

Nebraska Criminal Justice Review

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Juvenile lifers look forward to resentencing: Court rules *Miller v. Alabama* applies retroactively

By Mel Beckman, Editor, NCJR

The Nebraska Supreme Court, on February 7th this year, ruled that the life sentences mandatorily imposed on Juan Castaneda, Doug Mantich and Eric Ramirez were effectively life without possibility of parole sentences, and therefore, were unconstitutional. (The U.S. Supreme Court, in the case of *Miller v. Alabama*, June 25, 2012, disallowed *mandatory* life sentences for crimes committed by youth while under age 18.)

The rulings in the cases of Castaneda, Mantich and Eric Ramirez, who now must be resentenced, provide a basis for the other Nebraska inmates who were sentenced mandatorily to life as juveniles, to appeal their sentences and be resentenced. When their resentencing hearings take place (two are scheduled for May), their families and attorneys will have opportunity to present reasons why a lesser sentence should be imposed.

Two of the Nebraska inmates have already served forty years or more. Seven others have been incarcerated for thirty years or more.

The 2012 *Miller v. Alabama* decision and the recent Nebraska Supreme Court rulings give solid support to what many have believed for a long time—that children and teens are not the same as adults: they cannot be considered as responsible as adults for criminal behavior. And even though the crimes they commit can be as horrible and senseless as those of adults, they still have a great capacity to reform and become responsible citizens, in the community—an opportunity many of those long incarcerated should now have.

Challenge and hope for prison reform LB 999 and 907

By John Krejci

Reform of the prison system in Nebraska received a nudge in the right direction with the introduction of LB 907 and 999. At the February 6 hearing, the Judiciary Committee heard strong support from a broad spectrum of law enforcement and corrections professionals: the Omaha Chief of Police, the Director of the Nebraska

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GRADY PORTER

Recipient of the Restorative Justice Award, February 14, 2014

By Joanna Lindberg, Heartland Family Service

Grady Porter, Deputy Chief of Nebraska Probation, District 18 received the Restorative Justice

Award from the Victim Empathy Advisory Committee at a Valentine party in his honor at the Nebraska Probation Office. Grady, a founding member of the Advisory Committee, helped develop Restorative Justice Programs in Omaha. He traveled to the Polk County Attorney's Office in Des Moines, IA to visit their Restorative Justice Office. He supported the development of the Victim Empathy Program (VEP) in Douglas County and for the past 7 years served on the advisory committee helping shape the content and quality of the classes and Victim Offender Meetings (VOM's). Grady follows up crime checks on youth who attended the VEP classes or participated in the Victim Offender Meetings (VOMS) six months after completion. Since the onset of the program, over 85% of youth participants were crime free six months after completing the program.

Working with youth in the Juvenile Justice system has been a life long commitment, 38 years long! In July 1976, Grady began working for the Division of Juvenile Services in North Dakota. Grady is a trained counselor and brought many of the restorative concepts used in North Dakota to Nebraska. In February 1990, he joined the Nebraska Probation Office and served as the Deputy Chief. After 24 years in the position Grady feels good about the improvements he helped bring about over that time. He is especially gratified to be able to implement the provisions of LB 561, Sen. Brad Ashford's bill that reorganized the juvenile justice system statewide.

Grady feels there is room to grow with respect to how Probation supports and involves victims in the system. Currently, the Probation Department sends out a letter to crime victims prior to a juvenile offender's court hearing asking for a victim statement and itemized cost of the crime. There is limited response from victims. Grady believes victims should be compensated and when desired their voice should be heard and recognized.

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Two Views, and a comment on partial lockdown (aka “new normal”) and program access by inmates

Editor’s note: Since the imposition of the “new normal” (partial lockdown at the Nebraska State Penitentiary (NSP) and at the Tecumseh State Correctional Institution (TSCI) a little over a year ago, the NCJR has received numerous letters from inmates stating their perceptions and experiences. NCJR has also communicated with the Department of Correctional Services’ administration for their feedback. This review will contrast the Administration’s perception with that of the inmates. Both have been edited, due to space limitations, by John Krejci.

Department of Correctional Services Statements (Excerpts from correspondence received from three administrators)

“As indicated in...previous correspondence, the frequency of programs had been adjusted. As it was our intent to continue to maintain the same variety of programming opportunities historically available, these adjustment were necessary given the current institutional schedule...”

“The inmate letters you included present the point of view of these particular individuals, however, there is no information available to support your position that the response to the NSP December 2nd incident was unprofessional. The response was consistent with Department emergency protocols and, according to experts in the field... As you know inmates have numerous approved avenues of appeal if they disagree with disciplinary sanctions imposed or any classification actions resulting in restrictive housing assignment...” **(February, 2014)**

“Because of the schedule changes ...it has caused a disruption to the inmates schedule at TSCI. Many improvements have been made in the scheduling to allow recreational and social activities. Inmates continue to have numerous opportunities to engage in authorized programs and activities. We will continue to seek out additional opportunities which will include looking at creating additional yard time.” **(February, 2014)**

“As a point of clarification, neither NSP nor TSCI have been on a partial lockdown for the past 14 months. After much consideration, the Department decided to move from “open yard” operations with our maximum security facilities and adopt policies and procedures that are focused on controlled inmate movement.... The department is aware of the inmate concerns relative to the schedule of operations and are considering options available to increase the amount of outdoor recreation time available to the inmate population.”

INMATE LETTERS (The following are excerpts from the 15 letters received from inmates of TSCI and NSP)

January, 2014 “I am one of the 33 inmates here at NSP

sitting in segregation on Administrative Confinement (after) the peaceful protest that took place on Dec. 2, 2013. I have made contact with the Ombudsman... Senator Ashford... and Senator Chambers on this matter...”

December, 2013 “On December 2, 2013, approximately 30 prisoners refused to lockdown at NSP...It was truly a non-violent, direct action demonstration...However, over-eager and aggressive staff did take the liberty to shoot at point blank range (rubber pepper spray balls) at prisoners, standing up with their hands behind their backs and/or in other non-threatening prone positions...”

It is my belief that prisoners have a right to protest unfair and unreasonable conditions. As a prisoner collective we have been filing grievances and written petitions. We have been writing to Omaha-Lincoln newspapers, state senators/community leaders/ombudsman office, etc. with no results...

Some of these Dec. 2nd prisoners have had exemplary institutional disciplinary records... Some of these prisoners were simply at the wrong place at the wrong time, and staff refused to let any of them in and lumped everyone together.”

February, 2014 “(I am) writing to inform you of another aspect of the incident on 12/2. In the last NCJR there was an article about the incident written by Marshall Lux...(He) spoke about some inmates who were swooped up in the incident. Well, I’m one of those inmates.”

The letter explained in detail how this individual was not allowed to return to his cell, lumped with the protesters, put in segregation for 26 days, lost 90 days good time, and, despite support from caseworkers, and winning his appeal, he was still in segregation when he wrote this letter.) Despite this he wrote:

“The only change this place offers is negative change...We need more Voc. Rehab., schooling, counseling, mental health treatment, drug and alcohol counseling. We need help, but we don’t have a voice out there.”

January, 2014 “Politicizing the murders that Nikko Jenkins confessed to and making him the poster boy of the good time law is irresponsible and pathetic. The truth of the matter is that absolutely nothing positive would have been gained by Nikko Jenkins doing an extra 9 months or a couple years in lockdown at NSP.... (The four murders) were a tragedy by a homicidal maniac born and created right out of a cell of Nebraska prison... The writing was on the wall, or in this case on his face, and in the kites and letters he wrote with grandiose homicidal thought... So where is the real failure here? In case you haven’t heard, rehabilitation left NSP about 15 months ago. We have all been on lockdown from minimum to maximum. “

January, 2014 “I am one of the 33 NSP inmates who took part in a peaceful protest on Dec. 2, 2013. The media covered the event, and as I followed the coverage I realized that, yet again, the prison Administration has managed to use misinformation as a tool to affect public opinion to their benefit. Meanwhile they continue to ig-

nore the legitimate grievances and petitions of the inmate population... The program and operation modifications which started in 2012 have reduced inmate yard access from as much as 10 hours a day to the legal minimum of one... (The warden) recently claimed that 'inmates get 7 hours a day out of their cells;' this statement is at best deceptive... (Most) of the inmate population would have to skip meals, showers, phone calls, and even religious services in order to achieve 7 hours out their cells... Furthermore, prior to the 2012 modifications inmates were allowed two hours of religious worship and 2 two-hour sessions of religious services a week... Available religious programs have been cut to one fourth... The real story behind the protests is the systematic removal of our re-socialization programs (e.g. hobby, self help, recreation, and art."

Comment by John Krejci

As is obvious, the Department's perception of the non-violent protest differs from the inmates'. The Department followed "protocols," designed to control inmates; the inmates spontaneously engaged in their non-violent action when petitions and numerous avenues of grievance were exhausted. It is fortunate no one was injured, although it seems that inmate health and safety were compromised by rash decisions of prison personnel.

It still remains for inmates involved or swept up in the action to receive justice. It seems that all have been given almost a month in segregation, loss of 90 days of good time, and most are currently in Administrative Custody. The several who have communicated with me have stated that charges against them have been dismissed, but they still remain in AC. (By the time of publication this may have changed.)

The Administration's quelling of the non-violent protest and subsequent actions do not seem to have alleviated the situation. In addition to a continual stream of letters from inmates involved in the protest, I have two petitions signed by 483 (out of approximately 600 minimum security dormitory inmates). One protested the crowded, unhealthy, and noise-polluted environment. An organizer stated:

"We are locked inside this dormitory where people are sweating, exercising, spreading germs, coughs, and colds to the point people are just staying sick. We cannot go outside, we cannot go to our cell. One is better off being maximum security at NSP. The quality of life is so bad that even NSDC executive staff who came in for audit said that the dormitory was never intended to be run as a lockdown or on controlled movement."

Another petition, signed by hundreds, protested the quality and quantity of food available. Whether one agrees with the specific complaints of the petitions, it is clear that there is widespread discontent at NSP. This is a situation that the Administration must address.

On the positive side, the letters from the administration do state that both the limitations of programming (cut back by 75%) and the limited access to the yard are under consideration. Although not admitting the shortcomings and not sharing their plans, it is obvious that the Administration realizes that something needs to be done.

The NCJR will continue to promote communication among the DOC, inmates, and stakeholders concerning issues that need to be addressed. After all, we are all interested in public safety, humane treatment of inmates, and rehabilitation. Continuing dialogue is essential. Talking and listening.

Challenge and Hope (Continued from page 1)

Department of Corrections, the conservative Platte Institute, the Director of the Douglas County Jail, Omaha Mayor's office, the Ombudsman, the Probation Office, the ACLU, OTOC, Nebraska Appleseed and former inmates.

Supervision for all inmates released from prison, under LB 999 and 907, has been dropped. At present almost 40% of inmates leave Nebraska prisons without supervision or support. In addition to supervision, inmates need employment, housing, and social support. Many need mental health, substance abuse, and alcohol treatment. Presently these programs are not available. The bills include aid for the many non-profit and volunteer groups that attempt with limited resources to meet inmate needs.

The bills establish the Reentry Programming Board, a structure to promote cooperation and coordination among state agencies such as Corrections, Probation and Parole. The Board would lessen the "silo" model, in which agencies act alone, isolated from other agencies. Private and volunteer groups are included in this cooperation.

The bills focus on alternatives to incarceration, increased programming for inmates, rehabilitation, and parole for non-violent offenders. Change in "good time" laws that would facilitate releasing non-violent offenders has been stripped from the bill. LB 832, a feel-good approach requiring violent offenders to earn good time by participating in programming has been introduced. ACLU spokesperson Alan Peterson called the bill an "illusory non-solution," which would exacerbate overcrowding since adequate programming is unavailable to most inmates. The Ombudsman's report noted that only 7% of inmates are in programming at the present time.

LB 999 and 907 would provide for the opening of new reporting centers, require "best practices" research, and provide resources to non-profit and voluntary agencies. Senator Ashford is committed to changing "Nebraska's criminal justice system from incarceration of offenders to transition and reentry into the community."

One hopes that the Legislature sees reform of corrections as a priority and is willing to invest significant resources up front, instead of risking building a \$125 million new prison in the near future.

Medicaid expansion

By Pastor Lowen Kruse. Pastor Kruse was a state senator for eight years, where he served on the Appropriations Committee. He has always favored better health care in the near future in order to reduce the costs down the road, which are increased without preventive care.

The Medicaid Expansion bill in the legislature is a big deal for Nebraska. LB 887 will move on from committee in good fashion, but it will need help from all of us to survive the fight on the floor.

Joining the federal Medicaid Expansion offer would be a huge plus for us. It would bring insurance to 50,000 Nebraskans who have been left out. It would save us millions in health care, as federal dollars, which we have paid in, will come back to Nebraska to cover 100% of the costs for at least two years and then cover 90% of the cost for the next three years. That is because national health care costs are now being reduced and will be reduced as more people get better coverage. The proposed action will help control expenses on care and will add prevention to our treatment of disease for most low-income families. It will cover young men as well as young mothers!

So how can any Nebraskans be opposed? Most are not, as they understand the benefits. The answers to that question are a mix of frankly very weak arguments. One is, can the U. S. be trusted to pay its bills? Hello? We do that. Saying we might not is a plain put down, with no evidence. Some in opposition object that it will cost a lot of money. Indeed. Health care is costly. When we started into the federal health care actions, our country had the highest per person cost in the world. The yearly increase of costs has been cut in half through the national bill, and joining Medicaid Expansion will help to reduce overall costs to all of us, to insurance companies, to the counties and to the state. All together, no one can deny it will save us millions of \$\$\$.

LB 887 will cover almost all of our inmates when they have to get care on the outside, giving them more choice and relieving the counties of that large expenditure. It will provide treatment for nearly all of them after release. A critical part for all of us is that it requires treatment for those affected by mental illness. For everyone under Medicaid, mental illness treatment would be required to be on parity with other illnesses. That is the compassionate thing to do, of course, but we need to point out, over and over, that our long range costs as Nebraskans would be greatly reduced. Let's spread the word.

***The Nebraska Criminal Justice Review
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Thank you to all who help
support this publication.***

Omaha Together One Community

(OTOC) *By Don Zebolsky*

OTOC is urging passage of some bills. LB887 would expand Medicaid to those of low income now not eligible. Single adults are not eligible for Medicaid. Parents must be below 50% of the Federal Poverty Level (FPL) to be eligible. The Act would provide a stipend to those between 100 – 133% of the FPL to buy private health insurance on a Nebraska exchange.

LB907 would give new sentencing options to judges, increase the number of probation officers and staff, and create more reporting centers. Funding near \$15 million is intended. Vocational training, life-skills training, expansion of substance abuse help, and services to help the mentally ill are all included. (*Omaha World Herald*, March 12, 2014, pages B1-2).

“Ban the box” legislation for government employers is part of LB907. LB999 provides for a study of costs to renovate vacant centers for mentally ill inmates. Visit nebraskalegislature.gov to learn more.

OTOC is especially interested in stories from those who have experienced a need for rehab and have or have not received it. Thanks, Don Zebolsky, demzeb@cox.net.

Grady Porter (Continued from page 1)

Involving victims should be done with great care so they are not be re-victimized by the experience.

As Deputy Chief, Grady helps supervise approximately 75 probation officers and support staff. His counseling background has helped him be an effective supervisor with an emphasis on accepting officers where they are at and building on their strengths, collaborating on the same goals and getting buy-in for a system that has gradually moved from a criminal justice to a restorative justice approach.

Mary Visek, Chief Probation Officer says “The experience and passion that Grady brings to working with juveniles and families in Omaha is so appreciated. We are fortunate to have the benefit of his knowledge, networking and skills to assist in shaping a new direction for juvenile justice. Grady knows people all over the United States who seek him out to solve problems. He is one of those people you go to a meeting with, and he knows everyone in the room! I don't know what we would do without him in Juvenile Probation!

**Visit the Nebraska Legislature online
www.nebraskalegislature.gov**

End Nebraska's death penalty in 2015:

Be part of Nebraska's final push

By Effie Caldarola, Field Organizer for Nebraskans for Alternatives to the Death Penalty. Phone: 402-502-5333.

Last year, Nebraskans came very close to abolishing the death penalty when a majority of the state's Unicameral members favored passage of a repeal bill. A filibuster forestalled a floor vote, but at Nebraskans for Alternatives to the Death Penalty we are confident that it's not a question of IF our state will abolish this failed system, but a question of WHEN.

The trend nationally is undeniable: six states have abandoned the death penalty in six years, and both death penalty sentences and executions continue to decline. During the current legislative session in Nebraska, the death penalty is unlikely to be debated.

Since 1973, states, including Nebraska, have attempted to make the death penalty fair, accurate and effective. Despite these efforts, the system remains broken.

Poverty, race and geography often determine who lives and dies.

Since 1973, 143 people have been freed from death row after evidence revealed they were sentenced to die for crimes they did not commit. That's more than one innocent person exonerated for every ten who've been executed, and reveals the sobering potential of executing the innocent.

The financial cost to Nebraska is enormous. States which have studied financial cost have determined the death penalty system is from 3 to 10 times more expensive than a system of life without parole.

The death penalty takes a toll on murder victims' families. Constitutionally required appeals force families to endure years or decades of uncertainty waiting for an execution. And while the death penalty siphons huge amounts of money and energy for a tiny percentage of murder cases, the state offers very little support to the families of murder victims in terms of counseling or other tools to help them rebuild their lives.

Nebraskans for Alternatives to the Death Penalty is working hard to educate Nebraskans about the realities of the death penalty system. We are available to provide NADP speakers for your community organizations, churches or schools. Our goal is to enlist as much constituent support as we can so that we have a strong base for 2015. Will you join us? Each voice is important, and you can make a difference. Visit www.nadp.net to sign up for our newsletters, find out the latest on repeal and how you can help. We urge you to be part of Nebraska's final push to end the death penalty forever.

Prison Terminal: The Last Days of Private Jack Hall

2014 Academy Award Nominee
for best documentary short film

Tuesday, April 1, 2014

Creighton University's Harper Center
Hixson-Lied Auditorium
6:00 p.m.

A documentary that breaks through the walls of one of America's oldest maximum security prisons to tell the story of the final months in the life of a terminally ill prisoner, Jack Hall, and the hospice volunteers, themselves prisoners, who care for him.

The film draws from footage shot over a six-month period behind the walls of the Iowa state Penitentiary and provides a fascinating and often poignant account of how the hospice experience can profoundly touch even the forsaken lives of the incarcerated.

Sponsored by Creighton University's Center for Health Policy and Ethics, the Department of Journalism, Media & Computing, and the Center for Catholic Thought.

Immediately following the screening, a panel discussion will take place featuring the filmmaker EDGAR BARENS.

Free and Open to the Public

Registration is required via:
<http://cuprisonterminal.eventbrite.com>

Family and Friends of Inmates

FFI meets on the 4th Saturday of each month (except December), at 10:00 a.m. at First Christian Church, 6630 Dodge Street in Omaha. FFI is merged with CrossOver Prison Ministries, P.O. Box 3791, Omaha NE 68103. For More information, call 402-558-2085.

NCJR is available online

The Nebraska Criminal Justice Review is available on the website www.holyfamilyomaha.org. The four issues published in 2013 can also be found there.

Domestic Violence Council

The Domestic Violence Council of Omaha has announced its Annual Awards Breakfast and First Annual Conference scheduled for Thursday, May, 2014, at the Salvation Army Omaha Kroc Center, from 9:30 a.m. to 4:00 p.m. Featured speaker will be Mr. Lundy Bancroft, author of "Why Does He Do That?" He will explore the underlying nature and causes of battering behavior and discuss the origins, research and best practices of batterer intervention programs. The registration deadline is April 21, 2014. The cost for the conference only is \$65 before April 1 and \$75 afterward. For breakfast and conference, the cost is \$115 before April 1 and \$125 afterward. For more information see www.dvcomaha.org.

NEWS and MISCELLANEOUS

By Mel Beckman, Editor

Former sex offenders find housing throughout Omaha but especially east of 45th Street

An *NCJR* check of the State Patrol's sex offender registry on February 5th of this year showed that registered former sex offenders live in all parts of Omaha. However, it would appear that housing providers in older sections of the city are providing the most opportunity for former sex offenders to establish homes and successfully re-enter the community. The numbers living in each zip code are indicated below:

East of 45th Street: 657 (63% of 1039 total)

123 in **68102** 52 in **68108** 62 in **68110**

63 in **68107** 64 in **68105** 75 in **68131**

176 in **68111** 42 in **68112**

Between 45th St. & 72nd St.: 167 (16% of 1039 total)

21 in **68117** 23 in **68106** 15 in **68132**

100 in **68104** 8 in **68152**

Between 72nd and 204th St. 215 (21% of 1039 total)

22 in **68127** 8 in **68124** 17 in **68114**

40 in **68134** 9 in **68122** 26 in **68137**

21 in **68144** 9 in **68154** 1 in **68142**

17 in **68135** 3 in **68130** 5 in **68118**

18 in **68116**

Shingles vaccine is requested

The shingles vaccination will only be offered to Nebraska inmates over 60 years old during 2014, according to information provided by Randy Kohl, M.D., Nebraska Department of Correctional Services' Deputy Director for Health Services, in a letter to a sixty-four-year-old inmate who had requested that the vaccination be provided for younger inmates as well as himself.

In his request, the inmate had cited a study by British authors who found that, "For those who suffer a case of shingles between the ages of 18 and 40, the outlook is worse: They're more than twice as likely to suffer a mild stroke and 50 % more likely to have a heart attack than those who have not had shingles."

Dr. Kohl also noted that "we do follow the guidelines provided by the Committee on Immunization Practices and the Centers for Disease Control and Prevention."

A new halfway house

The Y Street House is located at 1115 North 26th Street in Lincoln. It will serve men newly released from prison or who have been released and need a transitional setting in which to make the move from incarceration to the free world. According to information supplied, this is a Christian halfway house. For more information, see www.theystreethouse.com, or call 402-417-6228.

Restricting the vote of former offenders

On February 11th, U.S. Attorney General Eric Holder called for states to repeal laws that prohibit felons from voting. He named Nebraska as one of 11 states which restrict voting rights of former inmates, although he did note that 23 states, including Nebraska, have made some improvements. However, Nebraska still restricts felons from voting until two years after release. The above is from a Febr. 12, 2014 *New York Times* article, "Holder urges states to help felons to ballot box."

Campaign for the Fair Sentencing of Youth

In February of 2009, Ms. Jody Kent Lavy was placed at the head of a new national organization to work toward an end to sentencing juveniles to die in prison. She and her staff have encouraged and helped efforts toward that end throughout the United States, including providing assistance to those of us who led the effort in Nebraska.

The Campaign undoubtedly played a role in the 2010 U.S. Supreme Court decision to end mandatory life without possibility of parole sentences and since then has pushed for sensible implementation of that decision on the state level.

Nebraska inmates and families who have benefited from the work of the Campaign might want to jot a letter of thanks to Jody and her staff. Their work goes on...judges can still possibly impose life sentences on juveniles...or virtual life sentences. The Campaign can be contacted at: **Campaign for the Fair Sentencing of Youth, 1090 Vermont Ave NW, Suite 400, Washington, D.C. 20005. E-mail: jkent@fairsentencingofyouth.org.**

Inmates go to court for a way to be married

While the Nebraska Department of Correctional Services policies generally make it possible for inmates to marry, they do not allow transport of inmates from one institution to another for the marriage ceremony. On February 25th, with the help of ACLU Nebraska, two inmates filed a law suit challenging the Departments policies.

The inmates wishing to marry are Niccole Wetherell at the Nebraska Correctional Center for Women and Paul Gillpatrick at the Nebraska State Penitentiary. The defendants in the case are Director Michael Kenney and Warden Denise Skrobecki and Diane Sabatka-Rine.

The lawsuit claims that the two inmates' fundamental right to marry is being denied. The plaintiffs are asking the Court for a declaration, pursuant to 42 U.S.C. § 1983, that the defendants' policies, customs and practices violate the constitution, and also that the defendants make such accommodations as necessary, consistent with legitimate penological concerns, to facilitate the completion of the marriage application by the plaintiffs.

Your opinion?

According to a February 7, 2014 A.P. story in the Lincoln *Journal Star*, a central Nebraska man was recently sentenced to 20 to 60 months in prison for killing his 6-month-old puppy with a hammer. In light of prison over-crowding in Nebraska, should other sentencing options be preferred for animal cruelty?

Senator Avery sponsors “ban the box” legislation for public employers in Nebraska

A four paragraph bill, offered in the Unicameral this session by State Senator Bill Avery, may give formerly convicted persons a chance to present their qualifications and be hired by state or city government. The bill received unanimous support at its public hearing in the Business and Labor Committee on January 27th, from both Committee members and the public. This is the text of the bill:

Section 1. (1) A public employer shall not ask an applicant for employment to disclose, orally or in writing, information concerning the applicant's criminal record or history, including any inquiry on any employment application, until the public employer has determined the applicant meets the minimum employment qualifications.

- (2) This section does not apply to any law enforcement agency as defined by section 81-1401, to any position for which a public employer is required by federal or state law to conduct a criminal history record check, or to any position for which federal or state law specifically disqualifies an applicant with a criminal background.
 - (3) This section does not prevent a public employer from conducting a criminal history record check after the public employer has determined that the applicant meets the minimum employment qualifications.
 - (4) For purposes of this section, public employer means the State of Nebraska or any political or governmental subdivision of the State of Nebraska.
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San Francisco passes a tough “ban the box” ordinance for private employers

San Francisco's “Fair Chance Ordinance,” goes aggressively into territory where, as yet, Nebraska's “ban the box” sponsors fear to tread—the private sphere. It was signed by the city's Mayor on February 14, 2014, and takes effect on August 13, 2014.

According to a February 27, 2014 article by Jasmin Rojas, JD, in *BLR—HR and Employment Law News*, the ordinance “prohibits employers that have 20 or more employees in San Francisco from inquiring into an applicant's criminal history on the employment application or during the first live interview, regardless of whether the interview is conducted in person or via electronic technology, such as video conferencing or telephone.”

An employer who makes the inquiry and learns of the applicant's criminal history is further obligated to consider a variety of other factors, such as whether or not the conviction has a direct and negative bearing on the applicant's ability to perform the duties or responsibilities necessarily related to the employment position.

Should the employer decide to reject the application based on criminal history, notice must be given to the applicant of that decision and the specific information that provides the basis for the adverse decision. This notice is followed by a 7 day waiting period before action is taken, during which the applicant has the opportunity to dispute the criminal history or provide information regarding rehabilitation or mitigating factors.

Employers must also tell potential applicants, through job postings, that they will, in fact, consider qualified applicants with a criminal history.

Help for those victimized by crime

It would be hard to over-stress the importance of helping those victimized by crime. In Nebraska, substantial help is out there for those who need it, thanks to both public and private efforts. The Nebraska Criminal Justice Directory, published by the Nebraska Commission on Law Enforcement and Criminal Justice (P.O. Box 94946, Lincoln, NE 68509. Phone: 402-471-2194), lists over 50 organized centers and programs across the state, in which or through which victims of crime can get a helping hand. The Directory also lists a state-wide organization, The Nebraska Coalition for Victims of Crime (P.O. Box 83412, Lincoln, NE 68509. Phone: 800-944-6282).

How do you contact the State Ombudsman?

His office is in Lincoln at the State Capitol, Room 807, and the office can be reached by phone at 800-742-7690 or by mail at P.O. Box 94604, Lincoln NE 68509, or by e-mail at ombud@leg.ne.gov.

The Ombudsman's Office is more correctly called “The Office of the Public Counsel.” It is an independent complaint-handling office for the use of citizens who have complaints about the actions of administrative agencies of state government, that is, the bureaucracy of state government.

In a serious dispute and can't resolve it?

Nebraska has six mediation centers that can help. The centers operate under the Nebraska Office of Dispute Resolution, which is part of the Judicial Branch of Government.

According to the Office's website (<http://supremecourt.ne.gov/5942/office-dispute-resolution>), the six mediation centers had 3,601 mediation cases in 2012/1013. Mediation referrals from the courts amounted to 59% of all new cases referred. Parenting Plan cases were the highest and most significant types of cases handled during the year. Child welfare cases referred by juvenile and county courts amounted to 22% of the cases.

The Little Book of Restorative Justice By

Howard Zehr Paperback, \$4.50, Amazon.com. Information contributed by Joanna Lindberg

If you're looking for an introduction to Restorative Justice, this should be your first stop. Howard Zehr is the founder of the restorative justice movement and has been helping to frame and promote the practices of restorative justice for decades. It's clear and concise, giving the reader an understanding of the tenets and questions that restorative justice asks of the community, the offender and the victim:

- *How should we as a society respond to wrongdoing?*
- *When a crime occurs or an injustice is done, what needs to happen?*
- *What does justice require?*

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.

Dr. Howard Zehr is the co-director of the graduate Center for Justice and Peacebuilding at Eastern Mennonite University.

Nebraska parolee success stories

From the regional offices of the Nebraska Parole Administration

- A parolee had a record of poor institutional behavior that was described as volatile and oppositional by facility staff. His parole officer stated that since paroling he has met every expectation and done very well.
- A parolee has made two months of restitution payments to the State of Wyoming (\$350), and this is a first for him. He also received a promotion from his job and is now an electrical foreman and earns almost \$25 per hour.
- A parolee helped another parolee obtain a job. They know one another from attending the same support group.
- A parolee wanted to improve his employability by enrolling in school and getting a degree in welding. Many parolees drag their feet about furthering their education, but not him. He had a goal and is now in his second week of class. We discussed why this is so important to him. He wants a better life for his wife and children.
- A parolee successfully completed Fresh Start, has two jobs and has secured her own residence.
- A parolee first paroled to ReleasT House in Nebraska City. She has since obtained an apartment of her own and now performs volunteer work at the ReleasT House. She assists with youth ministry for children between the ages of 5 and 11 at church as well.

The Oxford House model and reentry

Editor's Note: *The information below was supplied by Kirstin Hallberg, Nebraska Outreach Services, Oxford House, Inc., P.O. Box 12417, Omaha, NE 68112. Email: kirstin.hallberg@oxfordhouse.org*

Inmates who are recovering from addiction and close to reentering the community in Omaha, Grand Island or Kearney have the possibility of finding housing in an Oxford house. These houses are not for those who are just seeking an address for parole. Occupants are expected to actively engage in house, chapter and recovery activities after moving in. There is also zero tolerance for relapse.

Oxford houses are democratically self-run by the occupants. The house membership is responsible for all household expenses and the house must immediately expel any member who uses alcohol or drugs. House members meet weekly and each member gets a vote on all issues affecting the house: payment of bills, approval of purchases, chore assignments, response to any disruptive behavior.

Six to ten people live in an Oxford House. Six is the minimum for a viable house, due to economics. Residents share the total expenses for the house. Rents vary from \$360 to \$400 per month. Houses interview prospective residents, and then house members vote on admission. Single rooms are attained on a seniority basis.

As of February, 2014, there are 27 Oxford Houses in the State of Nebraska, 16 for men and 11 for women, with a total of 208 beds.

Because the amount of time needed to become comfortable with sobriety differs for each individual, resi-

dents can live in an Oxford House for as long as they feel a need to live in a group setting. In Nebraska, the longest length of residency is 9 years. House residents are expected to participate in recovery programs in their community, such as Alcoholics Anonymous, Narcotics Anonymous, or Celebrate Recovery. Individuals are encouraged to complete outpatient treatment programs and/or counseling, where available.

Oxford House receives many applications. Those individuals who demonstrate they are working on their recovery from addictions receive higher priority for selection into an Oxford House. Applicants are encouraged to write a personal release plan, detailing their recovery efforts: AA/NA, CMA meetings, while incarcerated, and attach it to their applications. Your case manager will be contacted by the Reentry Coordinator to determine your suitability for an Oxford House. If you did not participate in any recovery-related activities while you were incarcerated, you will most likely not be accepted into an Oxford House.

To begin an application process, contact:

**Kirstin Hallberg
Oxford House, Inc.
P.O. Box 12417
Omaha, NE 68112**

LETTERS

Inspired by James Jones' example

James Jones (NCJR, Dec., 2014) inspires me. I took his Victim Impact Offender Accountability class and did the homework to get my certificate of completion.

I read many letters in the *NCJR* complaining about the Nebraska Department of Correctional Services failing prisoners. It is time all prisoners everywhere learn the example of James Jones in being fully accountable to themselves and their victims.

You can be a taker and user, expecting the system to give you everything, and then complain when you don't get it; or be a giver and make restitution. If you don't have the money, give your time to volunteer. Get involved, give back, be responsible for your own life and thank God, as you understand God, that you are alive, have food, shelter, clothes, medicine, friends, and family.

I know James Jones would want many more prisoners to take the responsibility to be accountable citizens and do what is right, even when they feel wronged by the system, and to know that they have the power in themselves to succeed when they get out of prison or be at peace while in prison. I found my peace in God.

James T. Hall 42486
Lincoln Correctional Center

No help from a political Pardons Board

In January I turn seventy years old. I've been incarcerated since 1982. I plead guilty. I'm serving a life without the possibility of parole sentence. But I'm not a U.S. citizen. I was a legal permanent resident alien. I was born in a German prison camp in 1944. My mother, my Grandfather and my Grandmother were murdered by Hitler's SS. I am a Hellenist Christian Jew. I had a lot of anger toward Germans. They killed my mother and Grandparents. No Jewish person will talk to me in America. I am not them.

My wife lives in Athens, Greece. She came to visit me in 1996 at the Lincoln Correctional Center. It cost us \$12,000 for her round trip to visit me one time! I've tried to get the Pardons Board to consider a conditional pardon to 30 to 60 years with mandatory deportation, but they are all political.

My wife wants me to come home, as do my six children, but I fear Nebraska may never listen to the cry's of those who did not have anything to do with why I'm here. Her cancer is back. I wish for these last moments to be with my wife.

Georgios Diamantopoulos 35084
Tecumseh State Correctional Institution

Plea for a commutation

My letter is in support of inmate LoRay Smith (Nebraska Correctional Center for Women), a lifer who is coming up for a commutation hearing. I, too, am a "lifer" (only on the installment plan).

_____ I was in prison when LoRay entered the Correctional Center for Women in 1983. She was convicted of First Degree Murder. Four prostitutes robbed another prostitute and a homicide resulted. Like any other case where there is more than one perpetrator, each pointed the finger at the other. But unlike most cases, none of the other three pointed the finger at LoRay. She's praying that the Pardons Board and society feel she has at least served enough so she can go to a community-based program and transition back into society as a senior citizen.

I was incarcerated with Nebraska's then most notorious inmate, Caril Ann Fugate. I was here when then Warden Jackie Crawford wrote letters and personally took Caril to the Pardons Board in Lincoln. They commuted her sentence to a number of years, which released her immediately. That's been 37 years ago, and Caril Ann Fugate has been a law-abiding, tax-paying citizen ever since.

I don't understand why can't anyone from NCCW write letters on her behalf. These are the people who have watched her grow up. Actually, LoRay Smith and the staff here at NCCW have matured and grown up together for the past 30 years.

Christina Glass 98305
Nebraska Correctional Center for Women

How do I earn "good time"?

State officials keep trying to convince the public that an earned good time law will somehow prevent violent crimes from being committed. But the public needs to realize this is just a smoke screen.

Okay, fine. Let's make inmates earn their good time. I'm an inmate. What can I do in here to earn it? Mental health counseling? Nothing is offered. Vocational rehab or job training? There is none. Anger Management, Victim Impact, Parent Classes, Cognitive Thinking, Narcotics Anonymous programs? No, there aren't any. So how can we earn our good time? Yeah, Governor Heineman and the Attorney General John Bruning put a lot of thought into that.

The fact of the matter is, the good time laws aren't the answer. It's programs, guidance and help. The Governor and Attorney General need to take accountability and admit the Corrections Department is a total waste of taxpayer money.

The elected Governor of this state said, on 1-13-14 that he believes Nikko Jenkins should be put to death for his crimes. Isn't that a little premature, Sir, when he hasn't even been determined to be competent for trial? And wasn't it your broken system that released him into society without the help he and his family requested? But now, just hurry and execute him.

A lot of inmates in the State Pen want help. I encourage the public and lawmakers to make drastic changes to how this place is being run.

Jason Galle 71112
Nebraska State Penitentiary

LETTERS

My how times have changed

This article is in response to Ombudsman Marshal Lux's well meant comment (**NCJR, Dec. 2013**) that contacting his office or filing petitions and grievances are viable avenues for finding solutions to inmate concerns and complaints. Let me relate a story to you.

It was nearly thirty years ago when I started this LIFE sentence. I was barely 15 years old and had just been abandoned by a family, a community and a system. The only friend I had in this world was a little old lady, who at the time, I hardly knew. (I have since grown to love her much and affectionately refer to her as Grandma.) Unbeknownst to me, in her concern she wrote a letter to Ombudsman Marshal Lux and asked him to look in on me as I started my incarceration.

I was surprised when this man came to see me; he seemed kind, compassionate and genuinely concerned. He asked me lots of questions, including what sort of financial support I had and if it would be possible for me to purchase a radio or T.V. I, of course, had no support of this type so I told him I wouldn't be able to buy a T.V. even though I desperately wanted one. We end our visit with a hand-shake and as he turned to leave, he looked back at me with a smile and said, "We'll see what we can do about getting you a T.V." I didn't know exactly what he meant by that, but I had just been through a very traumatizing couple of months and even the thought of a little comfort was a feeling I'll never forget.

The next morning my cell door buzzed open earlier than usual, and there it was! A T.V. on a chair just outside my door. I stepped out and pointed to it as if to ask, "Is this for me?" The guard smiled and replied, "Yep! It sure is!" He seemed nearly as excited as me.

I soon learned, after he left from visiting me, Mr. Lux went straight to Warden Leaply's office and had a conversation with him about me. I was told that it was Leaply himself who went down to storage and picked the T.V. up for me. It was an act of kindness and compassion on the part of both men, and an example of the cooperation between the Ombudsman office and the NDCS. And my point in telling this story—this simply won't happen today.

With all due respect to Mr. Lux and all those who have a genuine concern for the welfare of inmates, let me say that again. This story simply couldn't be told about today's Nebraska Department of Correctional Services. There's not a warden in Nebraska who would consider doing such a thing; and knowing this fact as well as I do, an Ombudsman wouldn't even ask. This isn't the Department of Corrections it once was. The proof is everywhere.

Sydney Thieszen 38890
Tecumseh State Correctional Institution

Communication is key

Prefacing every news story that involves a crime with "because of the good-time law" needs to stop. Politicizing the murders that Nikko Jenkins confessed to and making him the poster boy for the good-time law is irresponsible and pathetic.

The truth is, absolutely nothing positive would have been gained by Nikko Jenkins' doing an extra nine months or couple of years in lockdown at the Nebraska State Penitentiary. This was a tragedy, by a homicidal maniac, created and born right out of a cell in a Nebraska prison.

The writing was on the wall, or in this case it was right on his face, and in the kites and letters he wrote with grandiose, homicidal thoughts and reservations, to everyone who would listen. So where is the real failure here? In case you haven't heard, rehabilitation left the Nebraska State Penitentiary about fifteen months ago. We have all been on lockdown from minimum to maximum security.

Serious discussions need to happen. Voices need to be heard on both sides of the table and both sides of the fence, because communication is the key being hidden and thrown away by most media today...

Jesse Haley 74183
Nebraska State Penitentiary

Regrets demise of COSA

Saddened to read article, "What happened to COSA" in your last newsletter. I am one of those from Lincoln who underwent lengthy training for COSA—and was/am excited about this approach to helping sex offenders who are released from incarceration.

One of the greatest factors that contributes to recidivism is the lack of a support team knowledgeable about what contributes to sexual offenses—and the lack of persons with whom the ex-offender can share fears, hopes, temptations, coping skills that may or may now work, etc. COSA teams would provide at least the beginning point for establishing that trusted relationship. But it is apparent that the volunteers from the State of Nebraska only bought into the "concept" of COSA—and by all indications never really meant to implement the COSA system, as evidenced by their refusal to make referrals to established/trained COSA teams.

Here in Lincoln, some of us who are trained in the COSA approach have created our own support system. We learned long ago never to wait for government to do something that we can do ourselves.

A "support" system for ALL recently released from incarceration is the ministry of Bridges to Hope, located at 3107 South 6th Street, Suite 107 in Lincoln. Phone: 402-420-5696. Bridges to Hope provides FREE clothing, furniture, kitchen ware and appliances, beds and bedding, and personal hygiene items. One can visit Bridges twice within an 18 month period. We have served partners from all over Nebraska.

We need donations of "gently used" furniture, kitchen items, clothing, etc. to be able to meet the needs of those who will visit in the New Year.

Dr. Norman E. Leach, B2H Warehouse Mgr. and
COSA-like Team Member

A thought to consider

If you always do what you always did, then you will always get what you always got. I ask that you make a good evaluation of your life. If things are not going so great and you are ready to get a different result, then I encourage you to check out the Tecumseh State Correctional Institution's 7th Step Club. This club seeks to end the cycle of recidivism, by making resources available to folks who have the desire for betterment of self.

Arlyn P. Ildefonso 54292 a.k.a. Pino
7th Step Educational Coordinator, TSCI

Prison building or peace building?

Is warehousing and prolonging confinement really helping incarcerated people? The (toxic) effect of prolonged isolation on inmates has been repeatedly confirmed in medical and scientific studies. Warehousing individuals isn't fixing the problem. It only diverts much needed funding from programs that could prevent crime from occurring in the first place.

Instead of the criminal justice system operating on the principle that if someone is down, you kick'em, let's start building hope, emphasizing education, self-esteem, and a spiritual/social support system. Which one is it: prison building or peace building? The choice is simple! Let's build peace. To achieve change, we must speak up. Call your senator and build hope!

Lisa K. Sexton 96503
Nebraska Correctional Center for Women

A not-so-funny joke

When I read the December, 2013 issue of the *NCJR* and got to the article by Nebraska Ombudsman Marshall Lux, regarding the "December 2nd lockdown at the penitentiary," I was thoroughly disgusted. Mr. Lux wrote, in part: "There are other, legitimate ways for inmates to express their concerns, including by submitting their complaints to the Ombudsman's Office. And if they want to express complaints collectively, then they can do so through a petition, as has been done many times in the past."

When I read that, I thought, what a sad day it is! The Ombudsman's Office is all the way a part of the "machine" now, and it is a not-so-funny joke.

Does the Ombudsman's Office really think that those brave soldiers who stood up against injustice at NSP didn't exhaust all of their remedies before taking action? Or do they just want the public to believe that inmates are being unreasonable and are acting out impulsively? It's not "normal" for folks to "buck the system" and, anytime it happens, especially in large numbers, that should be a clear indication something is wrong.

Those warriors knew that the consequences of their actions would be severe, and yet they still chose to stand on their principles. You know who else did that? All the folks who struggled through the civil rights campaigns in the U.S. Time will show that these protesters are on the side of righteousness.

Arlyn P. Ildefonso 54292
Tecumseh State Correctional Institution

Department of retribution

There is an observable phenomenon occurring in our society that I believe is a direct result of the manner in which the "get tough on crime mentality" has infected our criminal justice system.

Although there isn't any tangible evidence that I'm aware of, it can be argued empirically that, the more laws enact-

ed and the tougher the penalties imposed by our legislators and the courts, the more violent our society becomes.

It's time to take the politics and private interest groups out of the judicial process and return to the criminal justice philosophy of restoration, rather than retribution. The evolving standards of decency in a maturing society value the inherent good in every individual, a good that can be cultivated with kindness and mercy.

As a society, we can't legislate or incarcerate our way out of our social ills, and the past three decades of the "get tough on crime" political platform has proven this by becoming a dismal failure.

Kenneth Sorenson 44678
Tecumseh State Correctional Institution

Habits of highly effective people

Seven Habits of Highly Effective People, by Stephen Covey, has taught me that no matter who you are, or where you came from and no matter where you are going in life, you have a choice. You have a choice to change those "old habits" – selfishness, argumentativeness, and always blaming others. You can change those habits by being "proactive" everyday in your routine, by being motivated, responsible, and hard-working. These are proactive habits you can use daily.

Take it upon yourself to prioritize your life, goal by goal, day by day, whether it is by exercising or learning a new language, set a goal by what's important to you. Figure out what's important to you. Figure out where you are going and stop blaming other for where you are at.

Michale Dixon 95900
Nebraska Correctional Center for Women

Miller v. Alabama...State v. Mantich

I am writing to you in regard to the landmark ruling that the Nebraska Supreme Court handed down February 7, 2014. They finally got it right. Juveniles need to be processed differently in the criminal justice system.

Now my question to all you legal scholars out there is simple: if you were a juvenile and committed 1st degree murder, but plead, on the advice of your attorney, to 2nd degree murder and received a sentence of over 40 to life (okay, let's say 80 to life and 10 to 20 for a gun charge for a total of 90 to life under the 2nd degree murder statute) would not your sentence be unconstitutional according to the new 40 to life statute for juveniles which the Legislature passed last year and Miller v. Alabama? Now I know there are a lot of you out there. I would like to know just how many???

So should this be the new wave of challenges to the Mantich ruling? I would love to hear your feed-back. Feel free to write to me at: John Armendariz, Jr., Reg. No. 10771-073, Federal Medical Center, P.M.B. 4000, Rochester, MN 55903

***Jesus is always around,
whether your world
is right side up
or upside down***

*"Jesus" ambigram
By Tyler Keup*

NEBRASKA CRIMINAL JUSTICE REVIEW

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