- Weapons—236
- Fraud—131
- Other—126
- Morals—70
- Restraint—47 Arson—35

Source: May 31, 2014 data sheet of the Nebraska Department of Correctional Services

Assessing dangerousness in men who abuse women

By Lundy Bancroft

Editor's Note: *The material that follows was provided in a handout at the May 1, 2014 annual conference of Omaha's Domestic Violence Conference. It is based on sections of the author's book, **Why Does He Do That?: Inside the Minds of Angry and Controlling Men**. It is reprinted here, with the permission of Mr. Bancroft, who has over 20 years of experience specializing in interventions for abusive men and their families.*

A considerable body of research has accumulated about predicting dangerousness in men who batter. The work of Jacquelyn Campbell, Neil Websdale, and David Adams has been particularly important and insightful in this regard.

Abuser programs, other professionals, and abused women themselves have the need to assess the potential that a particular abuser has to kill or dangerously harm his current or former partner and any children that are involved. A considerable number of risk factors have emerged that have predictive value in making such an assessment.

Danger assessment for men who abuse women is still far from being an exact science, however. There are documented killings by men whose previous profile did not make them appear to have the potential for such severe or cruel violence. Therefore, all abused women should be encouraged to take seriously intuitions that they have about the dangerousness of a partner or former partner, even if he does not exhibit a large number of the risk factors listed below.

Factors that should be taken particularly seriously include:

- The woman has a strong "gut" sense that the man could kill her or her children, or could carry out a serious and dangerous assault against any of them or against himself.
- He is extremely jealous and possessive. This characteristic becomes even more worrisome when he appears to be obsessive, constantly keeping her at the center of thoughts and appearing to be unable to conceive of life without her. He has, for example, made statements such as, "If I can't have you, nobody will."
- He has a history of severe or very frequent violence toward her, or toward other individuals such as past partners.
- He follows her, monitors her whereabouts, uses high-tech means to keep tabs on her, or stalks her in other ways. He knows where she lives and works, knows names and addresses of her friends or relatives, or is very familiar with her daily routines.
- She is taking steps to end the relationship, or has already done so.
- He was violent to her during a pregnancy.

- There are stepchildren involved.
- He has threatened to kill her or to hurt her severely, has strangled her, or has threatened her with a weapon (including making verbal references to using a weapon, even if he did not actually brandish it). He has threatened to kill the children or the whole family.
- He has access to weapons and/or he is familiar with their use.
- He is depressed, suicidal, or shows signs of not caring what happens to him. He has, for example, threatened to kill himself if she leaves him.
- He has a significant criminal history and/or he has a history of using violence or threatening violence against other people.
- He abuses alcohol or drugs heavily, especially if his habits involve daily or nearly daily intoxication.
- He has been violent to children.
- He has killed or in other ways been violent to pets, or has used other terror tactics.
- He uses pornography heavily and/or has a history of perpetrating sexual violence or degradation against his partner or others.
- He has exhibited extreme behaviors when his current partner or past partners have made attempts to leave him.

The current state of knowledge does not make it possible to create a formula from the above factors to create low, moderate, and high-risk categories of risk. A particularly extreme presentation in even one of the above categories can be a basis for serious concern. Professionals, abused women, and others attempting to use this list of factors, need to apply their findings with common sense and intuition.

When an abusive man appears particularly dangerous based on the above factors or for other reasons, professionals involved with him should inform the abused woman as soon as possible (more on this below). They should also inform appropriate police departments, any mental health or child protection professionals involved with the man, and anyone else who might be in a position to prevent a dangerous assault from taking place. Abuser programs and other professionals working directly with them should inform him that they are concerned that he may commit a serious or lethal assault, and should try to persuade him to commit himself to a psychiatric hospital, substance abuse detox, or other facility that could contain him and persuade him not to become violent.

An abused woman should, of course, be informed when the man is showing a worrisome pattern of the above factors, or extreme responses in even one or a few factors. The woman should be encouraged to participate in strategic safety planning.

A strategic safety plan can include such elements as:

- Planning different escape routes from her house.
- Hiding spare car keys and important documents (birth certificates, health cards, bank cards) in places where she could grab them and leave quickly
- Varying her daily routine, including the routes she typically takes to get from one place to another
- Setting code words with friends, and with her children, which indicates that there is an emergency, and plan how they are to respond if she says the code word
- Opening a secret bank account
- Informing people at her work of the potential danger
- Informing friends and relatives of the potential danger
- Involving her children in creating a safety plan (see my article, "Safety Planning With Children of Abused Women")
- Staying away strictly from drugs or alcohol herself to make sure that her judgment is never impaired
- Advising the local police department of the risk to her, including any past threats or violence, and asking what special services or protections might be available to her.

These are just a few examples of the numerous safety strategies she can put into place with the help of an abuse specialist to increase her safety. She can call an abuse hotline and develop a safety plan without even providing her name or telephone number, ensuring her complete privacy. If she can go to an abused women's program and meet with someone face to face, all the better. (For more information on safety planning, see the book, *Safety Planning With Battered Women*, by Eleanor Lyon, Jill Davies, and Diane Monti-Catania, from Sage Publications).

If she is frightened of her abusive partner it is important for her to make a safety plan *even if she does not plan to leave him at this point*. If she senses that he has a capacity for frightening violence, she should start planning *now* for how she will keep herself and her children safe should a dangerous situation arise in the future. Some psychologically abused women feel confident that their partners would never escalate to violence or threats. However, my experience is that most abusive men—though not all—do become physically frightening sooner or later, even if they never carry through with using violence. It makes sense for every abused woman to spend some time considering how she will respond if the unexpected happens.

In 2013, according to Omaha' Domestic Violence Council, there were 12,469 domestic-violence-related 911 calls in Omaha, that resulted in 1,616 arrests.

Nebraska's network of domestic violence and sexual assault programs

The 21 programs in the network are designed to provide emergency services, information and assistance to survivors of domestic violence and sexual assault in the cities listed below and their surrounding areas.

Where to call for help

| | |
|--|-------------------------------|
| Gering 866-95-DOVES | Columbus 800-658-4482 |
| Valentine 877-376-2080 | Wayne 800-440-4633 |
| McCook 877-345-5534 | Norfolk 877-379-3798 |
| North Platte 888-534-3495 | Lincoln 402-475-7273 |
| Lexington 800-215-3040 or Spanish 866-351-9594 | Lincoln 402-437-9302 |
| Ogallala 308-284-6055 | Auburn 800-456-5764 |
| Broken Bow 800-942-4040 | Fairbury 877-388-4673 |
| Kearney 877-237-2513 | Fremont 888-721-4340 |
| Grand Island 866-995-4422 | Papillion 800-523-3666 |
| Hastings 877-322-7272 | Omaha 402-345-7273 |
| | Omaha 402-558-5700 |

Stop Violence Against Women Act

Editor's Note: The following information is from the Nebraska Crime Commission. Website—www.ncc.state.ne.us

The purpose of this federal grant program is to create comprehensive and positive changes in the response of the criminal justice system to women who are victims of domestic violence, dating violence, sexual assault and stalking.

Nebraska's distribution of it's federal funds (\$1,028,417 in Fiscal Year 2013), ensures that 25% of the funds support law enforcement efforts, 25% prosecution efforts, 5% courts, and 30% for victim services, of which 10% is dedicated to culturally specific services.

Amongst the priorities for these funds are underserved populations such as minorities; those living in rural or remote areas; the elderly; victims who speak limited English, immigrants and undocumented victims, and members of the Lesbian, Gay, Bisexual and Transgender (LGBT) community.

Family and Friends of Inmates

Support for those who have loved ones in prison. Advocacy for a rational and restorative corrections system. Meetings on the 4th Saturday of the month, 10 a.m. at First Christian Church, 6630 Dodge Street. Call 402-558-2085 for more information

LETTERS

Regional Center restrictions protested

I am a sex offender at the Norfolk Regional Center. This is said to be the least restrictive environment and we are told that we are not incarcerated, but the prison system has more freedom than is had here.

If we speak on something done wrong here, we are told to worry about ourselves, and we get in trouble for "so called" arguing and not keeping a therapeutic community.

I am Native American and I am denied anything relating to my religion or way of life. I am denied my bandana, which was blessed by a medicine man, and a medicine pouch. There are no services and no sweat lodge. I am told that I have freedom of religion. I don't understand this.

We are lucky to get one hour a day outside. We are treated like kids and have to be escorted wherever we go. Is this treatment or abusive warehousing?

Shawnn Nahkahyen-Clearsand
Norfolk Regional Center

Club time needed to keep a good focus

I strongly value the gift of my cultural practices and teachings, along with the institution's clubs and the time allotted for sweat lodge. While locked up I have used this support as a means of spiritual growth. With useage of our prayer pipe and prayers to the Creator, I had a good walk on the Red Road. The clubs brought a deeper understanding of our Great Spirit.

When the Administration at Nebraska State Penitentiary cut down our time attending these programs, it limited our time for spiritual growth—in my case, limited healing from my old ways of chasing selfish needs.

Cutting these programs causes a focus directed toward something else. In my case, if we are not talking about a positive step toward change and growth, I would be talking about what I already know.

With this partial lock down, I've gotten to learn about other peoples' life styles, how to perfect my abilities to become a master criminal...connections from Scottsbluff to North Omaha, Sioux City and Grand Island...drugs and other ways of avoiding the law...street codes and relationships for expansion But why? Because the loss of something creates a focus on something else. Put a bunch of criminals in one area and expect a change?

As for me, I am saddened about losing my support in my Native American beliefs. I am afraid that, continuing to absorb this current environment, I will change into a whole different person. The question is, what will I have become when I am finally released?

Anthony LongSoldier 74541
Nebraska State Penitentiary

Softball lost at the Penitentiary

Here at N.S.P. (Nebraska State Penitentiary), it is all about inmate controlled movement. Ha! We all eat, work, and do program, religious activities and self-betterment clubs together. The only thing we can't do together is be on the yard.

The ACLU has been saying we need more yard time, so, in response to that, the Administration spent thousands of \$\$ on a 10 foot fence to split the yard up. But they say there is a shortage of money.

When the yards are split, there will be no more softball at N.S.P., a game that has been around since the early 1900's!

What more will we lose before they realize there is already nothing to do?

Jerrold Hansen 57940
Nebraska State Penitentiary

Help needed to live in the "free" world

I have been incarcerated for 30 years. I was eligible for parole in 1999 but have been denied parole every year. My tentative release date is 2016. My requests for work release or detail work have been denied.

Since I have been in prison most of my life, I do not know how to live in the free world. I need life skills and training. I need help to be a successful contributing, productive citizen.

The Parole Board and the Department of Correctional Services are simply going to kick me out the front door without any programming, job skills, housing or employment. I am not the only inmate in this type of situation. I am not being given the opportunity to transition back into the community as one would expect after 30 years. In spite of the recent publicity about the Department of Correctional Services and the Parole Board, no obvious changes have been made. Have I been set up to become another statistic?

Richard Jackson 37232
Tecumseh State Correctional Institution

Inmate killed at State Penitentiary due to over-crowding

Charles McDaniels, an inmate at the Nebraska State Penitentiary in Lincoln (N.S.P.), died April 26, 2014 at Bryan West Hospital. His death was caused by complications from injuries he suffered after allegedly being hit in the head with a cane by his cellmate on April 22, 2014. McDaniels, an 80 year-old Korean War veteran, was incarcerated for DUI and driving with a revoked license. McDaniels wasn't scheduled for release until December, 2020.

In a federal lawsuit from Nebraska, Jensen vs Clark, the federal courts ruled that the random placement of inmates with other inmates was unconstitutional. Despite McDaniel's repeated requests for over a month to have his cellmate, who had been a problem inmate, moved, due to the two inmates being incompatible, these pleas were denied. Although the exact reason for the Administration's refusal to move either McDaniels or his cellmate is unknown at this time, N.S.P. staff had stated that there was no room to move either of them.

N.S.P., which was designed for 718 inmates, currently houses around 1320 inmates, or around 184% of the designed capacity. Inmates are often locked indoors with their cellmates up to 90% of the day. State officials have acknowledged that the overcrowded conditions at the prison make the State ripe for a federal lawsuit.

Despite recent legislation for "prison reform," conditions at the State penitentiary remain just as bad as ever. It is unfortunate that this tragic loss of life and the events surrounding it haven't even been mentioned by the prison's Administration or the press.

Patrick Burke 62693
Nebraska State Penitentiary

Finding the balance

I was challenged, by a letter in NCJR's last issue, to look at the current prison conditions with a more positive attitude. After careful thought, I decided the writer had a valid point, but also, I think the other letters that voice their complaints are equally valid. It should be gratefully noted that the **NCJR**

provides us Nebraska inmates a forum to voice the problems we encounter.

Yes, there is a difficult tension in trying to voice valid complaints without sounding like we are making frivolous complaints. For example, for prisoners to claim that maximum security is too restrictive is about as absurd as the fish complaining that the ocean is too wet. Yet, to complain that the conditions are so restrictive that they impede growth and rehabilitation is about as valid as the fish complaining that the oil spill has unjustly contaminated their environment, to the point that it is harmful and destroying life.

Thus, the converging argument is that the “new norm” is creating more harm than it proposes to stop.

Prison administrators have declared that their reason for implementing it is “to keep us safer.” The problem is the means (the new norm) is not justified. The new norm is harmful in many different respects. It has eliminated about 90% of constructive activities such as self-help clubs, religion services, exercise, sports. The ability to go walk for a mile to clear the head or to separate from the excessive noise or to separate from a conflict is gone. Most people go back to bed after breakfast and sleep until noon because there is really nothing productive to do. The data will show that we are getting lazy. Almost everyone is gaining weight, cholesterol and blood sugar levels are up, blood pressure is up, the suicide rate has increased at least 300% at Tecumseh State Correctional Institution. The new norm is the occasion of bitter quarrels. Indeed, sometimes lesser evils are necessary to prevent the greater evils, but in this case, the new norm is the greater evil.

Nonetheless, we still maintain the freedom and responsibility to focus our efforts on our own work of transformation. Ultimately, a change in our hearts and minds can only be wrought from within, so an external matter such as the new norm is only a problem for our self-development if we allow it to be.

Floyd Morrison 74703
Tecumseh State Correctional Institution

Personal accountability is a cure

I have not been at the Nebraska State Penitentiary (NSP) a long time – only six months, but it’s been an eventful six months. I’ve seen a lot in the past half year. I’ve seen the kitchen staff continually serve what can only be described as “miniature” fried chicken to grown men. I’ve seen three separate fires burning in my housing unit over the course of a few hours during a couple days of unrest this past November. I’ve seen guys check-in, turn around and check-out only to end up getting chin-checked all in the same week. I’ve seen hate, violence, hopelessness, and despair, but nothing as disturbing as the disease I’ve seen spreading during the past few months.

Somehow, the sickness is convincing certain inmates that, once the institution provides proper programming, they will be magically “fixed” and all of their personality problems will disappear into thin air. These symptoms seem to only get worse every time the local news runs a story on prison overcrowding. The good news is there is a cure for this epidemic. It’s called personal accountability.

Don’t get me wrong. I’ll be the first to tell you that there needs to be changes to the Nebraska prison system. I’ve sent letters to Senators and signed petition in hopes of improving our situation at NSP. I think we all should. However, focusing too much on issues we have very little to zero control over keeps us distracted from focusing on our own personal growth – something over which we have 100% control.

Write your politicians about changes you feel need to be made. Sign petitions. Give it your best, then put it to rest. Join as many groups and clubs as you can to push yourself be-

yond your comfort zone and continue growing as a well-rounded individual. Surround yourself with positive influences. Educate yourself. Help someone younger than you. Get to the library. Most importantly, be honest with yourself. We are responsible for what got us here. At the end of the day, if we let an imperfect prison system distract us from maximizing our potential, it was because we chose to.

Lance Wetzel 78502
Nebraska State Penitentiary

Parole officers share some parolee success stories

Editor’s Note: *These accounts are from the Regional Offices of the Nebraska State Parole Administration.*

Lincoln Office

- A parolee paroled to his girlfriend and quickly determined that they were not ready to live together. He made the wise choice to make other living arrangements. In addition, he secured a second job to pay his bills. He is doing a good job of proactively addressing potential challenges to his stability.
- A parolee was removed from continuous alcohol monitoring (CAM), with Board of Parole approval after 120 days with complete parole compliance.

Norfolk Office

- A parolee completed treatment for the first time. After completing treatment, he feels he finally has the tools he needs to remain sober. His provider also feels he has a high level of success based upon his level of participation.
- A parolee has kept full-time employment, attends AA/NA and is buying a home. He has maintained stability by establishing a support group, which includes his parole officer, with whom he can consult when needed.

North Platte Office

- A parolee completed parole after 4 years with no violations.

Omaha Office

- A parolee is doing much better after a previous parole revocation. This time he is using community resources to assist with mental health and employment needs and is having greater success.
- A parolee was approved to receive a voucher for a car through Employment First. She accomplished this because she is a working single mother. She will also provide information on the program to her parole officer so others can follow in her footsteps.
- A parolee attended Job Readiness at the Day Reporting Center (DRC), where he was completely open about his inability to read and write. The entire class adapted to verbal discussion rather than a written class. The DRC staff was appreciative of his openness.

Letters

The *NCJR* welcomes letters from inside or outside prison walls. If you have a view you would like published, on some facet of Nebraska’s criminal justice system, please send us a letter. The best letters are concise, constructive and on a single topic or issue. Thank you for writing.

Editor

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What has been less useful or appreciated?

What question or topic would you like covered in a future issue of the NCJR?

Has the NCJR improved on coverage of victims-of-crime concerns and issues?

How would you rate the NCJR on accuracy?