

Nebraska Criminal Justice Review

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Credit course for inmates is moving ahead – slowly

By John Krejci

In the September issue of NCJR, I noted that the beginning of the education program at NSP was like a parole date, the proverbial goalpost moving into the future. Now it has become like the coming of spring – right around the corner. The good news is that the education program is on track, funded, and moving ahead. The target date now is the summer session of Southeast Community College, early July, 2013.

Large bureaucracies move slowly – anyone who is incarcerated knows that! Although dedicated people from Southeast Community College and the Department of Corrections are on board and committed to the project, things are moving slowly. Participants must be screened, tested, and chosen. Course offerings must be decided. Teachers from the college also must be screened. Days, dates, classrooms, meeting times, and textbooks are additional decisions. Funding must be secured and secure! Meanwhile time moves on.

The good news is that we are on course to offer a beginning English course, at the penitentiary, taught for 2 hours twice a week to about 20 inmates for a semester. We had hoped to offer two courses a quarter, and still plan to do that, but not at first. Bureaucracy strikes again! There will be a nominal fee of \$25 for each course. Textbooks will be an additional expense, but arrangements are being made to keep this cost reasonable. We do not want to exclude eligible inmates due to financial constraints. Our goal is to allow 20 students to complete a total of 24 college credits in two years, giving them a head start to continue their education after they are released. Keep posted and hopeful.

Marilyn Asher, Religious/Volunteer Coordinator at the Nebraska Correctional Youth Facility, congratulates talent show participants.

The Nebraska Correctional Youth Facility (NCYF)

By Marilyn Asher, Religious/Volunteer Coordinator, NCYF

NCYF is a busy place! Sixty-two young inmates, ages 15-21, are going to school, working and getting involved in some of the following programs. These are just the highlights:

Mentoring: Four of our trained mentors from the community are currently working with four inmates to encourage them and/or assist them in transitioning to the community when their sentences are complete. We are constantly seeking to match inmates with these volunteers who are willing to give positive guidance to the young men who are willing to receive it.

UNO Social Work students: NCYF partnered with social work students at the end of 2012 to provide individualized discharge plans for inmates preparing for release. The positive interaction provided practical education for the students as well as detailed plans and resources that would assist inmates upon release. A student volunteer from Bellevue University will also be assisting the population with discharge planning.

The WaY Writing Club: This 501c(3) faith based organization comes to NCYF in the fall and spring of each year and provides an avenue of expression for inmates through writing. Inmates may come to any one of the four sessions that are offered or they may choose to write poems, raps, or stories in the privacy of their cells. If the inmates choose, they may submit the writings to The WaY, which reviews them and returns the writings with a prayer and inspirational thought that encourages the inmates. At the end of each four week session, a talent show is sponsored by The WaY and inmates may read their writings and have them put into a booklet that is put into the religious coordinator's library.

NCYF Talent Show: Every spring and fall, inmates are given the opportunity to participate in the talent show mentioned above. Besides sharing their writings, inmates play the guitar, keyboard, sing and even juggle. Art is displayed that has been drawn or painted in the volunteer art classes. This spring, Kent Belkows Art Studio will be introducing two workshops at the talent show.

Sports: How could we forget basketball, softball, soccer, and touch football?
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LB 44 The individuality of each youth must be considered at sentencing and at time for possible parole

Editor's Note: *What follows is substantially the text of proposed amendments to LB 44, approved by the Judiciary Committee.*

Section 2

Notwithstanding any other provision of law, the penalty for any person convicted of a Class 1A felony for an offense committed when such person was under the age of eighteen years shall be a maximum sentence of life imprisonment and a minimum sentence of thirty years imprisonment.

In determining the sentence of a convicted person under subsection (1) of this section, the court shall consider mitigating factors which led to the commission of the offense. The convicted person may submit mitigating factors to the court, including, but not limited to:

- (a) The convicted person's age at the time of the offense;
- (b) The impetuosity of the convicted person;
- (c) The convicted person's family and community environment;
- (d) The convicted person's ability to appreciate the risks and consequences of the conduct;
- (e) The convicted person's intellectual capacity;
- (f) the outcome of a comprehensive mental health evaluation of the convicted person conducted by an adolescent mental health professional licensed in this state. The evaluation shall include, but not be limited to, interviews with the convicted person's family in order to learn about the convicted person's prenatal history, developmental history, medical history, substance abuse treatment history, if any, social history, and psychological history.

Section 3

Any offender who was under the age of eighteen years when he or she committed the offense for which he or she was convicted and incarcerated shall, if the offender is denied parole, be considered for release on parole by the Board of Parole every year after the denial.

During each hearing before the Board of Parole for the offender, the Board shall consider and review, at a minimum:

- (a) The offender's educational and court documents;

- (b) The offender's participation in available rehabilitative and educational programs while incarcerated;
- (c) The offender's age at the time of the offense;
- (d) The offender's level of maturity;
- (e) The offender's ability to appreciate the risks and consequences of his or her conduct.;
- (f) The offender's intellectual capacity;
- (g) The offender's level of participation in the offense;
- (h) The offender's efforts toward rehabilitation; and
- (i) Any other mitigating factor or circumstance submitted by the offender.

The Supreme Court has made common-sense decisions about youth

By Shakur Abdullah 30012, Omaha Correctional Center

Even in cases of homicide "we therefore hold that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." (Miller v. Alabama, 567 U.S. ___, 132 S. Ct. 2455, 2469, (slip op. at 16)

"A state is not required to guarantee eventual freedom," but must provide "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." If the state "imposes a sentence of life it must provide him or her with some realistic opportunity to obtain release before the end of that term." (Graham v. Florida, 560 U.S., ___, 130 S. Ct. 2011, 2030 & 2034 (slip op. at 24 & 32)

The United States Supreme Court has determined, based on common sense, what any parent knows, and what science, social science, neuroscience, developmental psychology and constitutional judgment/precedent show—that juveniles are less culpable than adults and possess a diminished capacity inherent to youth. Miller, 132 S. Ct. at 2464, (slip op. at 8)

The Supreme Court didn't reach this conclusion lightly, nor did its decision diminish or depreciate the serious nature of the offense of homicide and the juveniles responsible for it. The court's decision was tempered and guided by the confluence of two earlier precedents involving juveniles, i.e., Roper v. Simmons, 543 U.S. 551 (2005) holding that the Eighth Amendment prohibits the death penalty for juveniles, and Graham v. Florida, 130 S. Ct. 2011 (2010),

holding that the Eighth Amendment prohibits LWOP sentences on juveniles/children in non-homicide cases. The Court's decision didn't offer a free pass for offenders in homicide cases but took the sober approach that punishment must be proportionate to their status as children.

Roper and Graham establish that children are constitutionally different from adults for purposes of sentences. Because juveniles have diminished culpability and greater prospects for reform, we explained, "they are less deserving of the most severe punishments." Miller, at 2464 (slip op. at 8) The Court went on to state, "We have by now held on multiple occasions that a sentencing rule permissible for adults may not be so for children...Our history is replete with laws and judicial recognition that children cannot be viewed simply as miniature adults." Miller, at 2470 (slip op. at 19)

It was the Court's decision in Graham that explained mandatory sentencing schemes, e.g., JLWOP, to be defective in another way: "by likening life-without-parole sentences imposed on juveniles to the death penalty itself." Miller, at 2466 (slip op. at 12) JLWOP sentences, when imposed on a juvenile, as compared with an older person, is therefore "the same...in name only." Id.

The State must provide a "meaningful" and "realistic" opportunity for release based upon demonstrated maturity and rehabilitation by those now serving JLWOP sentences. These are factors that the Nebraska Board of Pardons was apparently going to disregard in its ill-intended, so-called commutation of all JLWOP cases it was to hear on December 3rd and 5th, 2012. See NCJR, Vol. 13, No. 4, Dec. 2012, p. 1. The U. S. Supreme Court has mandated that an individualized hearing is to be held in these types of cases. During those hearings, Miller requires its (sentencer) "to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison. Miller, at 2469 (slip op. at 17) At one stage of this fluid process, the definition of "meaningful" and "realistic" opportunity for release will have to be conceptualized by state legislatures across the country. Some legislatures have already done so.

The Nebraska Legislature has taken one small step in that endeavor too. On February 8, 2013, the Legislature's judiciary Committee convened a public hearing on LB 44 (a bill proposing a 20 years to life sentence for juveniles convicted of 1st degree murder while under eighteen years old). On 2-21-13, LB 44 was voted out of committee with an amendment (AM 151, proposing 30 years to life). LB 44 is sponsored by Omaha State Senator Brad Ashford. There was lengthy and in-depth testimony in favor of the bill and no opposition to it (Editor: Except for the Nebraska County Attorneys Association whose representative called for the sentence to be 60 years to life)

It seems that 30 years to life is now the linchpin for what "meaningful" and "realistic" opportunity for release looks like. Of course, this is just the beginning. LB 44 could be amended again. LB 44 has yet to be sustained through three rounds of voting (general file, select

file, final reading) and final approval by the Governor.

If LB 44 is made law, the Nebraska Board of Parole will have some determination in how the law is actually realized. That determination will ultimately define the concept of "meaningful" and "realistic" opportunity for release. Either the Nebraska Board of Parole will actually grant paroles under the new law or deny paroles in lieu of the maximum sentence. If the latter occurs after "demonstrated maturity and rehabilitation," nothing will have changed and JLWOP sentences will live on under a new sentencing scheme.

R.A.N.—The Reentry Alliance of Nebraska organizes and reaches out

By John Krejci

The Reentry Alliance of Nebraska is a loose federation of agencies, programs, individuals, and Department of Corrections employees, who are working with ex-offenders as they enter the community. The formal mission statement is: To increase public awareness and safety providing a network of collaboration among organizations, individuals and agencies that support ex-offenders reentering their communities. The group has met informally for several years but has lacked direction, leadership and formal organization. Those days are over; RAN is now moving ahead.

In the past two months, RAN has approved bylaws, elected officers, planned for 501c3 status, agreed generally on its goals, set up a schedule for dues, and initiated the writing of a grant. Officer elected were: Mark Davis, President, Dave Larson, Vice President, John Krejci, Secretary, and Katrina Thomas, Treasurer.

Members, in addition to working directly with ex-offenders, are continuing to share information, thus facilitating better coordination of activities. For example, if a parole officer has an inmate who needs computer access or training, he/she may contact Release and Restore or Center for People in Need. Or a Department of Corrections social worker might contact Bridges of Hope for clothing or furniture.

RAN has become more and more aware of the need for disseminating information and public understanding of inmate needs to the community. There are just too many myths and misinformation in the community. RAN is planning to initiate a website, print a brochure and pursue public service announcements as well as make public presentations to community groups. One member suggested advocacy work with the Unicameral promoting legislation aimed at rehabilitation.

When it became evident that the needs of ex-inmates and the homeless were quite similar, e.g., safe housing, employment, drug and alcohol treatment, and social support in the community and that the populations overlapped, RAN reached out to the Homeless Coalition of Lincoln and now has a representative on the Coalition. As both organizations grow, information of services available from the participating organizations will be shared so services may be more efficiently delivered.

There are many individuals and organizations dedicated to facilitating transition from prison to the community but, as is often the case, financial resources are scarce. As more and more inmates are paroled, the need increases. The Department of Corrections is struggling to meet these needs. RAN is a parallel effort of the community to aid in this struggle.

A case for life sentences with parole

By David Ditter, #32547, Tecumseh State Correctional Institution. Originally written as a letter to several members of the Nebraska Legislature. Reprinted with permission of the author.

The essential feature of a life sentence is that it imposes a terminal, unchangeable, once-and-for-all judgment upon the whole life of a human being and declares that human being forever unfit to be a part of civil society. Life sentences were enacted to deal with dangerous and incorrigible individuals who would remain a constant threat to society, but more often than not, many individuals end up caught in a never-ending punishment for a single deviant criminal act out of the norm of their law abiding lives.

Continuing to house aging lifers that have served well over 30 years as model prisoners in maximum security facilities until they eventually succumb to old age and/or health-related problems carries its own societal costs in addition to the enormous cost of life-time incarceration. The annual cost to house each prisoner in the Tecumseh State Correctional Institution in 2010 was \$37,660, which is \$103.17 per day. The annual cost of parole supervision in Nebraska in 2010 was \$3,560 per prisoner.

While every state provides for life sentences, there is a broad range in the severity and implementation of their statutes. Only six (6) states (Illinois, Iowa, Louisiana, Maine, Pennsylvania & South Dakota) and the federal system provide for only life without the possibility of parole sentences.

In the case of first-degree life sentences with the possibility of parole, the range of time that must be served prior to becoming eligible for parole also varies greatly, including the following states:

Rhode Island General Laws Annotated §13-8-13 Parole eligibility possible after serving 20 years of imprisonment.

Wisconsin Statutes Annotated §304.06 Parole eligibility possible after serving 20 years of imprisonment.

Colorado Revised Statutes Annotated §17-22.5-104

1. Parole eligibility possible after serving 20 years, if crime committed on or after July 1, 1977, but before July 1, 1985.
2. Parole eligibility possible after serving 40 years, if crime committed on or after July 1, 1985.

Montana Code Annotated §46-23-201 Parole eligibility possible after serving 30 years of imprisonment.

Kansas Statutes Annotated §21-4638

1. Not eligible for parole prior to serving 40 years of imprisonment.
2. Not eligible for parole prior to serving 50 years of imprisonment, if crime committed on or after July 1, 1999.

The maximum penalty for first-degree murder in Canada is life in prison, with parole eligibility after serving 25 years. Only a very few designated dangerous prisoners may be held for longer than 25 years.

Life sentences are of great consequence both to the individuals who receive these sentences and to the society that imposes them. While persons serving life sentences include those who will always present a serious threat to public safety, they also include those for whom the length of sentence is questionable. Life sentences often represent a misuse of limited correctional resources while discounting the capacity for personal growth and rehabilitation that comes with the passage of time. Simultaneously, there has been a diminishing of the value placed on the principle of rehabilitation that originally guided the nation's correctional philosophy. The issue of life sentencing is far more complex and cannot be regarded as merely sentencing for a deserving population.

Parole eligibility for lifers does not equate to release from prison. Consider legislation to allow Nebraska's experts (the Board of Parole members) to decide which lifers are ready to safely be placed in Work Release centers or to be placed on intensive life-time parole.

Breakfast is scheduled for family and friends of Nebraska inmates sentenced to life in prison

During the past five years, Family and Friends of Inmates (FFI) has brought together family members of inmates convicted and sentenced to life in prison for crimes they committed before age 18. Those family members and FFI together worked hard for abolition of life without parole sentences for juveniles.

FFI will now, in addition, reach out to family members and friends of inmates sentenced to life in prison for crimes committed after age 18. **A 10:00 a.m. breakfast for them is planned for June 29, 2013 at First Christian Church, 6630 Dodge Street in Omaha.** It will be a time to become acquainted, learn about their concerns and discuss what FFI can do to help.

ASHLEY NELLIS, author of "Tinkering with Life: A Look at the Inappropriateness of Life Without Parole as an Alternative to the Death Penalty" will be the guest speaker at the breakfast.

Ashley's article was published in the Winter, 2013 issue of the University of Miami Law Review, Volume 67, pp. 439-457. (See a review on page 9) 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.

FFI encourages inmates to ask family members and friends to save the date. More information: 402-558-2085.

Are you in prison? Know your elected representatives

Editor's note: The following list of legislative and congressional representatives was contributed by Michael McKinnie 64790, Tecumseh State Correctional Institution, to give inmates in the various prisons access to their particular representatives at the state and national levels.

State Level Representatives

The address for all of the state senators is:
P.O. Box 94604, Lincoln NE 68509

- For prisoners at York** Senator Greg Adams
- For prisoners in Omaha** Senator Ernie Chambers
- For prisoners in Lincoln at L.C.C.** Senator Kate Bolz
- For prisoners in McCook** Senator Mark Christensen
- For prisoners in Lincoln, N.S.P.** Senator Colby Coash
- For prisoners in Tecumseh** Senator Dan Watermeier

Congressional Representatives

For prisoners in York, Tecumseh and McCook:
Rep. Adrian Smith, 2241 Rayburn House Office Bldg., Washington D.C. 20515

For prisoners in Lincoln:
Rep. Jeff Fortenberry, 1514 Longworth House Office Bldg., Washington, D.C. 20515

For prisoners in Omaha
Rep. Lee Terry, 2266 Rayburn House Office Bldg. Washington D.C. 20515

U.S. Senate Representatives, for all prisoners

Senator Mike Johanns, 404 Russell Senate Office Bldg. Washington D.C. 20510

Senator Deb Fischer, 825 Hart Senate Office Bldg. Washington D.C. 20510

N.C.Y.F. (Continued from page 1)

The gym is one of the busiest places in the NCYF facility and sports give inmates a chance to let off a lot of steam. Volunteers also donate recreational equipment to the program. We believe being involved in a healthy lifestyle physically, mentally, emotionally and spiritually is key to youthful offenders' success.

Compassion in Action:

Volunteer Teela Mickles has been busy teaching pre-release classes to inmates in six week sessions that help them to come face to face with who they are and what they want to do in the future. Programs such as these, along with individual counseling by the mental health team, help inmates to get along with each other, as well as prepare for a healthy return to society.

What happens when parolees test positive for drugs?

Editor's Note: According to the January 31, 2013 monthly data sheet of the Nebraska Department of Correctional Services, an average of one in five (20.40%) of Nebraska parolees tested positive in random drug tests during 2012. NCJR asked Cathy Gibson-Beltz, Adult Parole Administrator, to explain how the Parole Administration responds to those who abuse while on parole. The following are her comments.

Every positive alcohol and/or drug test is responded to by Adult Parole Administration and the Board of Parole. Whenever a parolee tests positive, his case is reviewed by a Nebraska Department of Correctional Services substance abuse supervisor and that supervisor conducts an assessment, either in person or file review, and makes a recommendation on whether treatment is indicated or not and if it is recommended, what level of care is recommended.

Normally, if it is a first positive test, the offender is allowed to remain in the community and complete any treatment recommendations in the community. There are cases, however, that the Board of Parole indicates at the time of their parole, that they want the parolee placed in custody if he/she tests positive for alcohol and/or drugs. In those cases, the offender immediately goes into custody pending a review by the Board of Parole. Occasionally, the Board will allow us to have these offenders remain out of custody while they await their review if they are employed and are otherwise doing well.

For all other offenders, whether it is this first positive test or subsequent positive, we look at each case individually. We look to see what level of change they are in, if they are currently in treatment, have completed treatment or are refusing treatment. We look to see if they have stable employment and residence available to them and what their general level of compliance is. The offender's level of risk is assessed and considered when making recommendations.

We generally handle positive drug tests on two levels...the Administrative Resolution level and the Review of Parole level. The Administrative Resolution is an informal resolution that the Board of Parole signs off on that allows for the parolee, the parole officer and perhaps the parole supervisor to discuss the parole violation and come to an agreement on what an appropriate response would be to the drug usage...treatment is virtually always a part of that agreement. The Review of Parole is completed before the Board of Parole and they determine, based on an interview with the parolee, the parole officer if needed, and other relevant parties, and the Board makes the determination as to what should occur with the parolee, taking into consideration the factors indicated in the above paragraph.

THANK YOU to all who contribute information, opinion articles, letters or financial assistance in support of the Nebraska Criminal Justice Review

NEWS and MISCELLANEOUS

By Mel Beckman

Nebraska rejects part of the Adam Walsh legislation

In fiscal year 2012, Nebraska lost \$62,349 of funding in its Edward Byrne Memorial Justice Assistance grant from the Federal Government. This was because the Legislature made the decision to not allow juvenile sex offenders to be included in Nebraska's sex offender registry. While Nebraska legislators went along with much of the Federal Government's program regarding sex offender registration and public notification, they balked at the idea of subjecting young people to the notoriety of the Register. The amount of the reduction in Edward Byrne funding was supplied by Lisa Stamm, Chief of the Grants Division of the Nebraska Crime Commission.

Jeanne Bishop changes stance on the abolition of life sentences for juveniles

In the past few years, Jeanne Bishop, an Illinois attorney, was a national advocate for keeping life sentences for juveniles. Some readers may have seen her website, calling on family members of persons murdered by juveniles to oppose efforts to abolish juvenile life sentences. She was motivated by the murder of her own sister and brother-in-law and their unborn child, by a juvenile.

However, in a February 2, 2013 posting on CNN Belief Blog, Ms. Bishop publicly expressed a change of heart. She attributed it to a minister's reminder of Jesus' example on the cross, of what to do to those who harm us—pray for them, and to a conversation with her sons about love of neighbor as oneself and one of them asked, "What about Aunt Nancy." Ms Bishop stated that, next month, when Illinois lawmakers consider bills that would abolish juvenile life sentences, she will speak "in favor of the mercy of a second chance."

"Good time" early release opposed by Omaha City Council

On February 26th, the City Council passed a resolution, unanimously, to support repeal of Nebraska's "good time" early release laws for violent and gun offenders, and to urge the Nebraska Legislature to amend LB 379 to require all violent offenders, gun offenders and repeat violent offenders to serve at least 70% of their full sentence before consideration of "good time" early release. The Council planned to send representatives to the Legislature for the public hearing on the bill the next day.

Nebraska prison statistics

Editor's Note The figures below are from the 2-28-13 monthly data sheet of the Nebraska Department of Correctional Services. They indicate the population at each facility and the average annual cost per inmate.

Community Corrections Center, Lincoln

Population: 372. Average annual cost: \$19,377

Community Corrections Center, Omaha

Population: 162. Average annual cost: \$21,666

Diagnostic and Evaluation Center

Population: 515 Average annual cost: \$30,311

Lincoln Correctional Center

Population: 501 Average annual cost: \$40,455

Nebraska Correctional Center for Women

Population: 257 Average annual cost: \$39,968

Nebraska Correctional Youth Facility

Population: 61 Average annual cost: \$84,041

Nebraska State Penitentiary

Population: 1272 Average annual cost: \$33,619

Omaha Correctional Center

Population: 576 Average annual cost: \$29,367

Tecumseh State Correctional Institution

Population: 969 Average annual cost: \$36,496

Work Ethic Camp, McCook

Population: 153 Average annual cost: \$13,611

Are inmates serving JLWOP sentences the "most dangerous?"

The *NCJR* received a letter recently from an inmate, sentenced to life for a crime committed as a juvenile over 30 years ago. He challenged Attorney General Bruning's characterization of the 27 JLWOP inmates as the most dangerous of those in custody. The Attorney General expressed that opinion publicly during the controversy over the attempted pardons of the 27 inmates last winter.

The inmate pointed out that the vast majority of the 27 have medium security classification status and "a lot of us have community custody or minimum security points. This fact flies in the face of Mr. Bruning's assertion"

The inmate was concerned that the media would be misled by the respected voice of the Attorney General when in fact, the truth of the matter is quite different.

Some budgets of interest

The following were appropriations made from the General Fund for Fiscal Year 2012-2013 for the agencies below:

Corrections Department - \$156,840,269
 State Patrol - \$54,253,448
 Parole Board - \$819,249
 Crime Commission - \$5,632,611
 Attorney General - \$5,815,369

Appropriations for other state agencies can be seen at: www.nebraskalegislature.gov/pdf/reports/fiscal/2012budget.pdf.

Nebraska Office of Probation Administration

The Probation Administration is under the jurisdiction of the Nebraska Supreme Court. Ellen Fabian Brokofsky is the Administrator. The state is divided into twelve probation districts and there are a total of 43 offices in cities

Barb Glaser and my introduction to the world of incarceration

By Kathleen Rettig

I was introduced to Barb Glaser about 8 years ago when a Creighton administrator chose the Douglas County Department of Corrections (DCDC) for an immersion site. A group of Creighton faculty were learning how to design and teach service-learning courses. Using DCDC as a potential service site, a place for undergraduates to volunteer their time and talents, seemed an odd option. Barb gave us a brief introduction to the volunteer programs, explaining the variety of classes and the continuing need for more. Not convinced I could teach a class at Creighton centered around students' volunteering, I decided to volunteer for a year, maybe two, teaching a writing class.

After more than a year of volunteering, I started talking to Barb about the possibility of my designing a service-learning class using DCDC as a site. Barb helped in the process, recommending books, looking over my syllabus, and allowing me to bounce ideas off her. I talked to Creighton faculty and administrators to make certain this project was one they would value. Two years after first meeting Barb, I taught my first class. Each class grew in size, until this semester, I have a full class: 22 students volunteering at the jail, 4 students volunteering for Family and Friends of Inmates (FFI) and CrossOver Prison Ministries.

As I volunteered, read, and researched, I realized how ignorant I was concerning the who, what, when, where, how of incarceration. At the jail and at Creighton, I teach a variety of English courses. Before volunteering, I did not realize how young many inmates are or how many are parents. I did not realize how many people spend time in jail and prison for misdemeanors, or how long

and towns throughout the state. According to a spokesperson for the office, there are currently between 17 and 18 thousand persons under probation supervision in Nebraska. The Office anticipates having a new informational report available in about a month.

Crossroads Connection

This Omaha prison ministry group is supported in prayer, financial contributions and personal involvement by 25 partnership churches. The organization expanded its ministry in 2012 by offering Dave Ramsey's *Financial Peace University* course to inmates at the Omaha Correctional Center. Ten students graduated from the first class in July, 2012 and 15 from the second class in October, 2012. The students enjoyed the class and especially liked learning about the 7 "Baby" steps for financial success. The information above is from Crossroads' 2012 Annual Report. To learn more, go to the group's website: www.CrossroadsConnectionOmaha.org.

many of their sentences are. By volunteering for DCDC and FFI, I have a sense of how much an incarcerated family member affects the whole family and the community. I now define privilege differently.

Barb Glaser and the Programs staff at DCDC have helped me see the effects of mass incarceration in my own neighborhood. Through them I was introduced to Family and Friends of Inmates, and later to CrossOver Prison Ministries. The staff and volunteers have shown me, through their example and their willingness to teach, how important making a small difference in someone's day can be. During the weeks before Christmas, I supervised while inmates read books to their children and the staff sent the books, tapes and letters out in time for Christmas. When I mentioned downsizing my personal library, Barb suggested I donate my books to the DCDC library.

She "gave generously and inspired multitudes"

I could give a long list of ways Barb Glaser helped me realize how I could help a population that, until eight years ago, I seldom thought about. Three years was the longest duration of any single volunteer service I had done until I began volunteering at the jail. Now, because Barb Glaser helped open my eyes to the tremendous need, I plan to carry this service well beyond a decade. Barb Glaser gave generously and inspired multitudes. Continuing to help the incarcerated successfully re-enter the community is the best way I can think of to thank her for everything she has given me.

Editor's Note: Barb Glaser was a long-time employee of the Douglas County Department of Corrections who was killed in a car accident this winter.

Unresolved questions concerning sex offenders and civil commitment in Nebraska

By John Krejci

For 18.2% of inmates confined in Nebraska prisons, a sex offense was their most serious offense—a percentage higher than that for confined drug offenders (14.1%) Are sex offenses, unlike all other types of crime, increasing? Or is it that enforcement and prosecution are being more vigorously pursued? In a 2011 article in the “Journal of Criminal Law and Criminology,” (The article “Sex Offenders Exceptionalism and Preventive Detention,”) Corey Yung states,

“The emerging war on sex offenders, as typical of wartime mentality, has been marked by substantial deviations from established legal doctrine, constitutional protections, and the rule of law. (There has been) a high level of panic among the general population about sex offenders.”

Nor have the myths about sex offenders lessened. The danger-stranger myth is still prevalent, even though the evidence reveals that only 10% of all sexual crimes are committed by a stranger. Ninety per cent are committed by relatives, friends, or other known persons. The myth that sex offenders cannot be rehabilitated and have a high rate of recidivism is still strong. Despite the fact that several studies have found that as few as 5% are arrested again and the highest recidivism rates are less than 15% -- compared to more than 25% of other offenders in Nebraska and 60% nationwide. Myth #3 contends that most sexual offenders are pedophiles, i.e., are predators of children. Pedophiles are a small segment of sex offenders. The media and the public tend to lump all sex offenders into that category.

In this article I do not intend to minimize the harm, the pain, the horror or the long term consequences of sexual exploitation and violence. Rape, pedophilia, prostitution of children, internet enticement, and child pornography are a cancer in our society. They cause terrible long-term suffering for children, juveniles, women, and other vulnerable victims. The focus of this essay is a critical look at what we are doing to solve these problems. What is the human cost? Are the efforts working? The collateral damage? And are the substantial financial costs worth it?

The evidence from previous wars, e.g. the war on drugs, is not encouraging. From the hype of “Just say, ‘No’” of the 1980s to the high profile but ineffective DARE program, to the costly “get tough on crime” of the 90s, to the billions spent in Latin America – little has substantially changed in the world of illicit drugs. Even the 40 year old War on Cancer has been criticized as extremely expensive, highly publicized and only moderately successful. These wars have mirrored our “shooting wars” of the past 50 years – costly, high profile, but for the most part failures.

The recent War on Sex Offenders seems headed for a similar fate:

„The 2006 Adam Walsh Act contained a plethora of new restrictions, sentences, and requirements for sex offenders. Included among the hodge-podge of new federal initiatives was Title II par. 302 of the Act, which established the [Jimmy Ryce Commitment Program].” (Idem, Young, p.978)

But more about civil commitment later. Incidentally, Nebraska, like a majority of other states, has yet to comply fully with the sex offender requirements of the Adam Walsh Act.

In Nebraska, LB 1199 became law in 2006. Like Adam Walsh, it has further exacerbated the treatment and rehabilitation of sex offenders. The classification system is overly restrictive and punitive. In some cases it reclassifies minor offenders, who had completed their sentences and been classified prior to 1199, into the same category as that of more serious offenders. At an interim hearing several years ago, the testimony of sex offenders, caught in the LB 1199 net, made it clear that the law was an impediment to their continued success. However, I am not aware of any remedial legislation passed to correct the injustices of the law. And I have not seen any legislation offered this year. The one bill introduced (LB 473) seeks to further limit housing options for released offenders.

In addition to the restrictions noted above, LB 1199 seems to have unwittingly increased the length of stay of those sex offenders, who have completed their sentences and been civilly committed. The Department of Health and Human Services, which oversees civilly committed sex offenders, has phased in a two-stage treatment program, which has raised the bar for release. One source I consulted noted that between July 2006 and November 2010 only 10 sex offenders had been released. The journal article quoted above (p. 985) stated, “Nebraska has released one person since 2006.” There are over 100 in the program; some have been civilly committed for over 25 years. Minnesota has yet to release even one, and currently risks federal court takeover, unless it takes steps to address legal and constitutional challenges.

In addition to excessive repression of sex offenders, the civil commitment programs are costly to the state. It was conservatively estimated that the Lincoln Regional Center and Norfolk Regional Center’s budget for 2010 were close to \$30 million. Formerly the LRC successfully treated sex offenders for an average of 18-24 months. Currently, the two-phase program is 5 years to life! Daily cost per offender is estimated at \$540, which translates into more than \$100,000 a year. Some have suggested that NRC has continued to warehouse sex offenders to preserve the 200 jobs for the community.

On the positive side, released sex offenders and Department of Correctional Service workers have spoken

positively about the Department’s sex offender program. Dr. Cameron White, Behavioral Health Director for DOC, in a presentation at the Community Corrections conference in October of 2012, distributed the following:

“The Nebraska Department of Correctional Services Behavioral Health Division consists of about 130 professionals including psychiatrists, mid-level psychiatric providers, psychologists, mental health practitioner, social workers, nurses, and drug and alcohol abuse counselors. The focus is to provide clinical treatment services to the priority populations including those with severe mental illness, violent offenders, substance dependent offenders, and sex offenders.”

He noted also that a large number of inmates (212), who were incarcerated for sexual offenses, were discharged in 2012. Of those, 17 were recommended for possible civil commitment. He did not document how many were in fact civilly committed.

A sex offender released from the Lincoln Regional Center wrote the following: “Treatment approaches are premised on the behavioral modification model; there are many components of the Basic Treatment that work effectively – including group and individual therapy approaches.” He further noted the recognition by LRC of the need for an individual treatment plan. However, he stated that this policy was followed inconsistently. Furthermore, although it was acknowledged that outside support was central for successful reintegration into society, the breaking of a rule by one resident, e.g., smuggling drugs into the facility, resulted in punishment for everyone. Another shortcoming was misdiagnosis. Often sex offenders were lumped into the single category of pedophile, i.e., attracted to prepubescent children, whereas most sex offenders were not pedophiles.

Whereas it is encouraging that the Department of Correctional Services is able to safely discharge many sex offenders into the community, it is an expensive, human tragedy that most sex offenders who are civilly committed are unlikely to return to the community. This is both inhumane and costly. We can do better.

Perhaps another interim study is needed – one that is followed up with remedial legislation. In any case, the plight of sex offenders in Nebraska will be further discussed in future issues of the NCJR.

Offense category for most serious offense & percent of total population confined (6-30-12)		
Offense	Population	% of Population
Sex offenses	824	18.2%
Drugs	637	14.1%
Assault	583	12.9%
Homicide	511	11.3%
Robbery	423	9.3%
Theft	362	8.0%

(Excerpted from DCS monthly data sheet, 1-31-13)

Tinkering with life: A look at the inappropriateness of life without parole as an alternative to the death penalty

By Ashley Nellis, in the University of Miami Law Review, Winter, 2013.

Review by Mel Beckman

The author points out that the rapid growth of life without possibility of parole sentences (LWOP) has occurred with little acknowledgement, much less opposition. The use of life sentences has increased by 300% in the past two decades. Between 1992 and 2008, the number of prisoners serving LWOP in the United States rose from 12,453 to more than 41,000.

Nellis notes that LWOP is often proposed as an acceptable alternative to the death penalty, but doing that, she says, “desensitizes society to the fact that this, too, is a death sentence. Instead of being portrayed as such, LWOP is portrayed as a “lucky break” for defendants. In fact, defendants are tempted by both prosecutors and defense attorneys alike to plead guilty and serve LWOP rather than risk a death sentence.

What’s wrong with parole-ineligible life sentences? The author lists three serious issues: a) LWOP sentences receive much less careful review in the court system in comparison to death penalty cases; b) in at least 29 jurisdictions, LWOP is mandatorily applied in some circumstances and thus, decisions are not the product of reasoned deliberations; and c) racial disparity is evident in the case of those who have received life sentences. Of the 41,095 people serving LWOP as of 2008, 48.3 percent were African-Americans.

“How” one accomplishes a goal is often as important as the accomplishment itself. Nellis tactfully points this out to death penalty abolitionists who advocate for LWOP in preference to capital punishment:

“The reasons why American society will eventually decide to eliminate the death penalty as a punishment are as important as the outcome—maybe more so. Subsequent sentencing reform efforts are more difficult when LWOP is promoted as an alternative only to be opposed later. As advocates work to eliminate the death penalty, they may harm later efforts if LWOP is dismissed as unworthy of similar ethical concerns.”

Nellis urges that all sentencing alternatives to the death penalty be explored, not just life without parole. Many countries, she says, exist without the death penalty or LWOP. Her conclusion is that neither the death penalty nor LWOP is appropriate in a corrections system that has the ability to reform lives as our’s does. “Our society demands fair and just sentences that keep the public safe, apply a reasonable amount of punishment, and attempt to reform the offender so that he or she can be safely returned to the community. Neither the death penalty nor LWOP accomplish these goals.

LETTERS

Opportunity for improvement is cut

It has been over six months since the Nebraska State Penitentiary was placed on so-called modified lockdown on August 2, 2012, due to gang activity, according to Director Houston. Even if this is true, why cut all rehabilitation opportunity?

G.E.D. classes cut 90%, from twenty hours of class time a week to only two hours weekly; church worship (all religions) cut 75% from eight hours monthly, now only two hours; the same with self-betterment groups—7th Step, Toastmasters, Vets Club—70% cut, from 8 hours a month to 2.5 hours a month.

As Vice-President of Education for Toastmasters Innovators Club #4362 I find it so sad to take opportunity for improving oneself out. Volunteers run church and self-betterment groups so it isn't a cost issue. Inmates and tax-payers deserve better. Contact your local state senator.

Jose Rodriguez 57613
Nebraska State Penitentiary

What happened to the Nebraska Ombudsman?

During the mid 80's to early 90's, the Ombudsman Office employees took into consideration the complaints prisoners were having with the authorities of the Department of Correctional Services. During those days the Ombudsman's Office had an employee by the name of "Muhammad," who often came to visit inmates and would make an appearance at the Penitentiary at any given time. Unexpectedly, Muhammad would just show up on the prison yard, in the library area, cafeteria area, the gym, or wherever inmates were allowed to be at the time. Muhammad would be allowed to go to those areas without incident, where he would spend hours with inmates.

After Muhammad resigned, it seems like it takes anywhere from up to six months to a year for the Ombudsman to make a visit inside the prison facility.

These days, inmates are skeptical and afraid to file a complaint or use the grievance process with the Ombudsman's Office because the employees leave the inmate population with the impression that they are looking into the situation, but the issues never get resolved. The cases are closed without even advising the inmates...thus the question—"Where is the State Ombudsman?"

Barry W. Fletcher, Sr. 67933
Tecumseh State Correctional Institution

Self help groups in prison

When a person has no place else to go, he goes inside of himself. This phenomenon is the crux of introspection and personal growth, or as the NDCS terms it, "rehabilitation."

In an effort to return to their families and communities better than they were when they entered the penal system, many inmates took the initiative to create and implement curricula to compensate for the Correction Department's deficiencies in programming. These organizations have sought to re-educate citizens returning to society on the individual, social and spiritual levels of consciousness, using targeted methods which yield observable results. Organizations such as the Harambee Afrikan Cultural Organization and Seventh Step were founded by inmates for inmates who seek to make positive, lasting changes in themselves and in others.

In this sincere and noble endeavor, the organizations require very little from the Department of Corrections. What do we ask? Simply that the arbitrary restrictions which are presently encumbering these crucial organizations be lifted. We ask that each organization be returned to its full operational capacity, i.e., weekly meetings of two hours each, weekly Board of Directors meetings of a half hour each, and adherence to the Constitution and By-Laws previously drafted by members and approved by the Administration. We ask that the community be aware that not all inmates are engaged in idle game play, exercise or watching television.

What is going on here is tantamount to a group of students realizing that they are making terrible grades in school. So, they organize, appoint leaders, implement curriculum, and start to pull their grades up. Great right? But then there is a bakery that burns down three blocks away. It has nothing to do with these students, yet the administrators of the library where they study cut the library hours in half, as well as halving the number of days that the library is open.

Introspection is one of the most difficult tasks that most of us can conceive of. So difficult, in fact, that many never attempt it. We, the members of Seventh Step Foundation and Harambee Afrikan Cultural Organization have undertaken that task.

Jamison D. Hall, A.K.A. Ananzi 71809
Tecumseh State Correctional Institution

Too hot at LCC

It is 30 degrees outside in Lincoln right now but it's a balmy 90 degrees in my housing unit E2 at the Lincoln Correctional Center. I've addressed my complaint to the LCC Administration and even wrote Tyson Larson at the Legislature. Nothing got the heat put at a proper level. I sweat in bed at night with no blankets.

I'm glad I don't have to pay the bills at the Lincoln Correctional Center. This much heat is a waste of taxpayer dollars and the Government appears to be thumbing their noses at the taxpayers.

Danny Ball 61451
Lincoln Correctional Center

The direct order hoax

The Nebraska Department of Correctional Services' "Direct Order" program was initially installed to provide "faster service and quality items at cheaper

prices.” (For shoes, sweat-clothes, headphones, T.V.s, etc.) However, this has proven to be a hoax. Everything that we prisoners can purchase from the direct order selections we can purchase in better quality and cheaper prices from other vendors, and in some cases, with quicker service.

The NDCS is involved in a “takeover,” totally monopolizing monies of prisoners, eliminating all competition. Basically, you buy it from them or not at all...and that’s an offer you can’t refuse.

Cornhusker State Industries (CSI), which is run by the Department, is exploiting the prisoner population from start to finish. Prisoners make many of the items being sold in the “Direct Order Book” in prison sweat shops, while being paid very little, and then the Department over-prices these items and the exploited class in turn purchases the items. And you thought this only happens in places like China?!

There needs to be competition—a better variety of choices and less exploitation/ greed by the Department.

Shaheed K. Biko Hamza 36413
Nebraska State Penitentiary

Prisons not functioning well

In this author’s opinion, prison within our society should generally serve three purposes: punishment, separation, and reform.

When a person commits a serious criminal act, an appropriate term of incarceration can be used as a **punishment** to deter this negative behavior in that person and others.

Separation from society, through placing an offender in prison, is justified when the criminal behavior poses a danger to law-abiding citizens, even if it is to deter possible future continuation of this behavior or the possibility that the lack of doing so may encourage others to commit similar dangerous acts.

Finally, prisons should put forth every effort to **reform** those who come into their custody. This not only creates the opportunity for these inmates to become productive members of society but it protects society by changing the behaviors and thinking paradigms that drove these individuals to be a danger to society, as they would be once again when they return to the community, if the behaviors and thinking paradigms are not changed.

Ideally, American prisons perform these functions for our society, but if they were truly doing so, effectively and with accuracy, there would not be such a drastic explosion in prison population.

Jason N. Witmer 47870
Tecumseh State Correctional Institution

The New Norm is generating death and destruction

In September, 2012, the Tecumseh State Correctional Institution locked down the prison due to a few “minor” conflicts in which no serious injuries resulted. Then the prison administrators thought it best to keep it

locked down for “safety and security.” They contend, without any real evidence, that a serious potential for conflict exists when the general population co-exists. Although we’ve been co-existing for a hundred years, they suddenly believe that a “new norm” is warranted.

In so doing, procedures such as open (accessible) sick-call were terminated. Access to the yard for exercise, sports and socialization was reduced from twelve hours per day to one hour. Self-help programs were severely minimized. In short, the prison essentially eliminated 90% of our capacity to engage in constructive activities, in order to prevent an insignificant potential for some hypothetical large conflict.

The facts speak for themselves. Prior to lockdown, the institution had one suicide in six years. Since, we’ve had two in three months. On February 7, 2013, a man died and I personally witnessed his unfruitful repeated attempts to effect sick-call. The amount of conflict has at least doubled. The facts clearly demonstrate that the new norm is highly conducive to oppression, death and destruction. Just stating the facts!

Floyd Morrison 74703
Tecumseh State Correctional Institution

Sick of doing time? Prepare for release

Raise your hand if you are enjoying your stay in prison. As you sit there reading this, I know not one of you raised your hands. O.K., maybe one or two. We all know guys like that, right? But the vast majority of us can’t wait to get out of prison. And of course, we do not want to come back, right? Who would?

So then, why do so many people come back to prison? What are you doing with your time right now that will help you remain free once released? When is the best time to begin preparing for your release anyway? The answer is, day one! From the first day you are locked up you should begin preparing for your release. Procrastination leads to incarceration after all.

But how do you prepare? What can you do from your prison cell? Well, I don’t have all of the answers but I can tell you one thing you should be doing: surrounding yourself with like-minded individuals. Twice a month there is a group of men that meet who are serious about preparing for their freedom and helping others do the same. We are the 7th Step Organization of Tecumseh and we want you to join us.

If you’re sick of doing time, if you want to find a way to stay out once released, or if you just want to give others the knowledge and wisdom that you possess, then 7th Step is for you. Every 2nd and 4th Tuesday at 7 p.m. is when we meet. A dollar a month and a kite to the club coordinator is all it takes. Such a small investment for your future, right? That’s why we look forward to seeing you and coming together to make a difference—for real!

Chris Garza 41853
Tecumseh State Correctional Institution

NEBRASKA CRIMINAL JUSTICE REVIEW

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

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