

Nebraska Criminal Justice Review

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A new “good time” law? It would be the ninth one!

By Shakur Abdullah 30012
Omaha Correctional Center

The Nebraska Unicameral will, in all likelihood, pass yet another goodtime law during the 2014 legislative session. It would be the ninth one. The proposed change seems motivated by an impulsive reaction to several cases involving inmates. The idea is that these inmates have unfairly benefited from goodtime credit. Another goodtime law is being advocated by the Governor, the Attorney General and several state senators.

What is goodtime credit? Goodtime is time accredited to a sentence that reduces the total sentence for purposes of parole eligibility and a tentative release date (TRD). Under the current goodtime law, a sentence is cut in half. A sentence of 20 to 40 years, with goodtime credit, has a TRD of 20 years. If all goodtime is lost/forfeited on the sentence, the discharge (jam) date is 40 calendar years.

Why was goodtime created? Goodtime is the response to alleviate overcrowding through parole, community custody and other forms of less restrictive custody than a confinement facility. Goodtime is the direct result of good behavior while incarcerated, by not engaging in conduct that results in a loss of goodtime. Goodtime provides a primary incentive to “toe-the-line” by not engaging in conduct that would result in the loss of it. By toeing-the-line you will not have to jam/serve your full sentence.

Why is another goodtime law needed? It is not. There are already eight different goodtime laws utilized by the Nebraska Department of Correctional Services (NDCS). They all work in a similar fashion, i.e., time off the sentence (in varied amounts, depending on which law) for good behavior (goodtime). The eight goodtime laws are:

1969—LB 1307
1972—LB 1499
1975—LB 567
1992—LB 816
1995—LB 371
1997—LB 364
2003—LB 46
2011—LB 191

How is goodtime lost/forfeited? Goodtime is forfeited for a violation of the NDCS Code of Offenses, resulting in a disciplinary sanction. Title 68 of the Nebraska Administrative Code (NAC) outlines the procedures on

how goodtime can be forfeited via a disciplinary process conducted by an institutional disciplinary committee (IDC) or unit disciplinary committee (UDC). The IDC and UDC are quasi courts. Also see N.R.S. §§ 83-4, 121-122 (Reissue 2008).

Under current NDCS Rules and Regulations (Dec. 28, 2008) there are forty-six different codes of offenses. The codes of offenses are divided into three classes (class I, class II and class III) based upon the seriousness of the offense. Class I offenses are the most serious, e.g., murder/manslaughter, mutinous actions, assault, possession/manufacture of dangerous contraband, etc.

For all violations arising out of one incident, some goodtime can be forfeited in the amount of one year and is non-restorable. However, the forfeiture of goodtime in prescribed maximum and minimum amounts can be imposed for any class I, class II or class III code of offense violations. The courts have recognized that the forfeiture of goodtime credit should only be utilized for those violations that are “serious and flagrant.”

Title 68 of the NAC seems an adequate framework to address the current concerns over goodtime. There’s no need to change it. The NDCS may simply need to better use those mechanisms already in existence to manage goodtime credit. Some of the proposed changes that would occur with a new goodtime law have already been tried and have failed.

Between 1992 and 1997, three new goodtime laws were enacted. The rapid change in laws during those years were the result of the same type of Oget tough on crime rhetoric we are hearing today. Attempts in those past laws to regulate or have goodtime earned resulted in chronic over-crowding, lack of proper medical care, reduced food nutrition, increased violence, no access or inadequate access to required programming (substance

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abuse, sexual assault treatment, mental health, education, etc...) and heightened litigation of every misconduct report (MR) that resulted in a loss of goodtime.

Why should goodtime continue to be accredited at the beginning of the sentence? It seems to make all the sense in the world to continue doing so in this manner. This process provides incentive for a person's good behavior while incarcerated. An individual knows his parole eligibility date and TRD.

The only thing that will change that is that the individual behaving badly and forfeiting parts or all of his/her goodtime. The responsibility is placed on the individual accredited with goodtime to either keep it or lose it, based on conduct—good or bad. The present system for forfeiture of goodtime isn't broken and doesn't need to be fixed.

An advocate for youth at The Douglas County Youth Center

By Joanna Lindberg, Heartland Family Service

Mr. Mark LeFlore is Program Director for the Douglas County Youth Center (DCYC), a facility that detains youth offenders temporarily while Juvenile Court is determining a disposition plan. Mark started in this position in July, 2009 and has done a remarkable job bringing change to the philosophy and programming at DCYC. He is on a mission to empower temporarily detained youth to stay in school, complete their education and be successful upon their return to the community. In a few short years, he has made significant program improvements:

Improved educational opportunities in detention

- Encouraged improved reading skills through an expanded library, whose holdings have been increased through community book drives and local bookstore charity events. There are book clubs for youth to discuss books read with their peers, and Pizza Nights to reward units that complete their reading goals (community donors adopt a unit).
- Provided parent teacher conferences to encourage parental involvement.
- Arranged individualized Education Plan (IEP) meetings for youth with documented Special Education needs.

Reduced the number of youth readmitted to detention

- Through data analysis and research, found that youth who did not have visitors or youth with Special Education needs were more likely to return. He developed solutions like inviting local human service agencies to visit and support youth lacking family visits.
- Developed alternatives to detention for youth with behavioral or health or family issues.
- Reinstated an education advocate program to assist youth discharged from DCYC with immediate reenrollment in school.

I am not sure if Mark ever sleeps, but I do know his commitment to improving the lives of children has brought broad changes to the programs of the Youth Center and has resulted in a generous grant from the Sherwood Foundation to support educational programming and alternatives to detention. In addition, Mark serves as the Chair of the Douglas County Disproportionate Minority Contact Committee (DMC) which works to reduce the number of minority youth involved in the Juvenile Justice system throughout the 8 stages of the system.

**We welcome the nomination of
people who do good work and deserve
recognition in the NCJR**

Editor

The December 2nd lockdown at the Penitentiary

By Marshall Lux, Nebraska Ombudsman

The Ombudsman's Office has done some checking into the events at the Penitentiary on Monday, December 2, events that have led to a lockdown at the facility. Deputy Ombudsman for Corrections James Davis has spent quite a lot of time interviewing some of the inmates who were involved, to obtain their perspective on the situation at the penitentiary, and their understanding of the motivation of the inmates who participated.

The picture that is emerging is that there was, what could perhaps be best described as a "peaceful demonstration" by the inmates involved, mostly inspired by the inmates' displeasure over the move to managed yards, a change that occurred in the summer of 2012. (It is important to acknowledge here that there is some question about which specific inmates were actually involved in the demonstration, and which inmates may have simply been "innocent bystanders" who were swept up in an event not of their making.)

Although the "demonstration" was peaceful on the inmates' part, it needs to be stressed here that even a peaceful demonstration in the context of a prison can be a matter of serious concern, because of the risk that the situation might spin out of control and result in violence. 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.

From the beginning, it was my opinion that, in general terms, the move to managed yards was a decision that fell well within the reasonable discretion of the Department, and that the most important issue that needed to be addressed was the question of the inmates' out-of-cell time, that is, how much time inmates were being allowed to be outside of their cells per day, either in the yard or in their unit's dayroom. From a starting point where inmates at the Nebraska State Penitentiary (NSP) and the Tecumseh State Correctional Institution (TSCI) were only being allowed outside of their cells for two hours per day, a situation which we believed was inhumane under the circumstances, the Department of Corrections gradually extended the out-of-cell time to the point where we felt that the inmates in the two facilities were at least being treated in a humane manner. However, if we determine that the staff at the facilities are "cutting corners," and abbreviating the time that inmates should be receiving in the yard, or at their meals, then obviously that is something that we would be concerned about, and would want to address.

We are also still hoping to see some adjustments made to allow inmates to have more options when it comes to their participation in club activities. And, finally, we also recognize that the dayrooms in most of the Penitentiary's units are smaller than the dayrooms at the Lincoln Correctional Center (LCC) and TSCI, and that there is a need to take some remedial steps to address that situation. We will continue to raise these issues with the Department.

December 2nd prison protest and lockdown—"They aren't listening"

By John Krejci

The non-violent protest by inmates at the Penitentiary (*Lincoln Journal Star {LJS}, 12/4*) is a clear indication that prison officials are not listening to the complaints of prisoners. Several inmate petitions, one with more than 800 signatures, outlined the grievances caused by limited access to the yard, imposed by the administrators. The intent was purportedly to limit gang violence, but the result has been to drastically limit educational access, rehabilitation programs, religious services, self-help groups, and clubs—like Toastmasters and Seventh Step. Access has been cut to some programs by 75%, from four hours a month to one hour! This punishes the inmates who want to prepare for release, and frustrates everyone.

The LJS article failed to mention that the non-violent protest was responded to by a massive show of force - SWAT teams—and was finally quelled by the use of tear gas or some chemical agent. It is ironic that inmates, who were not listened to for 14 months and employed non-violence, were met with violence by the administration.

I also found it curious that the new Director, Mike Kenney, has not responded publicly. Old quotes from former Director Bob Houston were repeated. Is the new policy "Don't listen to inmates, just call the SWAT team, lock down the prison and throw protesters in solitary confinement? Is this how we plan to lower the population of prisons and help inmates prepare for release? I hope the Governor's study committee on corrections has better ideas than that.

One suggestion made by the Ombudsman, inmates and community activists is to divide the yards into smaller units and keep the troublemakers away from those who want to improve themselves. It is time for the Department of Corrections to listen.

News from the Campaign for the Fair Sentencing of Youth

Editor's Note: *Nebraska inmates sentenced to life in prison as juveniles are awaiting a decision by the Nebraska Supreme Court regarding the retroactivity of the U.S. Supreme Court's decision in Miller v. Alabama. Not all decisions in other states have been favorable, but the decision reported below in late November was favorable to those hoping for another day in court. The information is supplied by the Washington, D.C. Campaign for the Fair Sentencing of Youth.*

A United States District Judge in Michigan has ordered the state to immediately comply with the U.S. Supreme Court decision in *Miller v. Alabama* by making everyone serving life sentences for crimes that occurred when they were under 18 immediately parole-eligible if they have served at least 10 years in prison.

In his ruling, U.S. District Judge John O'Meara

emphasized the need for parole opportunities to be "fair, meaningful, and realistic," and included certain requirements to ensure this is the case. They include:

- The state must give notice to all of these individuals that their parole eligibility will be considered in a meaningful and realistic manner.
- In making a determination of parole eligibility, the parole board is required to set forth an explanation of its reasoning.
- Sentencing judges are prohibited from vetoing parole decisions.
- No person sentenced to life without parole for crimes that occurred when they were under 18 shall be denied access to any educational or training program that is available to the general population.

The decision applies retroactively to more than 350 people sentenced to life in prison for crimes committed as children.

What happened to COSA Nebraska?

By Mel Beckman, Editor, NCJR

Circles of Support and Accountability (COSA) is a program designed to reduce sexual offending by helping convicted sex offenders transition from prison to life in the community. COSA involves a circle of several volunteers from the community committed to meeting regularly with an individual sex offender for an extended period of time to hold him accountable and provide social support and encouragement. The program has been operative in Canada, the United Kingdom, California, and Minnesota.

Seeing a great need for the program in Nebraska, a number of persons, mostly from Omaha and Lincoln, came together a few years ago to organize COSA Nebraska. They included members from the community along with volunteers doing professional work with sex offenders in corrections and probation in Nebraska. The initial impetus was a presentation on COSA by the Director of the California COSA program, sponsored by the Education and Advocacy Committee of Holy Family Church in Omaha. A six-member coordinating committee was formed and a number of training sessions for volunteers were held in Omaha and Lincoln. COSA Nebraska was an all-volunteer effort.

What seemed like a promising start, ultimately fell short. The level of volunteerism (my own included) could not be sustained. COSA Nebraska had no paid staff person and no significant funding to do organizing and volunteer recruitment.

While this particular volunteer effort did not evolve into a permanent program, the concept of COSA remains appealing and such a program is still needed in Nebraska. For all who are worried about sex offenders coming back to the community, COSA provides a way to reach out to them and help them in a positive way.

Nebraska currently has nearly 900 prisoners whose most serious offense is a sex offense. Helping them to successfully transition back into their communities in a program like COSA makes sense and has the potential to increase public safety.

See page six of this issue for information about the Minnesota COSA program

Impact One Community Connection

Editor's Note: What follow was excerpted from information supplied by Janeek Pankuk, Director of Impact One.

Impact One was established in 2009 in Omaha. The organization strives to assist high at-risk youth, gang members and returning citizens to become positive, contributing members of the community. Impact One engages in:

- School outreach
- Street outreach
- Reentry assistance
- Douglas County Court support

- Summer jobs program
- End the violence rallies
- Hospital response
- Truce group
- Certified apprentice program

Impact One's staff are specifically selected due to their ties to the streets and the targeted population served. The organization uses persons who have experienced gang life and are able to identify with and have credibility with people on the streets.

Impact One staff respond to hospitals when a shooting has occurred, to provide support, mediate, and minimize retaliation. Staff also do prevention and intervention work with 6th grade through high school age youth in a number of schools. Older persons who are returning from prison are provided with resources, supports and employment help. During the summer, Impact One recruits youth in designated areas of North and South Omaha to participate in various paying jobs throughout the city. Impact One is especially concerned to reduce violent crime and gun violence in the North Omaha community.

To learn more, seek supportive services, request to volunteer, or become a financial supporter, call Impact One at 402-934-2258. See also www.impactonecc.org. Impact One is located at Heartland Workforce Solutions, 5752 Ames Ave., Omaha NE 68104.

Space for
DCS Employment Ad

James Jones and the Community Justice Center: Model of success for former inmates

Editor's Note: The following is an edited-for-space reprint of the article by Jodi Fuson from the May 2013 issue of "L Magazine" describing a program founded by former inmate, James Jones. The program helps inmates realize the harm they have caused and motivates them to change their lives. The 8 hour Victim Impact Classes employ the principles of Restorative Justice which include both victims and the community in the process of "habilitation."

Community Justice Center

By Jodi Fuson

James Jones robbed to support his cocaine addiction and served three years in a state prison for his crime. Ten years later, he met one of his victims face-to-face while working at the Lincoln Action Program and had a chance to apologize and start to repair some of the damage he had done.

That discussion was the catalyst for what is now the Community Justice Center, a non-profit agency founded in 2000 by Jones, who considers himself a public safety advocate.

Jones incorporates what is called Restorative Justice, a concept he started to explore with the Victims First Team he created while at the Lincoln Action Program. His goal was to teach at-risk kids and offenders how to meet the needs of crime victims by taking them to meet victims and having them help repair the damage caused.

"We wanted to show them the harm the crime created" Jones said, "We used surrogate victims to speed up the process."

When we separate them and become adversarial, it becomes a no-win situation on both sides," Jones added, "Both parties remain broken and damaged after the process."

Restorative Justice is a way to address the victims' needs first, the community's needs second and then the offender's, he explained. "Victims are the center of the process, not on the sidelines." Listening to victims' needs (giving them a voice) is the first step in restorative Justice.

"We just want to make sure if victims are ready to make a statement, we want them to have a voice," Jones said. "Offenders need to hear what crime causes in communities."

His organization seeks to restore control and voices to victims in two ways: 1. By providing web-based victim services, and, 2. By educating offenders about how their statements can be posted on the Center's website when he teaches classes in the State's prisons, correctional facilities and probation programs.

Jones is a graduate of the National Victim's Assistance Academy, has completed restorative justice training and served as a consultant with the U.S. Justice Department. He also holds Associate of Arts degrees in drug and alcohol counseling and youth specialization.

The Midtown Sertoma Club recognized him in 2009 with the Service to Mankind Award for his work with the Community Justice Center. He was later awarded the state and national level award as well. Jones' expertise has been tapped on several committees and boards in the Lincoln area, such as the

Youth Detention Center Advisory Committee, Lincoln Lancaster Drug Project and the Juvenile Justice Task Force. Jones calls what he offers a "habilitation" program. He tested it first in state prisons such as the Nebraska State Penitentiary, the Women's Prison at York, and the youth facility in Omaha. The program's success allowed it to expand to other institutions and, in 2006, to probation programs.

Eighty percent of Jones' effort is spent with offender based programs. "Instead of asking what crime they committed, we ask them what harm they've done." Jones explained, "It's easier to see the damage –emotional, physical and financial—if they can take better ownership of their crime."

His eight-hour Victim Impact Classes complement the Department of Corrections existing programs and are now being used in nearly all 12 of Nebraska's probation districts with men, women and youth. Entities such as Goodwill Industries, Lincoln and Cooper Foundations, and Woods Charitable Trust have made key grant contributions to help sustain the Center, but Jones is hoping that class contracts will eventually support it.

Statistics compiled from state and Federal data bases show that participants are more open to additional treatment programs after they take Jones' class. **THEY ARE TWO TIMES LESS LIKELY TO REPEAT THEIR CRIMES THAN THOSE NOT ATTENDING THE CLASSES**, according to the findings of UNL Professor Dennis McChargue. He also found that more than 60% showed some level of empathy and/or insight into the effects of their actions on the victim and community.

Gage County Judge Pat McArdle had the following to say about Jones' work, "As a judge who has been using the accountability class in my juvenile cases, I have found this class to be invaluable. The juveniles learn what it means to be a victim and to appreciate what they have done to others..."

Warden Denise Skrobecki said, "What he is doing is preparing inmates for entry. The first step for them is understanding what their responsibility is to the victim."

The National Institute of Corrections is looking at the data from Jones' program to see if it can be used on a national level. Lorie Brisbin, correctional programs specialist, stated, "(The Victim Impact Model) has shown it could be a very effective training and teaching model. We're about keeping people out, not engaging in activities that continue the cycle..."

To learn more about the Community Justice Center (5625 "O" St. #114, Lincoln, NE 68510) check their website: www.communityjusticecenter.org or call 402-429-1050.

There is a hard law...

***When an injury is done to us,
we never recover until we forgive.***

Attributed to Alan Paton in
Why Forgive?, by Johann Christoph Arnold,
2010, The Plough Publishing House

NEWS and MISCELLANEOUS

By Mel Beckman, Editor

Equine program for young women at Geneva

In June this year, the Geneva Youth Rehabilitation and Treatment Center in Geneva started an equine program as an additional treatment resource, according to information supplied by Geneva's Administrator, Dan Scarborough. While the young women do not ride the horses they help train them and learn more about equine safety, equine psychology, and how to communicate with them, through discussions, demonstrations and instructional videos.

Equine lessons are 60-90 minutes long, two or three times a week for up to four months. A public demonstration was scheduled for the end of the program. The Training Center made arrangements for the equine instruction with the J Bar D Ranch.

On Jan. 1, 1997, the Geneva Youth Rehabilitation and Treatment Center ended 23 years as a part of the Nebraska Department of Correctional Services and became one of 10 facilities under the Department of Health and Human Services, Division of Children and Family Services.

847 Nebraska inmates are age 50 or older

This statistic was revealed in a Nov. 5, 2013 *Omaha World Herald* story by Paul Hammel in which he reported on the Department of Correctional Services' request to the Legislature for an extra \$12.6 million over a two year period. Department official Dawn Renee Smith attributed about two-thirds of the request for increased health care costs to medical costs: inflation in medical costs, more use of out-of prison care and an increase in the number of older inmates and inmates overall.

Nebraska's 847 aging inmates are more than three times the number of older inmates in 2000. Smith said that prison clinics can treat minor maladies but more serious medical needs like surgeries, and orthopedic and cardiac care must be handled by local hospitals.

The New York Times, in a Sept. 29th Board editorial, "Writing off lives," criticized the nation's increasing use of life sentences and "turning prisons into geriatric centers where the cost of care is prohibitively high. The whole trend is deeply counterproductive. States need to encourage more rational sentencing, restore the use of executive clemency and bring parole back into the corrections process."

United Nations Committee is given a report on felon disenfranchisement in the U.S.

A coalition of eight non-profit organizations working on civil rights and criminal justice issues in the U.S. has submitted a "shadow" report, *Democracy Imprisoned*, to the United Nations Human Rights Committee, in preparation for that committee's fourth periodic review of the United States' compliance under the International

Covenant on Civil and Political Rights (which the U.S. has ratified).

The groups are: the American Civil Liberties Union, ACLU of Florida, Hip Hop Caucus, Lawyers' Committee for Civil Rights Under Law, the Leadership Conference on Civil and Human Rights, the NAACP, the NAACP Legal Defense and Educational Fund, and the Sentencing Project.

The Coalition reports that the overall disenfranchisement rate in the U.S. has increased dramatically in conjunction with the growing U.S. corrections population. Since 1980, the disenfranchisement rate has increased by about 500%. The report goes on to say, "the fact that felony disenfranchisement is so wide-reaching is deeply disturbing, and indicates that these laws undermine the open, participatory nature of our democratic process."

The coalition groups suggest that the U.N. Human Rights Committee recommend that the U.S. Government publicly support automatic restoration of voting rights to citizens upon their release from prison and that the U.S. Government investigate the disproportionate impact of felony disenfranchisement on minority populations.

Nebraska, in 2005, went so far as to restore voting rights to felons who have completed their sentences and have waited two years to register to vote. However, this reform falls short of what the Coalition is recommending and even more short of what the Coalition sees as the trend in the international community with respect to upholding citizen voting rights.

Minnesota COSA (MnCOSA)

In 2008, an apparently successful COSA program was initiated by the Minnesota Department of Corrections. According to an article in *Corrections Today*, *What works with sex offenders? Results from an evaluation of Minnesota Circles of Support and Accountability* (Sept/Oct, 2013), the program cost the Department \$442,761 and functioned over a four year period. The Department's Director of research and evaluation, Grant Duwe, claims, in his article, that the benefits resulting from reduced recidivism amounted to more than \$800,000. The 31 MnCOSA participants were rearrested for 33 fewer offenses than the men in the control group, and spent about 100 fewer days in prison following their release.

While not a grass-roots-level program, MnCOSA nevertheless relied on community volunteers to make up the circles of support and accountability. The author writes that MnCOSA experienced very little success recruiting volunteers from faith communities and instead, relied on students from local colleges and universities as a primary source of volunteers. Nebraska COSA, on the other hand (see article on page four), did find help in the churches, and a number of former sex offenders also volunteered for training.

Douglas County Jail is featured in "Corrections Today" article

"Corrections Today" is the journal of the American Correctional Association. The Nov/Dec, 2013 issue included an article authored by Douglas County Corrections Director Mark Foxall, along with several colleagues (Cindi Boganowki, Mary Early, Denise Gaines and Catherine Cook) collaborating in the jail's efforts to help the mentally ill who are incarcerated there. The article was entitled, "Meeting the Needs of the Mentally Ill: A Jail's Perspective."

The authors write that, while the jail population has been decreasing in the last two years, the number of persons coming into the jail with a diagnosed mental illness has increased.

In recent years, the Department has made efforts to better meet the needs of the mentally ill. More licensed mental health practitioner help has been hired and planning for community reentry of the mentally ill into the community has been accentuated.

In addition, in 2006, the jail administration entered into a unique partnership with the Douglas County Community Mental Health Center and the Douglas County Attorney's Office. The result—a mental health diversion program which works with some qualifying individuals on a voluntary basis, engaging them in the development of individualized treatment plans to divert them from jail into appropriate community programming supports.

The authors of the article point out that untreated mental illness or a delay in accessing services can potentially lead to recidivism, and so it is important (for a jail) to partner with providers in the community who have the skills and resources to work with the mentally ill. That appears to be exactly what Douglas County Corrections is doing.

New website for "The Other Death Penalty"

www.theotherdeathpenalty.org. View an excellent video on how both capital punishment and life without parole are inhumane sentences and should be ended.

Sealing of a juvenile court record

In 2010, the Nebraska Legislature passed laws which require the records of juvenile offenders to be "sealed" if certain conditions are met, including:

- Being under 18 when the offense took place
- Having satisfactorily completed the diversion, mediation, probation, supervision, treatment or rehabilitation program or sentence ordered by the Juvenile or County Court.
- One was offered juvenile pretrial diversion or mediation.
- Charges were filed against you in Juvenile Court for a misdemeanor, felony, traffic, or status offense, or
- One was charged with a misdemeanor or infraction in County Court (except for waivable traffic offenses—offenses for which one can waive one's court appearance by paying a fine.

If your juvenile record is sealed, information about

your record is not available to the *public*. A sealed record is still available to city and county attorneys, law enforcement, and specified others. The person whose record has been sealed may also inspect it, upon application to the court.

The court notifies law enforcement (County Attorney, Sheriff, Omaha Police, NE Crime Commission, NE State Patrol) that the court case is sealed, by sending a certificate of service and the order to seal.

The above information was supplied by the Douglas County Juvenile Court. See also page eight of this issue for an opinion article on adult criminal record sealing.

Michael L. Kenney, new Director of the Nebraska Dept of Correctional Services

Mike Kenney received a B.A. in Psychology in 1975 before attending the University of British Columbia, Regent College in 1976, where he studied Counseling and Ethics. He began his correctional career in 1977 as a counselor at the Nebraska State Penitentiary, and has held various positions within the Nebraska DOC over the last 34 years. He spent two years with the Washington State DOC as Deputy Director of the East Prisons Command. Prior to his new appointment he has served as Warden of six different prisons. Mike believes everyone who deliberately serves others is a leader.

NEWS RELEASE

**Tecumseh State
Correctional Institution
Nov. 30, 2013**

FOR MORE INFORMATION,
contact Jessica Houseman
402-335-5113

The filming of Holiday/Read to Me videos is underway at the Tecumseh State Correctional Institution (TSCI). The Recreation department at TSCI prepares for the annual event by setting up and decorating a holiday tree as the backdrop.

The Holiday/Read to Me videos have been popular with our population for several years. This year is busy, with 66 inmates signing up to film a DVD for their loved ones. Each participant has the opportunity to create a thirty minute DVD for their loved ones. This is a great opportunity for family to have a personal gift, as participants can bring an instrument, art pictures, music or even read a children's book. The video can be enjoyed time and time again and hopefully make them seem that much closer for the holidays.

TSCI appreciates all of the support friends and family give to our inmate population, and realize the holiday season can be difficult. If you have a loved one currently residing at TSCI, and are interested in a Christmas Day or New Year's Day visit with them, it is not counted toward their weekly visitation limit.

Have a Happy and Safe Holiday Season!

SUCCESS stories from the Adult Parole Administration

Editor's Note: *While some parolees commit new crimes and attract media attention, there are many more success stories. The success stories in this column, some big and some small, were recorded by various parole officers and submitted for publication by the Adult Parole Administration, at the request of the NCJR.*

An officer reported that one of her parolees got her first apartment by herself, which she is working for and paying on her own.

Another parolee was encouraged to look into Voc-Rehab when he was considering filing for disability. He is now attending school four days a week and doing apprentice work on the fifth day.

A parolee, after struggling to find work for over a year due to health concerns and a high-risk pregnancy, was moved from a part-time job to a full-time job at Casey's General Store.

A parolee who is disabled keeps busy volunteering for Habitat for Humanity. He is working to get his driver's license reinstated as well.

A parolee confessed that she had used drugs with people she didn't even know and needed help. She went into treatment and arranged to have her job held for her.

Two former parolees checked in with an officer to let her know they were doing well and to talk over things that are going on in their lives.

After being re-paroled, a parolee has been working nearly 60 hours each week and is the number 2 employee for the telemarketing company he works for. He is in the running for a \$3,000 bonus. He also has not had any positive drug tests.

A parolee has secured her first job ever, and is working on getting her driver's license back.

cumstances, for sealing adult criminal conviction records. Nebraska's post-conviction relief for adults is limited to a request for pardon or, in some limited circumstances, a judicial "set aside," neither of which removes the conviction from the public record.

In 1971, Nebraska passed a law allowing judges to enter an order to "set aside" a misdemeanor or felony conviction if the offender was sentenced to probation. In 1993, the law was amended to permit a "set aside" where the sentence was only payment of a fine. The "set aside" order is added to the case history and "nullifies" the conviction. A judge's "set aside" order does not erase the conviction or remove the criminal history from the public record.

There is no clear understanding in the legal community, or among the general public, about what it means to have a conviction "set aside." What is clear is that the conviction will forever remain in the public record. Many legal practitioners and ex-offenders have little confidence that a Nebraska judicial "set aside" order will ameliorate any of the negative effects of a criminal background check on an individual's prospects for employment, housing or access to credit.

The impact of a criminal record on both the individual and society has grown more serious since Nebraska's "set aside" law was adopted in 1971. The number of people affected by a criminal record has skyrocketed in recent years and technology has made criminal background checks routine for most employers, landlords and creditors, and readily accessible to the general public.

In Nebraska, the percentage of people under correctional control doubled between 1982 and 2007, and the Nebraska Supreme Court and the Nebraska State Patrol both now offer online criminal record searches to the general public for a small fee.

The explosive growth in the use of criminal background checks (over 80% of employers now rely on them), makes successful reentry in society very difficult for people who have a criminal records history. Research shows that a criminal record—no matter how old or the nature of the offense—is so stigmatizing that many employers refuse to hire a worker solely on that basis.

With Nebraska's prisons at 50% above capacity, and studies showing that unemployment is a leading indicator of a person's likelihood to reoffend, it is not in the public's interest to grant this pervasive public access to criminal records that continues to punish, long after ex-offenders have completed their sentences and paid their debts to society.

A substantial number of states (27) have laws providing for the expungement of certain criminal convictions. Nebraska should join the growing number of states that have passed a sensible criminal records sealing law that balances public safety with the public's interest in helping law-abiding people with a criminal history gain employment and successfully reintegrate into our communities.

Adult criminal record sealing law needed in Nebraska

By Kim Dunovan. (kdunovan@cox.net)

While an attorney at Legal Aid of Nebraska, I talked with many people asking for help after being turned down for jobs because of a conviction entry on a criminal background check.

A criminal history record in Nebraska reflects arrests, warrants, and criminal charges filed in court, including the related disposition, sentencing, correctional supervision and release. Arrest records in Nebraska are eventually removed from the public record in cases where no criminal charges are filed in court. In 2010, Nebraska lawmakers wisely enacted a procedure to seal juvenile criminal records. But adult criminal charges filed in court will remain on the public court record forever, even if the case is eventually dismissed without a conviction.

Nebraska offers no mechanism, under any cir-

LETTERS

Infirmiry workers do a great job

I'm writing to support the men who work in the infirmiry. These men are doing a job that must be done. They work with prisoners who are spending what little time they have left from debilitating disease, or are so infirm that they can no longer care for themselves. I have to give these gentlemen credit for the job they are doing.

This is a very selfless position. I've been to the infirmiry on a couple occasions when I suffered serious pain, and I have been there doing stationary bike therapy for several months. These men do a very professional job in all their duties. I have witnessed the interaction of the workers and the patients. They are very respectful of the patients and staff at all times.

These men need to be recognized and maybe even compensated for a job they do very well. I know it isn't about the money for them.

At times they get close to the patients, not out of curiosity or pity, but out of respect of these human lives. When one happens to pass on from their disease or stroke or heart attack, these men are affected, like the loss of a friend or neighbor. The next day, it's right back to business as usual. Now I can understand the tough job caregivers do.

These men should be given credit, like credits toward educational hours of study, or maybe able to make \$10 to \$15.00 a day. I have witnessed the care they've given, and when I was in their care, I got the best of treatment there. They are truly what care giving is all about. May the Creator watch over them and their families, and the rest of us too.

Damon L. Picotte 54675
Tecumseh State Correctional Institution

Computers and computer skills needed for prisoner education

Technology is constantly evolving. If we are to continue to learn, we need the tools and supplies to work with, such as books, paper, pens and pencils, calculators, and now computers.

As of January 2, 2014, the G.E.D. tests will be conducted on the computer. In order for students to take their G.E.D. tests, they will need to know how to use a computer. Although most of the students do seem to know something about computers, the real question is, could they type the answers they need to type in the time they are allotted. It may surprise you at the number of students who cannot even type two words in sixty seconds. Knowing this, we feel that it would not be fair to the students to give them the tests without a chance for them to learn ALL THE SKILLS NEEDED!

One of the main parts of using a computer is the keyboard. And the keyboard is not something that everyone can successfully learn by practicing for only two hours every two weeks. With a typing program like 'Mavis Bacon', the student could practice their typing skills. It

takes practice, and lots of it.

Students would greatly excel with the use of computers on a daily basis. This could be accomplished with a computer such as a laptop. If the students had laptops available, set up for "inmate use only," they could check one out for learning their school subjects with programs like 'Skills Bank', 'Math Blaster', and 'Mavis Bacon'. The teachers, teacher's aids, and tutors would have instant access to the progress of the student. In this way, the teachers would be able to help the students accomplish their goals faster. Writing assignments can also be saved and then printed out by the teacher at the school.

The laptops would help the teachers, teacher aids, and tutors target areas where the students are having trouble. Therefore, the students are more effectively helped with their studies. Along with helping the students with their education, laptops would help to prepare them for a productive life in the world outside of prison.

Herman Hamilton 75303
Roger McPherson 56402
Lincoln Correctional Center

Political Fluff

Nebraska lawmakers are presently shifting their focus from the facts that exist in Nikko Jenkins' case to enacting new good time legislation. Jail administrators have passed the buck to the Legislature and claim that Mr. Jenkins' case would not have happened if they could only have kept him incarcerated for another 12 months. I call this political fluff because Mr. Jenkins clearly suffers from psychosis. Facts have been established; that he was placed in isolation for years prior to his release, that he cried for mental health care to no avail, that he protested his own release in moments of clarity, and that nobody listened.

Politicians' attempts to consider new legislation regarding good time credits are futile. The idea that prisoners incarcerated for a longer period of time will somehow change their decision-making process fails as a matter of fundamental principle. Science has discovered that "isolating inmates inflicts permanent mental harm." (Solitary is Cruel and Unusual, ScientificAmerican.com/ August, 2013.)

Furthermore, changing the current good-time law simply does nothing to equip us inmates to live fruitfully in a world outside that is full of vicissitudes. We are already institutionalized and have not been afforded an opportunity to seriously address the real issues that led to our incarceration. Moreover, we are dehumanized at almost every turn. Prison in Nebraska methodically ruins a person. And when you cry for help you are entirely ignored.

If anything is clear it is that the Department of Corrections is a broken system. The Legislature can ask for \$12 million to sustain it, but God forbid they ask for \$2 million to implement adequate mental health care, anger management courses, and classes to improve cognitive skills, coping skills, and emotional and social skills. We come to prison because these life skills were likely deficient. We are going to get out with even further deficient life skills by virtue of the current system being debilitating, and because it fails to adequately address such deficiencies.

It's time that the Legislature demand real solutions that will benefit both society and prisoners returning to society. Rehabilitation, adequate rehabilitation, is a win-win.

Floyd Morrison 74703
Tecumseh State Correctional Institution

MORE LETTERS

Where's the restorative justice?

This article is about the on-going controversy of violent offenders committing high-profile offenses, resulting in the deaths of innocent victims. A lot of those high-profile re-offenders were once confined at the Tecumseh State Correctional Institution (TSCI), which is classified as "maximum security" - housing the most dangerous, violent offenders of Nebraska.

The truth is, there will continue to be high-profile cases committed by violent offenders released from TSCI because there is no opportunity for rehabilitation of a violent offender. Such a program fails to exist at TSCI.

Offenders' years of solitary confinement or incarceration are a legitimate reason for requesting mental health help. TSCI is depriving violent offenders of what they need, so, before you place blame on the offender, blame the penal system of Nebraska for failing to perform its duties.

Alonzo Toliver 69375
Tecumseh State Correctional Institution

The "lost boys" of Nebraska

I'm writing on behalf of myself and other inmates who suffer from mental illness. The intensive management unit at Tecumseh State Correctional Institution is being illegally used to warehouse mentally ill inmates. State and Federal law forbids housing inmates with mental illness in segregation. *Langley v. Coughlin*, 709 F.Supp.482, 484-85 (S.D.N.Y.)

We are being illegally housed here for the sole reason that we are mentally ill, and we do not receive any mental health care of any kind. We are also being illegally punished for behavior caused by our illness. *Cameron v. Tomes*, 783 F.Supp. 1511, 1524-25 (D. Mass.1992)

We have been in here for years. I myself for six years, over five of which were write-up free. Yet, none of us are being sent to the mental health unit at the Lincoln Correctional Center. It's being used to house inmates with behavioral problems and not mental illness.

We have inmates mutilating their bodies, covering themselves in human waste, being tied to steel beds, put in a diaper and allowed to lay in their own waste for 48 hours at a time, and in two cases, men have killed themselves. So my question is, at what point does some one help us?

We're on 24/7 lock down. We spend 23 1/2 hours a day without any human contact. State senators don't care, the Ombudsman doesn't care, nor does the ACLU. So how many more of us must kill ourselves before we receive help? Or, how many more of the public must die before we get help? Please help the "lost boys" of Nebraska.

Scott P. McNeill 59641
Tecumseh State Correctional Institution

Invest in resources for transitioning inmates

In "Addressing prison issues from reason, not emotion" (*Journal Star*, Sept. 30, 2013), John Krejci offered a well-timed reminder about the lack of resources invested in transitioning from prison life to the community. The challenges ex-felons encounter are filtered through a cycle of being documented, then debated and finally dismissed because the community fluctuates between using emotion and reason to solve these problems.

I understand why individuals don't want to give to someone they feel has taken more than their fair share, and why they don't want to waste time on someone they feel has squandered their life's opportunities. But they should, and here's why.

We want to contribute - we want to volunteer. We want to be the next-door neighbor you can rely upon when you are in a pinch.

So please recognize that education, job experience, mental health programs and substance abuse treatment for inmates are priceless resources and they contribute to public safety. Community connections, parole and probation programs and employers hiring ex-felons make it possible for success to happen. Circumstances which make it possible for advancement to occur will help us all.

Jerrold McLeod 52320
Tecumseh State Correctional Institution

Want a safer state? Rehabilitate!

Does the State have a responsibility to the people of this state to "protect and serve" the people? If so, the State should be held accountable for the product it produces by the "correctional system." No person should be released from State custody unless they are holding down a career growth position in which they are providing for at least themselves and paying taxes, i.e., rehabilitated!

It is obvious by recent events (Nikko Jenkins affair), that locking a person up until they have served their sentence, with no job training, no education beyond G.E.D., and putting them back on the street does not work. Warehousing people does not get you safer streets, neighborhoods, cities, or a safer state. It actually contributes to more crime, heart ache, and misery.

To fix the problem you have to radically change the correctional system to a "rectification and rehabilitation system, and hold the State accountable for the product it produces from that system. Will it cost more? Upfront, yes. But after the rehabilitated inmates are released from custody and supervision and are paying the State 1% of their gross pay to repay the cost of their rehabilitation and training, the cost will be reduced significantly. You want a safer state? Rehabilitate!

Michael B. McKinnie 64790
Tecumseh State Correctional Institution

It doesn't add up

I've been really looking at the last few groups of rookie, new staff. There is now a pattern and it has started me thinking. The Department of Corrections is putting out to the public and even the prison populations that there is a major gang problem, that the prisons are so violent that they are out of control and need to be locked down 24-7, that staff is getting assaulted on a regular basis and is always in danger, etc.

If anyone wanted to do the math, it doesn't support these claims. This is a ploy to waste the taxpayers' money on another prison that will be misused like Tecumseh.

If any of this is true, why are the new rookies old, out-of-shape men and women? How are they going to be able to react to a medical emergency or a fight? How is a 90-100 pound woman going to protect an inmate or herself? How is a fresh-out-of-high-school kid going to handle a real or dangerous situation? It's simple. These extremes very rarely happen in here. This administration is either knowingly placing them and their lives at risk or this administration knows that there is no real danger.

Jay Amaya 53158
Nebraska State Penitentiary

A tour of the Tecumseh prison

The FFI (Family and Friends of Inmates) tour of Tecumseh was an unusual experience. Two female staff members stayed with us for over two hours. We saw a drug unit, the "hole," a medical ward.

The sound of heavy doors slamming shut is unforgettable. So is the toilet facility in the "hole."

I expected some prisoners would have diminished affect but I was surprised the guards seemed "turned off" too. I suppose it's a safety/protective factor, but I wonder how THEIR family life is affected. Having dual personalities is tiring and crazy-making. We appreciated that our safety was important.

When we were in the "hole," a prisoner called out, "It's not like it seems." Some staff seemed hostile with our being there—perhaps messed up their schedule.

I was glad to have the experience. I learned a lot.
Mary Lou Ruh

FFI thanks TSCI

Early in October, sixteen of us from Family and Friends of Inmates (FFI) Omaha group got to take a tour of Tecumseh State Correctional Institution (TSCI). It was a chance for those who have loved ones there to see beyond the visiting room. While we surely didn't see all that we might have wanted to see, we got enough to help us better understand what the living situation is like for those who must live there.

I want to take this opportunity to thank the staff of TSCI for this opportunity. We have been told that if we want to put together another FFI group tour, they will welcome it. I think it is likely that we will accept their invitation.

Mary Ann Beckman, FFI Coordinator

7th Step Organization at the Tecumseh State Correctional Institution *The mission statement below was sent by Chris Garza 41853, President*

The 7th Step Organization at the Tecumseh State Correctional Institution is a self-help, inmate run, group of men that focuses on reducing recidivism within the prison system as well as bridging the gap between prison and the outside community. We provide a safe environment to allow positive communication and real talk so that our members can learn from the experiences and understandings of other inmates. We also seek and work with the community and Department of Corrections specialists in reentry, parole services, mental health, and substance abuse problems.

Our mission is to help change a person's thinking and decision-making skills to keep them from repeating old, destructive behaviors. We focus on critical thinking processes, empathy, forming new habits, and becoming independent so that when we are released into the community we will be more effective in our relationships and lives.

Our group gives purpose and motivation to it's members. We provide community and grow friendships within the prison walls as well as seeking out new inmates with the hopes of beginning their preparations for release as soon as possible. We seek to serve everyone that is affected by crime: victims, offenders, and the community. We seek redemption, rehabilitation, and a chance to give back for the harm that we have caused.

Specific programs include:

1. Critical thinking presentations
2. Parole preparedness program
3. Facing the Truth—Step 1 program
4. Mock job interviews
5. Reentry resource programs
6. Letters of support
7. Pledge for peace
8. Other needed programs

The original 7th Step Organization members had a saying: "We, in this room, share together the desire to live together constructively in a free society. We hope to be forgiven, and we practice forgiveness ourselves, with that thought in mind.

Our 7th Step Creed

Facing the truth about ourselves and the world around us we decided that we needed to change.

Realizing that there is a power from which we can gain strength, we decided to use that power.

Evaluating ourselves by taking an honest self-appraisal, we examined both our strengths and our weaknesses.

Endeavoring to help ourselves overcome our weaknesses, we enlisted the aid of that power to help us concentrate on our strengths.

Deciding that our freedom is worth more than our resentments, we are using that power to help free us from those resentments.

Observing that daily progress is necessary, we set attainable goals towards which we work each day.

Maintaining our own freedom, we pledge to help others as we are now being helped.

NEBRASKA CRIMINAL JUSTICE REVIEW

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Bob Houston: Reviewing his accomplishments as Director of Corrections

By Marshall Lux, Nebraska Ombudsman

The recent retirement of Department of Correctional Services Robert Houston should not go by unnoticed. Bob Houston and I always had a very positive working relationship, and he was not only accessible, but he frequently "reached out" to my office and to me to make sure that the Ombudsman's Office was aware of significant events at the Department. We did not always agree on the issues, but we were always adult enough to realize that there would be some differences, and were pragmatic enough, when trying to find solutions, to overlook our disagreements. At least I know that he was.

Bob Houston must receive credit for several significant accomplishments made while he was the Director of DCS. Those include: (1) He opened the new Inpatient Mental Health Unit at LCC (Lincoln Correctional Center) so that mentally ill inmates could receive needed treatment, when before many of them had been simply locked in segregation cells without meaningful treatment; (2) He managed to shift resources around so that DCS could substantially increase the capacity of the Department's substance abuse programming; (3) He opened a Transition Unit at the Penitentiary so that inmates who were long term occupants of segregation cells (Administrative Confinement) could be given the opportunity to "transition back" into general population; and (4) he presided over a significant improvement in the Department's operation providing secondary education to inmates.

I am sure there were also many other fine accomplishments as a result of Bob Houston's leadership of DCS, but I

mentioned these four because they were the most important from our perspective in the Ombudsman's Office.

Bob Houston's greatest strength, in my opinion, was his willingness to listen to new ideas. He clearly understood that communication and creativity were an important part of his job as the Director of DCS. When it comes to running a major agency like DCS, it is easy to simply sit back and let everything go on as before. However, it was never my impression that Bob Houston wanted to do things the "easy way," at least not in that regard.

Please mark your calendar:

- The Family and Friends of Inmates group does not meet in December. The next meeting will be on the fourth Saturday of January at First Christian Church, 6630 Dodge St. in Omaha. 10:00 a.m. until noon.
- The next NCJR advisory committee meeting will be on Wed., Febr. 12th, 10:00 a.m. at Holy Family Church, 1715 Izard St., in Omaha. Help us plan the March issue. Bring your ideas.

Christmas greetings to our readers!

From the members of
Holy Family Church