

Nebraska Criminal Justice Review

Vol. 15 No. 3

Sept, 2014

A quarterly publication of Holy Family Church, Omaha, Nebraska, since 2000.

Six hours with Bob Houston, Ernie Chambers and Sen. Lathrop's Legislative Committee on Corrections

By John Krejci

Mental Health treatment and the Nikko Jenkins' rampage were the original impetus of the Legislative Resolution. However, early release of inmates by the Department of Corrections shifted (I would say, side-tracked) the focus of the meeting. In any case, former Corrections Director Bob Houston appeared before the committee for six hours of testimony. I expected it to be a brutal, "What did you know and when did you know it" session. It was not.

The Senators, most of whom are lawyers, directed a respectful marathon of questions, cross examining Houston. The former director is an affable person and was mostly direct and informative in his answers. He was, however, challenged, in that David Cooksen from the Attorney General's office was sitting next to him at the witness table, in addition to two young lawyers from the AG office. Senator Chambers found this ironic given the fact that Attorney General Bruning was to investigate the Department in the early release scandal. In the afternoon session the AG staff sat in the back of the room.

The first issue addressed was overcrowding. Houston stated that there was no correlation between overcrowding and lack of safety. The prison presently is at about 155% capacity. However, many inmates would disagree with this assessment. The ACLU has written a position paper and threatened to sue the Department for cruel and unusual punishment and noted that the Department may face Federal sanctions. In addition, the 2006 Carter, Gould, Lee study concluded that overcrowding would require building a new prison. However, no one wanted to do that. Houston noted that the conclusion was not communicated to the Governor. Alternatives to building a \$150 million prison were discussed, i.e., using the good time laws to "get inmates out the doors," furloughs, community corrections, and other alternatives to incarceration.

A second topic was mental health services. In 2006 the Legislature allocated money for mental health services for the Lincoln Correctional Center and the women's prison at York. Mental health centers and services were increased in both prisons and in the community after release.

It is fascinating to note that Houston, a pleasant and wily witness, often turned the questions around and stated that Nebraska, compared to other states, excelled in mental health services and other resources.

A third topic was Administrative Custody, Segregation, often known as "the hole," and Protective Custody – all prescribing 23 hours a day alone in a cell. The question was asked, "How long does it take to develop mental health problems?" Answer: It depends. Segregation is a nationwide problem. The United Nations has condemned it. The fact is, some are segregated for their own protection, some for the protection of the general population and some are being punished. Despite Houston's claim that Nebraska is better than other states, the problem of solitary confinement is huge.

The issue of allowing inmates to "jam" their sentences directly into the community from segregation was raised. This led to Nikko Jenkins. Since this has been covered over and over by the local media, I will only say that the issue was not resolved in this hearing.

Why Nikko was not civilly committed or given mental health services was not answered. Senator Chambers did clarify that Houston wrote a memo concerning Mr. Jenkins. Houston denied having any knowledge of Nikko's requests for treatment or of his jamming directly into the community.

Another issue raised was the good time laws. There are 7 or 8 of them dating back over 20 years. Houston denied having any knowledge of the fact that the Department was violating the Supreme Court decision. Some blame was shifted to Attorney General Bruning. Senator Chambers made it clear that "No change in the good time laws would be enacted in the next legislative session!"

(Continued on page 2)

Thank you, Deacon Ralph Hueser!

Ralph Hueser, Deacon Administrator of Holy Family Church in Omaha, has retired, due to illness. For over two decades he has encouraged, supported, and often took the lead in countless parish efforts to serve the poor and homeless in Omaha. From its beginning in the year 2000, Deacon Hueser has been a steady supporter of the *Nebraska Criminal Justice Review*, insisting that it be a free publication and one of the ministries of the parish. Thank you Ralph Hueser!

Six hours (Continued from page 1)

Senator Mello addressed the lack of adequate programming to prepare inmates for release. He focused on the lack of requests for funding to increase programming. Senator Bolz followed up on this and criticized the Department for not requesting increased funding for programming when there were long waiting lists that delayed parole for inmates. Houston responded that the Department had not cut staff and, contrary to other states, had maintained programming staff.

Senator Chambers was the 4th questioner, billed as the “clean up hitter” by Senator Lathrop. Chambers returned to Nikko Jenkins and mental health services. He criticized mental health director Klaus Hartman, Health and Human Service Director Scot Adams, Attorney General Bruning, and particularly Governor Heineman for neglect and incompetence. He indicted the whole system for the Nikko Jenkins debacle. He reviewed a long list of mistakes, bad judgments, and decisions regarding Jenkins. Chambers focused on segregation as cruel and unusual punishment, budget cuts to corrections, mandatory minimum sentences, racism in the system, legislators who create new crimes, and parole board policies regarding programming. Senator Chambers commended Senator Mello for his letter to the Governor requesting increased funding for corrections. Mello received no response.

No doubt all these issues and problems will arise again. In conclusion, two fascinating aspects of the hearing were: Houston’s reframing questions that focused on the strengths of the Nebraska Department of Corrections compared to other states, and Senator Chambers’ focusing much of the blame on the Governor and the Attorney General who are responsible for the Department of Corrections. The next legislative session with its focus on prison reform will be both interesting and challenging.

Senator Lathrop’s committee met again to interview George Green and Sharon Lindgren, lawyers for the Department of Corrections, and several of their subordinates. The newspaper accounts described the session as a series of finger pointing, designed to shift blame from the witness. (CYA?) It appears that George Green is the one who will be called on to fall on his sword, to be the fall guy. It seems that almost no one had read the Supreme Court’s decision. One wonders about the Attorney General and Governor, who also wanted the prison population to decrease.

Crime down, arrests down, but prison population grows

By John Krejci

Senator Ashford asked, at the Committee of State Governors Justice Project (CSGJP) meeting on August 26th in Lincoln, “How did we get from 130% capacity to 155% capacity in two years?” He knew that, in the past

ten years, crime was down over 20% in Nebraska. Arrests were also down 15%, whereas the prison population has spiked 17%, much of it in the past two years. Neither Marc Pelca of CSGJP nor the Governor, other Senators, or state officials could adequately answer the question. In fact that question was the focus of the meeting. The CSGJP has been in Nebraska collecting and analyzing data with that very goal. Areas being investigated are: sentence length, good time policies, parole release and success rate. They will present their findings to the Legislature in December for action in 2015.

Some partial answers validated what Sen. Chambers described as “Senators passing laws that create new crimes.” The term given for these is “penalty enhancements.” Penalties for DUI have been increased causing more drunk drivers to be incarcerated. Laws regarding weapons’ crimes have been tightened. Nebraska uses incarceration more and probation less than other states. And recently there have been more parole revocations.

Laws have also been passed making some misdemeanors into felonies -- hence longer sentences for meth and heroin possession. Nebraska also has a lower threshold for felony theft, \$500. Other states have \$1000 or \$1500 thresholds. Nebraska incarcerates many non-violent offenders with short maximum sentences. They jam out in less than a year with no rehabilitation programming and no supervision.

The data revealed that the three largest counties in Nebraska put a lower percentage on probation than rural counties. One wonders whether this is a function of incarcerating minority offenders in Omaha and Lincoln more often than non-minorities. This should be investigated. Felony offense levels are similar in urban and rural areas but urban jurisdictions incarcerate more.

What was encouraging was the spirited discussion at the end of the meeting among Governor Heineman, State Senators Ashford, Mello, Kris, Lt. Gov. Heidemann, County Prosecutor Joe Kelly, Chief Schmacherer of Omaha, District Judge Colborn from Lincoln, and others. The discussion was lively but cordial. Probing questions and creative ideas were bantered back and forth. The most creative and helpful was Judge Colborn’s suggestion that a large “work release” or community corrections facility be built or purchased, a minimum security compound with barracks-like buildings that would house inmates in transition into the community. The complex would provide programming for substance abuse, job skills, life skills like money management and the like. It would be a base to stay while working in the community, like a community corrections facility but more open, and less secure. I thought to myself, “There is a vacant motel on the corner of 56th and Cornhusker that would fit the bill for this.” I am sure there are properties in other locations that would serve this purpose.

The meeting ended on a positive note and another is planned for October 22nd at 1:30 at the Lincoln Country Club. It was encouraging that most of the stakeholders are on board.

Nebraska Department of Correctional Services' Institutions and Programs

Source: Aug. 31, 2014 NDCS Data Sheet

Adult Parole Administration: Folsom & West Prospector Place, Bldg 15, Lincoln, NE 68522. (402) 471-2654
Cathy Gibson-Beltz, Administrator. Average cost per parolee per year: \$4,090.

Community Corrections Center, Lincoln: 2720 West Van Dorn, Lincoln, NE 68522. (402) 471-0740
Rick Cruickshank, Warden. Average cost per inmate per year: \$18,833. Community Custody.

Community Corrections Center, Omaha: 2320 Avenue J, Omaha, NE 68110. (402) 595-2010.
Charles West, Warden. Average cost per inmate per year: \$21,905. Community Custody.

Diagnostic and Evaluation Center. 3220 West Van Dorn, Lincoln, NE 68522. (402) 471-3330.
Fred Britten, Warden. Average cost per inmate per year: \$32,230. Maximum custody.

Lincoln Correctional Center. 3216 West Van Dorn, Lincoln, NE 68522. (402) 471-2861.
Mario Peart, Warden. Average cost per inmate per year: \$41,459. Maximum and Medium Custody.

Nebraska Correctional Center for Women. 1107 Recharge Road, York, NE 68467. (402) 362-3317
Denise Skrobecki, Warden. Average cost per inmate per year: \$39,875. Maximum, Medium & Minimum Custody.

Nebraska Correctional Youth Facility. 2610 North 20th Street East, Omaha, NE 68110. (402) 595-2000.
Ryan Mahr, Warden. Average cost per inmate per year: \$92,256. Maximum, Medium & Minimum Custody.

Nebraska State Penitentiary. 4201 South 14th Street, Lincoln, NE 68542. (402) 471-3161.
Diane Sabatka-Rine, Warden. Average cost per inmate per year: \$33,886.
Maximum, Medium & Minimum Custody and Residential Treatment Community.

Omaha Correctional Center. 2323 Avenue J, Omaha, NE 68110. (402) 595-3964.
Barbara Lewien, Warden. Average cost per inmate per year: \$25,922. Medium and Minimum Custody.

Tecumseh State Correctional Institution. 2725 N. Highway 50, Tecumseh, NE 68450. (402) 335-5998.
Brian Gage, Warden. Average cost per inmate per year: \$36,605.
Maximum, Medium Custody, Death Row & Intensive Management.

Work Ethic Camp. 2309 North Highway 83, McCook, NE 68001. (308) 345-8405.
Pam Morello, Warden. Average cost per inmate per year: \$40,666.
Intensive Supervision Probationers & Minimum Custody.

2014 ACLU of Nebraska Annual Event: Smart Justice, Fair Justice—September 4, 2014

By Michael Lindgren

It was my honor and privilege to not only attend but also speak at this event. Among the topics covered were the overcrowding issue the state of Nebraska is facing currently, over use of segregation, health and safety conditions, access to medical and mental health care, and lengths of sentences. Prison reform is necessary. Although public safety must continue to be a driving force, a better process needs to be brought into place. Reform cannot happen overnight but steps can begin to get this state started down that road. Each of us will benefit from these men and women being properly prepared for their return back into society.

The primary speaker was David Fathi, Director of the ACLU National Prison Project. His presentation brought our attention toward more effective and cost efficient ways to punish or rehabilitate offenders without risking public safety. He stated that more than 50% of the inmates in Nebraska's prisons are there for non-violent crimes. He further presented on the concern referenced in the ACLU's report on the "Dangerous Overuse of Solitary Confinement in the United States" within corrections. Inmates with mentally troubled issues continue to fill our prisons. Overcrowding causes unacceptable health conditions and living environment. There are no easy answers, but it all begins with awareness and education. I was very encouraged listening to his presentation.

The evening concluded with my presentation on the time I spent behind bars and the work I do through CrossOver Prison Ministries' Re-Entry Point Program, assisting inmates returning to society. It was an opportunity to "put a face" to David's presentation. I was able to share the story of my incarceration and its impact on me and my family. I am not proud of the decisions leading to my incarceration but I am happy to say I used the time in a positive way to enhance and further develop my skills to be successful upon my release. Also the experience helped me have an understanding of those coming out of our correctional system needing to have a plan in place.

The meeting ended with a question and answer session. The question to me that really hit home due to the ministry I am involved in was: "In my opinion, when should the process of rehabilitation begin with the inmate?" I responded that, the three areas weighing highest in the inmate's success are employment, housing and a support system. Rehabilitation should begin at the point of sentencing and be ongoing throughout their whole incarceration. It should be a process that is truly measurable and realistic. We have some serious problems and barriers with our current correctional structure. It can be fixed, but it will take time.

I walked away from this evening event encouraged and enlightened. When these inmates return to society and succeed, we all win. Rehabilitation is a process, it takes time and is well worth the effort.

NDCS sentencing miscalculations: who is really at fault?

By Shakur Abdullah 30012, Omaha Correctional Center

In the wake of the sentencing miscalculations of the Nebraska Department of Correctional Services (NDCS) - who is really at fault?

The Omaha World Herald (OWH 6-15-14) found sentencing miscalculations that led to 750 cases, amounting to 2000+ years credit too early for release. The Nebraska Department of Correctional Services (NDCS) miscalculations centered on two categories of offenses, i.e., mandatory minimum (MM) sentences and habitual criminal (HC) sentences. MM sentences were created in 1995 and the HC statute was created even much earlier than that. The miscalculations occurred over the span of nearly 20 years. NDCS Director, Mike Kenney, has reacted to the situation by suspending (with pay) several unnamed employees.

The immediate finger of guilt would seem to point directly at the NDCS Director, Mike Kenney, his predecessors (Harold W. Clarke and Robert Houston), along with the NDCS Legal and Records offices. How could such an oooops occur and go uncorrected for so long? Both Governor Heineman and Mike Kenney have sought refuge under the defense of not being attorneys, attempting to deflect their culpability for the mistakes.

It seems likely that those words, "I'm not an attorney," will be uttered repeatedly, by everyone involved with the mistakes except the attorneys. Who are the attorneys who should be providing oversight and management of the NDCS Records Office to make sure sentences are being served in accordance with the law? Jon Bruning is the Attorney General (AG) of Nebraska (2003-2014) and the NDCS has three attorneys under its employment.

The AG has a fleet of 65 attorneys employed to control and supervise all actions and legal proceedings in which the state may be a party or may have an interest. The AG's office has charge and control of all legal business of all state departments (offices, agencies, bureaus, etc.) which require the services of an attorney or counsel in order to protect the interests of the State. **R.R.S. § 84-201 – 221 (2013)**. The AG is authorized by law to compel an agency/department to comply or enforce an act (law) of the Legislature. **R.R.S. § 84-216**.

Without hesitation or need for an actual count, the largest number of miscalculated cases by the NDCS took place under Jon Bruning's watch. Some also took place under Bruning's predecessor, Donald Stenberg (AG from 1991-2003). These are two of the most staunch and ardent "get-tough-on-crime" AGs that the state has ever heard talk about the issues (crime/criminals). However, apparently both Bruning and Stenberg were asleep on the job in assuring that MM and HC sentences were being properly calculated by the NDCS.

Jon Bruning was quoted as having told the NDCS how to calculate MM and HC sentences correctly, but "you can't always get a client to follow your advice," he said. If true—what, he knowingly allowed the NDCS records administrator(s) to utilize a flawed and illegal formula that released people early?

The AG is not an attorney in the private practice of law. In private practice, attorneys can't compel their clients to follow their advice or the law. Being the AG is a much different position. Jon Bruning had numerous options available to him to make the NDCS calculate sentences the way the Legislature and the Judiciary intended those sentences to be served.

Bruning could have held a press conference calling the NDCS out on miscalculating sentences. He could have issued an AG Opinion to the NDCS Director on the legal principles involved supported by case law, statute citations, and how MM and HC should be calculated. If the NDCS Director still didn't comply with the AG Opinion, there was another option. Bruning could have commenced a legal action against the NDCS and its Director. None of these options seemed to have been considered or taken by Bruning or Stenberg.

Jon Bruning's most recent win on a habitual criminal case was in **State v. Kinser, 283 Neb. 560 (2012)**. His most recent win on a mandatory minimum case was **State v. Castillas, 285 Neb. 174 (2013)**. During the last 20 years, the AG's office had other wins (MM and HC). See *Johnson v. Kenney, 265 Neb. 47 (2002)* (Winning attorneys A.G. Don Stenberg and Assist. A.G. Linda Willard). Also see OWH 7-27-14 and 7-29-14. Viewing the most recent wins by the AG's office, it's clear that Jon Bruning did nothing to force the NDCS to comply with the rulings in Kinser or Castillas. It wasn't until 17 months after the Castillas ruling and being woke up by the OWH article about the sentencing miscalculations that Governor Heineman and AG Bruning finally began to act on the matter.

According testimony before the Special Legislative Investigation Committee (8-8-14) by former NDCS Director, Robert Houston, he was unaware of anyone under his supervision miscalculating sentences that resulted in early releases (OWH 8-9-14). I'm sure, when the dust finally settles on the sentencing miscalculation mistakes, one or more non-attorney NDCS Records personnel will be fired. Some of the bad jokes about attorneys seem appropriate in this instance.

In my opinion, both Donald Stenberg and Jon Bruning are ultimately responsible for the nearly 20 years of sentences being miscalculated. Why didn't the AG direct the NDCS Records office on how to calculate MM and HC sentences)? It sounds like micromanagement, but the obvious outcome of not doing so could turn out to be a disaster.

Protecting the state from a known liability is part of the AG's responsibility. If the AG failed to make sure the law was being complied with, how can some non-attorney-paper-pushers in the NDCS Records Office be culpable for mistakes they were never directed to correct? Liability of the state is part of the AG's responsibility. In the wake of so many miscalculated sentences over such a lengthy time span, the full liability of the state is yet to be determined.

Do you want to end capital punishment in Nebraska?

By Effie Caldarola, Field Organizer, Nebraskans for Alternatives to the Death Penalty

Do you want to see the Death Penalty end in Nebraska? Then, we urge you to find a pen, paper and stamp! Our legislators, or the candidates in your district, need to hear from us.

Many of them are convinced that the death penalty, which hasn't been used in Nebraska since 1997, is a wasteful, inefficient, failed system. Most of them understand that the death penalty often discriminates against minorities and nearly always discriminates against the poor. Most of them wish the millions of dollars we squander on it could be spent on better law enforcement, better prison conditions, greater assistance to the victims of violent crime. Most of them realize that the myth of deterrence is just that – a myth that has been knocked down by the best studies.

The last time a death penalty bill was introduced in the Nebraska Legislature, the majority of legislators were ready to pass a repeal bill. Unfortunately, supporters could not muster the greater votes needed – 33 – to overcome a filibuster.

We are very optimistic that repeal can happen in 2015. But we know that to make this happen, Nebraskans will have to speak up loud and clear. If you are opposed to the death penalty, it's not enough to tell your friend. To be effective and to bring about change, you must tell your legislator.

You must let your voice be heard. The late Senator Paul Wellstone said this: "If we don't fight hard enough for the things we stand for, at some point we have to recognize that we don't really stand for them." If you believe your legislator opposes repeal, write a respectful and persuasive letter. If you believe your legislator already supports repeal, write anyway to let him/her know they have support and appreciation. Write now, as candidates and legislators are mulling over their opinions. Write again as the session begins and a repeal bill is introduced.

Consider asking your congregation or club to host a letter writing event. We can help with materials and info. Consider attending NADP's Lobby Day in Lincoln on March 4, and consider signing up for our newsletters at nadp.net. Consider joining our action committee and be part of a winning team. But whatever you do, write that letter!

Been in prison and not registered to vote?

If you are a past offender and have been out of prison for two years, you can become a voter again. Register now and be ready. Ask someone for the nearest place to register.

Some states do not require a two-year waiting period for registration. A couple of states allow voting while in prison, as do some other democratic nations. Let your state senator know what you think about restricting or allowing the right to vote by current and past offenders in Nebraska.

The Council of State Governments visits with TSCI inmates

By Chris Garza 41853, 7th Step Chairman, Tecumseh State Correctional Institution

On August 26th, members of the Council of State Governments visited the 7th Step Organization, an inmate self-betterment club, at the Tecumseh State Correctional Institution. Also in attendance were Tecumseh Warden Brian Gage and the newly-designated Reentry Program Director, Dawn Renee Smith. Serving as moderator for the evening was Pastor Ruth Karlsson of Released and Restored, a non-profit organization that seeks to prepare men and women for their reentry into society.

The Council of State Governments has been tasked with studying the issues facing the Nebraska Criminal Justice System and recommending measures that will increase public safety as well as ease prison overcrowding—among other issues. The members seemed very interested in hearing our personal stories and how the issues we are facing contribute to recidivism and decrease public safety. I believe that, by the end of the evening, they came away with a clear understanding of the environment in which we find ourselves.

It is my belief that a man or woman must have three things in prison if they are to break the cycle of crime which brought them to prison. The first is a will to change. Without the will to change we will go nowhere. Second, the tools with which to succeed—programming, education and spirituality among other things. But just as important as the first two is an environment that is conducive to growth and change. I believe a focus on the tools (programming) should not eclipse the importance of a positive environment. I tried my best to convey this message to the members of the Council.

Which brings me to the main reason for this article: I encourage everyone who reads this to contact the Council with your thoughts and concerns. For them to take the time and have the desire to sit in a room with 40 or so inmates to discuss these issues was a great step in the right direction. There is a wealth of untapped knowledge and potential sitting in Nebraska's prisons.

Our futures can be shaped by the direction in which the Nebraska Department of Correctional Services travels from this point in time—a very volatile, dangerous time, I might add. Things could get better or much worse. But if we do not speak up on these issues, if we do not use what voice we have, then we share responsibility if things get worse.

If you feel hopeless, like a leaf in the wind, do something about it. Contact our senators, contact the new Reentry Coordinator. Use your voice. Thank you.

NEWS and MISCELLANEOUS

By Mel Beckman, Editor

Downtown registration site now available for sex offenders in Omaha

Persons required to register or periodically check in at the Sheriff's office can now avoid a long trip to west Omaha by registering at 1616 Leavenworth Street. The hours at that site are Tuesdays and Thursdays, from 9 a.m. to 11 a.m.

Freed for Life 2014

A fund-raising dinner and program to support Followers of Christ, Bridges to Hope and Our Saviour's Lutheran FEAST program, will take place from 6-8 p.m. on November 9, at Sheridan Lutheran Church in Lincoln, with the Deputy Director of the Nebraska Department of Correctional Services, Mr. Larry Wayne, as keynote speaker.

Online reservations cost \$25/person or \$200 for a table for 8 and can be made at: <http://www.nebraskasynod.org/followersofchrist/freed-for-life/>.

Proceeds help provide pastoral care, worship services and support to those in prison and clothing, household items and a welcoming church on the outside for those re-entering our communities.

The news release for the above event was sent by Pastor Robert Bryan, Followers of Christ Prison Ministry, Nebraska Synod, E.L.C.A. (402-640-7145)

Directory of resources for sex offender outpatient treatment

The Nebraska Department of Health and Human Services' Division of Behavioral Health has published a May, 2014 revised edition of its statewide directory of sex-offender treatment providers. The providers listed are not endorsed or promoted by DHHS. The introduction to the directory states that the original list was compiled with the assistance of professionals statewide and it is intended to help identify resources that have experience working with sex offenders. It is not considered to be an official or all-inclusive listing, but rather, a work in progress.

Shannon Black, Ph.D., at the Lincoln Regional Center Sex Offender Services, is listed as one who may be contacted for questions about the directory and for questions regarding treatment or services for sex offenders. The directory is online at: www.dhhs.ne.gov/behavioral_health/documents/sex-offender-directory.pdf.

Iowa Supreme Court blocks mandatory minimum sentences for youth

According to a July 19th *Omaha World Herald* news item, about 100 Iowa prisoners who, as juveniles, were tried as adults and received mandatory minimum sentences before 2013, must now be re-sentenced. The Iowa Supreme Court ruled, on July 18th, that, for juveniles, sentences with no opportunity for parole until a min-

imum time is served is unconstitutional. According to Chief Justice Mark Cady, "Mandatory minimum sentences for juveniles are simply too punitive for what we know about juveniles." Two justices wrote dissenting opinions, saying the Court took recent U.S. Supreme Court guidelines about juvenile sentences too far.

Write a letter...make a difference

Volunteer correspondents, working with CrossOver Prison Ministries, write to many inmates who wish to receive letters. More volunteers are needed. Presently 45 inmates would like a correspondent and are on CrossOver's waiting list. To volunteer or inquire, write to CrossOver Correspondents, c/o CrossOver Prison Ministries, P.O. Box 3791, Omaha NE 68103-0791. Or call La Verne Belt, 402-453-9221.

Share a ride to McCook?

A reader of this publication has a relative at the McCook Work Ethic camp and would like to discuss carpooling with someone who goes there regularly or from time to time. Call Mel at 402-558-2085 if you are willing to talk with the person. Or e-mail: melbeckman@cox.net.

2014 Achievement Award given to Douglas County Mental Health Center

According to a news item in the August 9, 2014 *Omaha World Herald*, the National Association of Counties' Achievement Award recognized the Center's intensive case management program. The program provides voluntary pre- and post-release support to 18-to-24-year-old young adults who are at risk of homelessness upon their release from incarceration. Region 6 Behavioral Healthcare funds the program. Since its founding there has been a reduction of more than 80 percent in homelessness among participants and a threefold increase in access to mental health and substance abuse services.

Cross Training Center

Located at 5030 North 72nd Street in Omaha, this center provides vocational training and job experience for men and women who are disadvantaged and undereducated. Their program includes computer refurbishing, where students learn to refurbish and rebuild computers as part of their training. Computers are sold at reasonable prices so they can be provided to those who may not otherwise have access to technology. Cross Training Center is a Microsoft Authorized Refurbisher. The above information was received from Center Director Brenda Banks. Phone. 402-960-9789. More information about Cross Training Center can be found at www.crosstc.com.

Should Miller v. Alabama be retroactive? Seven states say "yes," four states say "no."

On June 25, 2012, the U.S. Supreme Court ruled that mandatory life sentences without possibility of parole are unconstitutional if imposed on children under age 18. Such a severe sentence cannot be mandatory in the case of juveniles.

According to the national Campaign for the Fair Sentencing of Youth, High Courts in Iowa, Nebraska, Massachusetts, New Hampshire, Illinois, Mississippi and Texas have ruled that the U.S. Supreme Court decision is applicable retroactively to persons who received mandatory life sentences in murder cases when they were under 18 and that they are now entitled to a new hearing and re-sentencing.

Four other state High Courts have ruled that the Miller v. Alabama decision is not retroactive. Those states are Louisiana, Michigan, Minnesota and Pennsylvania.

Re-sentencing hearings for Nebraska's juvenile life without parole inmates are likely to begin later this year unless the U.S. Supreme Court takes further action on the issue.

State prisoners in county jails

The Department of Correctional Service has begun, this summer, to house some prisoners in county jails to relieve over-crowding in the prisons. According to the Department's monthly data sheet for August 31, a total of 139 prisoners were in county facilities:

- 105 in the Hall County Jail
- 16 in the Phelps County Jail
- 18 in the Platte County Jail.

One part of the corporate prison business

Corrections Corporation of America (CCA) claims to have been the founder of the private corrections management industry in 1983. CCA states that it houses nearly 70,000 inmates in more than 60 facilities, with a total bed capacity of more than 80,000. The company joined the New York Stock Exchange in 1994 and employs nearly 15,000 professionals nationwide. CCA claims to be the fifth-largest corrections system in the nation, behind only the federal government and three states.

Information above is from the CCA website: www.cca.com

Family and Friends of Inmates

FFI provides support to those whose loved ones are incarcerated and advocates for a humane, rational and restorative correctional system. Meetings are held on the fourth Saturday of each month (except in December) at 10:00 a.m., at First Christian Church, 6630 Dodge Street in Omaha. For more information: Call 402-558-2085 or e-mail: mabeck3636@cox.net.

Prison rules for religious passes not liked

The *NCJR* received a letter, recently, from a Lincoln Community Corrections Center inmate who had attended a local church service on an approved pass. He was surprised that the men and women on the pass were to have no contact with one another, because of the "Warden's rules." As a result, he wrote, all the men were required to sit on one side of the church and all of the women on the other side, regardless of marital status, all in all creating a really uncomfortable environment. The church was against this, he wrote, and felt that this was no way to transition people back into society.

Knowing that there is always another side to every story and maybe several, the *NCJR* attempted to find out more. An effort to contact the church was unsuccessful. The prison was also contacted. In response to the inquiry, a spokesperson for the Community Corrections Center did not dispute that the prison's guidelines for religious and programming passes do provide that "men and women will be kept separated during services, social activities and meals, regardless of marital status, unless approved by the Warden or designee."

The spokesperson revealed that, after a meeting with members of the church in question, a revision of certain guidelines will provide that "there will be no coupling off, disruptive behavior or physical contact between inmates that attend religious services." Inmates' focus, the spokesperson wrote, "should be on completing mental health and substance abuse requirements, if any, obtaining employment to assist with successful re-entry into the community, and establishing positive support systems prior to parole or discharge."

CCCL Warden Rich Cruickshank provided *NCJR* with the following statement:

"We value and are fortunate to have several faith-based organizations that provide excellent programming to assist our inmates in their transition back into society. We believe these opportunities are an integral part of the overall transition efforts, along with the employment and other programming offered by the Department. We are committed to continue working with all our community partners to facilitate inmates access to these opportunities in a manner that does not enable any program or organization to be subjected to abuse by inmates for ulterior motives. Some abuse can be a distraction to an inmate's individual transition efforts and/or be a disruption for other inmates that are appropriately engaged in the programming being offered, as well as cast a bad light on the organization and/or the Nebraska Department of Correctional Services."

News & Miscellaneous, Continued

By Mel Beckman, Editor, NCJR

Omaha's Domestic Violence Council

The Domestic Violence Council was established in 1996. It is a nonprofit organization that seeks to unite people, services and systems to end intimate partner violence. The Council's 2012-2013 Annual Report, "Uniting the Community to End Domestic Violence," can be found on the Council's website: www.dvcomaha.org.

New leadership at Holy Family Church

Holy Family Catholic Parish, which provides the main financial support for the Nebraska Criminal Justice Review, recently welcomed a new Pastoral Coordinator, Deacon Al Aulner. He succeeds long-time parish leader Ralph Hueser (see also page 1 of this issue). Deacon Al is also actively involved with the Catholic Jail and Prison Ministry of the Omaha Archdiocese.

Illinois and New Jersey ban the box for both public and private employers

On July 19th this year, Governor Pat Quinn signed the **Job Opportunities for Qualified Applicants Act**, making Illinois the fifth state in the nation to require both public and private employers to remove questions about an applicant's criminal record from job applications. The legislation does not prohibit such questions but only postpones them to later in the hiring process, giving job applicants with records a fair chance to be considered on their qualifications first.

On August 11th, New Jersey Governor Chris Christie signed the **Opportunity to Compete Act**, making New Jersey the 13th state in the nation to remove questions about an applicant's criminal record from job applications and the sixth state to apply the policy to both public and private sector employees. Governor Christie stated, in support of the legislation, "This is going to make a huge difference for folks who have paid their debts to society, who want to start their lives over again and are going to have an opportunity to do just that in our state."

The above information is from news releases by NELP, the National Employment Law Project. NELP's website is: www.nelp.org.

Nebraska also passed "ban the box" legislation this year, but it applies only to public employers.

Prison Rape Elimination Act (PREA)

According to the National PREA Resource Center, the Prison Rape Elimination Act was passed in 2003, with unanimous support from both parties in Congress. The purpose of the act was "to provide for analysis of the incidence and effects of prison rape in Federal, State and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape." In 2012, the U.S. Department of Justice

Parole officers share some parolee success stories

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

Hastings Office

- An offender paroled in June and has secured two jobs. This is the first time she has been gainfully employed in her life. In addition, she has reached out to her son, who was adopted, with positive results.

Kearney Office

- Two offenders were selected for employee-of-the-month at their respective places of employment.

Lincoln Office

- An offender paroled in 2012 and has had no violations. He has maintained the same residence and employment. He leads some AA groups and has other appropriate community activities.

Norfolk Office

- An offender has a previous revocation. This time around he has completed drug treatment and has made the choice to go to a halfway house.

Omaha Office

- An offender was referred to Reconnect2Success after struggling to maintain a full-time employment. He really wanted to mentor kids and do some coaching. Someone at Reconnect2Success advised him that if he maintained full-time employment for six months that she would hire him to work with her youth coordinator. He met that challenge and is now working with the youth coordinator.

Scottsbluff Office

- An offender got her license back after nearly 6 years. She maintains employment and single-parents her 8 year old son.

promulgated national standards for the detection, prevention, reduction and punishment of prison rape.

May 15th of this year was the deadline for state governors to indicate their states' compliance or their intention to work toward compliance. In a May 18th news conference, Department of Justice spokespersons said they were encouraged that two states certified full compliance and all but seven states had provided assurances that they will leverage a portion of grant funding to work toward achieving compliance. Nebraska was one of the seven states that had not done so.

According to the spokespersons, the opportunity to comply remains, and the assistance to do so. But it was made clear that those which do not will be held accountable, as required by law. Those who have not complied will incur a 5% reduction in funding this year.

Although Nebraska apparently missed an important Justice Department deadline, it is apparent that some efforts toward compliance are being made. In our next issue (December) we will carry more information about what is, or is not, being done to comply with PREA and prevent sexual abuse in Nebraska prisons and jails.

Nebraska taxpayers cannot afford the creation of a permanent underclass of citizens

By Mel Beckman, Editor, NCJR

A spokesperson for Legal Aid of Nebraska issued the above caution in comments delivered to the Nebraska Child Support Advisory Commission on August 15th of this year. Legal Aid was concerned that the poor, including especially those in prison, do not have adequate access to the resources to obtain modification of their child support orders when they are not able to fulfill them, and, as a result, are liable to become a permanent underclass of citizens in Nebraska.

Legal Aid's remarks were delivered in a paper signed by Legal Aid Attorney Marian G. Heaney, Director of Litigation Jennifer Gaughan, and Interim Executive Director Annette Farnam.

The problem of inmate child support indebtedness was pointed out by the **NCJR** in its June, 2012 issue. At that time, with the help of research supplied by the Nebraska Department of Health and Human Resources, we were able to show that some 4,062 incarcerated individuals in Nebraska owed approximately **\$86,000,000** in unpaid child support and interest.

One reason why that indebtedness had accumulated was because Nebraska law, until recently, held that a person who went to prison was **voluntarily** reducing his income, and, as a result, no modification of his child support order could be allowed.

Now, Revised Nebraska statute, **43-512.15** states, "a person who has been incarcerated for a period of one year or more in a county or city jail or a federal or state correctional facility shall be considered to have an **involuntary** reduction of income." Some exceptions are noted, but as a general rule, incarceration for a year or more is now a legitimate reason to seek modification of a child support order when one's prison wages, such as they are, are insufficient to fulfill that order. A prisoner's child support obligation need not, any longer, lead to the kind of debt which has burdened the lives of countless prisoners and their families in the past.

But, there is a problem! Legal Aid of Nebraska states that, "modification of child support orders mostly remains beyond the reach of poor non-custodial parents. It remains completely out of reach for the incarcerated parents." In the case of prisoners, "The Department of Corrections and HHS do not provide any mechanism by which prisoners can modify their child support orders." Legal Aid states that getting modification is too complex to be handled by an average person without some form of education or assistance.

A prisoner re-entering the community after prison has multiple challenges, including finding housing, getting employment, finding transportation and "mending fences"

with family members. Being behind on child support payments creates many more problems. It can destabilize family relationships, it gives one a poor credit score for loans, it may endanger getting or keeping a driver's license and may make a person virtually unemployable. Often, with legal help, modification of an impossible child support order can set the former inmate on a path to success in meeting his challenges and possibly ward off another round of prison.

Some states have done more than Nebraska to help the poor who have child support arrears. According to Legal Aid, Colorado, Iowa and Minnesota all have provisions either by rule or statute that allow the State to waive interest. In 2012, the total amount of interest owed to the State by Nebraska inmates was **\$10,622,136**.

Also, in Iowa and Minnesota, an order can be modified or terminated because of a payer's "hardship," such as disability, and the process can be accomplished for the most part at an administrative level in a reasonable time frame, according to Legal Aid.

Legal Aid of Nebraska is concerned that the non-custodial parents whose children are served under Title IV-D of the United States Social Security Act have become a permanent underclass of marginally employed people who cannot afford to support themselves, much less their children.

Legal Aid provided the Child Support Advisory Commission with the following three suggestions:

- **Consider providing by rule, guideline or statute a provision that requires a waiver of interest on child support arrears for prisoners.**
- **Consider facilitating by rule, statute or guideline a requirement that an immediate referral to HHS be made for modifying child support orders when a convicted felon is sentenced.**
- **Consider designating funds to prison libraries for modification of child support education, or forms.**

Outside the prison system, Legal Aid, partnering informally with the Fathers for a Lifetime Program, has provided assisted self-help clinics for poor non-custodial parents to establish court ordered parenting plans, and assisted self-help clinics to modify child support orders. Legal Aid offers to HHS and the Department of Corrections, to help with prisoner child support modifications, have unfortunately met with no success.

NCJR annual appeal

Each year, around this time, we ask our readers to thoughtfully consider a contribution to support the Nebraska Criminal Justice Review. See Page 12 for a contribution form. Thank you!

LETTERS

Please don't turn me out

I read your Volume 15, No. 2 issue about us aging inmates. My tentative release date is 2018. I've had one \$125,000 open heart surgery and am going to need another one, probably in 2015 or so. The last time I went to the heart clinic on Highway 2 they put so many stints in me that I can stand straight up. I also have blood clots that we are dealing with now. I got a cane awhile back and it helps a little. I will soon need a wheel chair.

I am 67. As long as I'm in here I can get that open heart surgery and have the veins in my legs cleared. I can get upper and lower plates of teeth. If they turn me out of here, I will have to pay for all of that and will need before very long to be put into an old folks home. I will need someone to fix me three meals a day and nurses and doctors to give me my ten med pills that I take now. I've got more than that here and it don't cost me a dime, so please don't turn me out.

Pat McClane 69650
Lincoln Correctional Center

Can they have empathy?

Governor Heineman and Attorney General Bruning are both claiming that neither of them, during their entire reign, were aware that the Nebraska Department of Correctional Services deliberately and casually disregarded the Supreme Court order and did "what they had always done," even though there were e-mails that either one could have accessed at any time during their terms, that were contrary to the order.

I write this to say that, if nothing else, this incident should help them both express some empathy when it comes to people, not so unlike themselves, who are asking for second chances due to the actions of someone else. The State of Nebraska has been holding me and a co-defendant responsible for the actions of a third co-defendant since 1983. Can they put on their respective big-boy pants and take responsibility for being in charge of this one?

Jo Helen Williams 92476
Nebraska Correctional Center for Women

Access to gym and library at O.C.C.

I have been to the Lincoln Correctional Center, the Nebraska State Penitentiary, and now, the Omaha Correctional Center. The one thing different to me is, one never knows when the gym or library will be open. At least at Lincoln Correctional Center and Nebraska State Penitentiary the schedule works for the most part. Here at O.C.C. it seems a schedule is whatever someone in charge at that time says it is. What does it take to get access to the only two places we can go?

Jerrold Hansen 57940
Omaha Correctional Center

Can't see the Parole Board's logic

I'm a recovering, forty-three-year-old heroin addict who made a lot of bad choices due to my disease. I've been clean now four and a half years by the grace of my Lord and Saviour.

The last time I was paroled was in 1991. (Even though I'm an habitual criminal, I've had parolable sentences during that time) Yet, the Parole Board has paroled inmates convicted of brand new felonies while on work release, and they make violent baby-killers, teenage gun toters, etc. do their entire sentence and release them with no supervision, no guidance, just let loose on society. If you understand their logic, please explain it to me.

No incarcerated person should be released without supervision—to maybe live next door to you.

Christina Glass 98305
Nebraska Correctional Center for Women

Management not as good as in the past

The Nebraska Department of Correctional Services' current management has ignored countless warning signs, grievances and petitions for better living conditions. Doesn't sound like the past 20 years from the state prison system.

Then, the state offered a safe work environment by treating prisoners more humanely and giving correctional officers proper senior staffing to learn from and work with to keep the prison in good working order. Now-a-days, staff at the prison are frustrated because of tyrannical management and mandatory overtime. Inmates are frustrated because they have been stripped of almost all recreation time, program opportunities, and positive activities.

You hear about the cost of incarceration all the time. Why are tax-payers allowing poor management to treat inmates in a cruel manner and then send them back into society? Think about a dog that gets kicked all the time. It's only natural that he will bite someone sooner or later.

Jose Rodriguez 57613
Nebraska State Penitentiary

Freedom isn't easy

After reading various letters from offenders concerned about becoming another statistic, I applaud you for being worried. You should be. In fact, I'm what you don't want to be - a re-offender who now knows that transitioning back into society isn't as easy as I had thought it to be.

I basically grew up in prison from age 16 to 27, and then was released unconditionally in 2011 only to fail within a year and a half. Since my incarceration, I've unfortunately had to accept that I'm somewhat institutionalized, for I find it easier to adapt to confinement now than to society.

Don't get me wrong, being free has its benefits, like seeing family and much more. However, in hindsight, I can see that there's a price to pay for obtaining that freedom; more responsibility, temptation, as well as many

other stresses like getting a job, getting a car, time management, and overall, just having to learn how to function efficiently in the free world. Clearly, I underestimated the difficulty in my reintegration - which ultimately led me to using drugs and coming back.

Of course, I don't wish to live my life in prison, and thus, I recently read a book about reentry that has been helpful. It's called Beyond Bars: Rejoining Society After Prison, by Jeffrey Ian Russ and Stephen C. Richards. If concerned about release, I recommend you read the book.

Tyler Keup
Federal Correctional Complex, Forrest City, AR

An anger reduction tool has been limited

I am concerned about the decisions that are being made in regards to the available recreational choices for the inmates at the Nebraska State Penitentiary. The two most popular forms of recreation, used by at least 70% of the population—handball and softball—have been taken from us. These recreational activities help to release day to day tension and boredom, which helps guarantee a more calm, relaxed atmosphere amongst the inmates, and is also better for the staff.

Now, handball, which should be accessible to all inmates, is being used as an "incentive program," according to the Warden, and is only accessible to inmates who have one year without ANY misconduct reports (which is about 40 people out of 1,300). So according to the goodtime laws here, I can go six months without a class III misconduct report (the least minor infraction) and get goodtime back, yet, I cannot play handball unless clear of all of them for one year???

It makes no sense at all to take the two things that are the most helpful to the inmates to release built-up frustration, anger, etc., and replace them with nothing but a smaller yard with the same amount of inmates in it and virtually nothing to do in it. In one of the yards there is not even any access to a bathroom or water!! Meanwhile, you have the entire north yard, which includes enough room for a small football or soccer field, the already existing handball walls and the already paved west-track, which is not even being used now! The handball walls are only being used by the 40 people who could manage to go one year without a Class III misconduct report - "the least minor of infractions."

So, basically, they are using an anger management tool as an incentive tool to access the anger management tool. Shouldn't an incentive tool be something like access to college courses or extra visits?? NOT EXCERSIZE!! The lack of a way for ALL inmates to release their frustrations, anger, boredom, etc., for long periods of time, cannot be good for the physical or mental well-being of anyone.

There was absolutely no reason that the yard could not have been separated into the north and south yards, all the recreational activities saved for the inmates, and security issues to have been met.

Jonny Holroyd 74790
Nebraska State Penitentiary

What "best interests"?

I'm responding to the July 29, 2014 *Omaha World Herald* article, "E-mails on sentencing spur calls for probe." I agree with Senators Chambers and Ashford that the actions of the DCS (Department of Correctional Services) officials were criminal. Despite what Ms. Douglas may say, since when does the DCS "...act in the inmates best interests?" Judging from what I've seen in ten years of incarceration, the DCS routinely violated their own laws and policies regarding programming, parole and treatment of staff and inmates.

I think it is time to thoroughly audit and investigate what is really going on in the Nebraska prison system. It's time to free those who have earned it; maybe even consider clemency and early parole for longer-term inmates who have exercised remarkable restraint despite unjust and oppressive treatment at the hands of our captors.

Aaron Manning 62595
Tecumseh State Correctional Institution

Please try to verify

Mr. Beckman, I know you are a trusting person and probably must take what many inmates write to you about as factual. I've been here a long time and know many of the inmates who write to the *NCJR*. There are specific letters that have been printed which are filled with misinformation, abuse of facts and intentional lies, such as a featured letter in the latest issue of the *NCJR*.

Normally I say nothing because it is none of my business. I am writing only to ask if there is a verification process you can employ, and if there is, ask that you use it before printing featured articles in your publication from inmates. Some of my peers are very self-serving and sometimes when they write a letter to you that appears to be for the general good, in truth they are apathetic to any concern other than their own agenda. Please, if you can verify before you print, many of us would appreciate it.

Bernard Schaeffer 31404
Tecumseh State Correctional Institution

Prison space used for profit

Law stipulates that prison paid labor can not be competitive with free enterprise. But the Department of Correctional Services in Lincoln does over a millions pounds of outside hotel and old folks homes' laundry every year. In their quest to make more money they have shut down the hobby center with lame excuses. The place where they recycle cans (more \$\$), formerly was a place where you learn hands-on electrical, plumbing and car repair skills. Dog training in the rest of the space...worthless for a job on the outside.

"For profit" is why the prison is locked down now. Nothing for prisoners except slave-wage employment.

Richard Rayes 33647
Nebraska State Penitentiary

It's getting worse

In August, the legislators met on public television for about five hours. There was a great deal of discussion about the use of the "hole." Senator Chambers said, "the U.N. has declared such isolation cells a form of torture." The last Director, Mr. Houston, acknowledges, "The use of solitary confinement and its contribution to inmates' mental illness is a major concern." So my question is, why is use of the hole getting worse?

In the past two weeks, I have seen almost ten people taken to the hole for very minor infractions, and at least one with no infraction at all. Tecumseh State Correctional Institution uses it with a quickness, and in the face of such profound findings about the effects of the hole. Wouldn't it be reasonable for the Administration to use the hole only for major rule infractions instead of for petty infractions that do not disrupt the security of the institution nor pose a threat to the well-being of inmates or staff? It seems to me that incarcerating people in the hole for minor infractions is an abuse of power.

Floyd Morrison 74703
Tecumseh State Correctional Institution

NEBRASKA CRIMINAL JUSTICE REVIEW

Published by the Education and Advocacy Committee, Holy Family Catholic Church 1715 Izard Street, Omaha NE 68102. Views expressed in the *Nebraska Criminal Justice Review* do not necessarily represent the views of Holy Family Church, the members of our Advisory Committee, or anyone who contributes financially to the newsletter.

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

Deadline for Submission of Material: The first day of the month of publication. Published in March, June, September, and December.

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Note: The NCJR is a free publication. However contributions to Holy Family Church to help support it are needed and welcomed. Contributions are tax-deductible. Make checks payable to Holy Family Church, and mail to: NCJR, c/o Holy Family Church, 1715 Izard Street, Omaha, NE 68102.

**Nebraska Criminal
Justice Review
Holy Family Church
1715 Izard Street
Omaha, NE 68102**

Return service requested

**Volume 15, No. 3
Sept, 2014**

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Nebraska juvenile justice awards

The Nebraska Juvenile Justice Association works to provide leadership on statewide juvenile justice issues and build juvenile justice leaders through education and training. At their annual conference in May, 2014, the Association honored two individuals:

Treva Haugard

Treva Haugard received the 2014 Commitment to Excellence in Leadership Award that recognizes an individual in a management capacity who has demonstrated exemplary leadership in serving youth and families in the juvenile justice profession.

Treva has been the Executive Director of the GOALS Center for two years and has facilitated the growth of the agency in personnel and number of families served.

The GOALS Center was established as a multi-disciplinary initiative to address absenteeism and to provide substantive services to youth and families, in an effort to keep youth in school and to avoid further penetration into juvenile justice. Treva works to establish community partnerships, has testified for the state legislature regarding the work of the GOALS Center and works to bring different people with varied backgrounds to the table so that new voices may be heard and new ideas explored.

Joanna Lindberg

Joanna Lindberg received the 2014 Evelyn La-bode Service to Youth Award. The award recognizes an individual who has demonstrated commitment, initiative and advocacy on behalf of the youth and families they serve.

Joanna recently retired in September, after 18 years as Program Director for Heartland Family Service, and has worked tirelessly to develop effective juvenile justice programming. In 1996, she helped implement programs for the newly created Office of Juvenile Services Tracker and Community Based Evaluations. Joanna was instrumental in securing funding and piloting new programs. Three additional juvenile justice best practice services: The Detention Response program, Restorative Justice Victim Empathy Program and the Refugee Juvenile Justice Advocate Program were established with her leadership. Through these community-based programs, thousands of youth have benefited by participating in alternative programming rather than lingering in detention.