

# Nebraska Criminal Justice Review

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## July 1st: What will happen when Governor Ricketts declares an over-crowding emergency?

By Doug Koebernick, Inspector General of Corrections.  
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A continued topic of interest is the impending declaration of the Correctional System Overcrowding Emergency by Governor Ricketts on July 1, 2020. For the past few years, as this date has approached, I have had countless people ask me what I believe will be the impact of this emergency declaration. Before I share what I tell them, I think it is important to review what the law states regarding this upcoming action by the Governor.

In 2002, the Correctional System Overcrowding Emergency Act was passed by the Nebraska Legislature. The Act at that time allowed the Governor to declare an overcrowding emergency, should he or she choose to do so, when the Director of the Nebraska Department of Correctional Services (NDCS) certified that the inmate population was over 140% of design capacity. In 2015 the law was changed to mandate that the Governor declare such an emergency if those conditions exist starting on July 1, 2020. As we approach the emergency declaration date, the correctional system is operating at around 155% of the design capacity. To get to 140% of design capacity the population would have to decrease by approximately 600 offenders.

At the time of the 2002 passage of this law, Nebraska's prison population was growing and it was thought it would soon exceed this capacity threshold. If it did, the Act was intended to bring down the population to a more manageable level. When it eventually did exceed 140% of design capacity, Director Houston certified that it was beyond that threshold, but he informed Governor Heineman that they could handle the overcrowded system. As a result, there was no pressure on the Governor at that time to declare the emergency.

Once the emergency is declared, the law sets out the following:

- 1) The Board of Parole "shall immediately consider or reconsider committed offenders eligible for parole who have not been released on parole." NOTE: This is currently a pool of approximately 850 individuals who are past their parole eligibility date. These are the only people potentially impacted by the declaration of the emergency. The pool does not include those sentenced to life sentences or flat sentences or to individuals participating in the post-release supervi-

sion program (currently more individuals are released to that supervisory program than to parole supervision).

- 2) The Board shall order the release of those offenders unless they have determined that the offender will not conform to the conditions of parole, that the release of the offender will "have a very significant and quantifiable effect on institutional discipline" or if there "is a very substantial risk that the committed offender will commit a violent act against a person."
- 3) Once they start releasing individuals, the law says that the Board will continue granting paroles until the correctional system reaches 125% of design capacity. To reach 125% of design capacity the Board would have to parole over 1000 individuals. Earlier I mentioned that the pool of people for the Board to consider is only about 850 individuals, which means if they paroled every single person past their parole eligibility date, they could not reach the goal.

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## The killing of Mattieo Condoluci and a critique of registries

By Nebraskans Unafraid

The recent death of Mattieo Condoluci and the arrest of James Fairbanks for first degree murder in the case exposed something ugly in our society. Internet comments, heralding Fairbanks as a hero, celebrated Condoluci's death and suggested that more people on the sex offender registry should die.

Community leaders have remained silent.

The Omaha World Herald published a May 25th editorial condemning vigilante justice, but the editorial carried a dark undertone suggesting that it is understandable that someone would want to kill Condoluci because he was a "sex offender." That is no way to increase safety for other people still at risk.

Those whose addresses are on the registry have reason to worry about violence directed at them. Violence toward them is encouraged and their addresses are easily available. Families of registrants—spouses and

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## Overcrowding emergency declaration July 1st (Continued from page 1)

At this time, to answer the question that I constantly get asked, I do not foresee a significant release of individuals after the Governor declares the overcrowding emergency. I concur with a conclusion reached by Shakur Abdullah when he wrote the following for a 2009 edition of the Nebraska Criminal Justice Review:

***“If the Governor were to declare an overcrowding emergency, it still doesn’t mean that the Board of Parole has to parole anybody. Given the statute’s language, even under a declared overcrowding emergency, the Board of Parole wouldn’t have to release anybody, if it is of the opinion that such releases should be deferred because of a whole host of reasons enumerated in the statute.”***

The Board has already given everyone in the parole eligibility pool consideration for parole, in many cases they have received consideration for parole multiple times. The Board has not looked positively on their parole in the past for various reasons, so why would they change course now? In addition, with some new beds scheduled to come on-line in the next few years there will not be pressure to act by some, even though the building of those new beds may not keep up with population growth.

The one thing that might influence a release is that the declaration of this emergency will give the Board some “cover” to parole individuals who have had community opposition. The fact that not many individuals will be impacted by an emergency declaration also goes back to the Act itself. The Act, while having the intention to reduce population, does not have the teeth necessary to achieve such a goal. Also, as previously mentioned, the pool of individuals identified in state law to be considered is quite small compared to the entire inmate population.

In closing, while I don’t foresee significant action after the emergency declaration, I do think it is important to point out something that I continually discuss in my annual reports and to the Legislature—the State of Nebraska needs to establish a population goal for the correctional system. Should we be satisfied operating it at 150% or more of its design capacity? Should it be 140% or 125% or maybe 100% of the design capacity? Currently, Nebraska has the second most overcrowded correctional system. If we drop to 140% of design capacity, Nebraska will still be about the fifth most overcrowded system (in the country).

There would be many benefits related to operating Nebraska’s system at a lower level of design capacity. For those of you who have either been in prison, worked in the prison or volunteered in a prison, imagine having 400 people residing at the Omaha Correctional Center instead of 800, or having 800 people at the Nebraska State Penitentiary instead of 1350 people or even having 160 people at the Diagnostic and Evaluation Center instead of 500 people. What a positive change that would

be for everyone. Living conditions would improve. Programming and transitional opportunities would improve. Inmate and staff safety would improve. Staff could do what they were hired to do and that would result in a better work environment, which would then increase staff satisfaction and reduce staff turnover.

Even though I believe that the emergency declaration will not result in the changes imagined by the senators in 2002, the appropriate operating level of Nebraska’s correctional system is something that needs to be discussed and decided upon by Nebraska’s policy makers—sooner rather than later.

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## Governor asked to temporarily suspend in-person reporting by persons convicted of sex offenses

***Editor’s Note:*** *The following letter was mailed to Governor Pete Ricketts on May 11, 2020, regarding a safety measure to temporarily suspend the in-person reporting requirement of Neb. Rev. Stat. § 29-4004 in time of COVID 19 pandemic. Signers were: JOSEPH L. HOWARD, President of the Executive Board of the Nebraska Criminal Defense Attorneys Association; JEANNIE MEZGER, Member of the Board of Directors of Nebraskans Unafraid; and LA VON STENNIS WILLIAMS, Executive Director of ReConnect, Inc.*

Dear Governor Ricketts:

In the wake of the COVID-19 Pandemic, the citizens of Nebraska have been relatively fortunate that the death rates in our state have not spiked like those in certain other areas of the country. We thank you and your team for the leadership you have provided in promoting social distancing. Your #TestNebraskaChallenge is on-point and much appreciated. In the spirit of protecting citizens from any unnecessary exposure, we are respectfully calling upon you to please temporarily suspend the in-person testing requirement mandated for sex-offenders under Neb. Rev. Stat. § 29-4004 during this pandemic.

The first of your six rules to Keep Nebraska Healthy is to stay home with no non-essential errands. And the other six rules follow suit. Per the Nebraska Sex Offender Registry Official Nebraska Government website, there are over 5000 people on the registry. Per Neb. Rev. Stat. § 29-4004, many of these citizens are required to register every 90 days. The statute further itemizes each situation in which registrants must in-person appear and update information at their local sheriff’s office. We respectfully submit that the in-person requirement causes citizens to travel out of homes, onto public transportation, and unnecessarily expose themselves and others.

By mandating in-person registration during this pandemic, the State forces its citizens to choose between the health and well-being of themselves, their families, and the

and the public at large and compliance with the law. Non-compliance with the in-person registration requirement is punishable as a Class 111A felony. See Neb. Rev. Stat. § 29-4011. Further, a temporary suspension of the statutory requirement would ensure an additional level of protection to the law enforcement men and women who normally process these in-person registrants.

Other states and cities are using a variety of alternatives in place of in-person reporting. Pennsylvania is relying on a combination of online reporting and paper mail-in forms, Oregon is using phone reporting, and Las Vegas simply suspended sex offender registry reporting during this health crisis.

- Pennsylvania: <https://www.pameganslaw.state.pa.us/TermsandCondition/TermsAccepted>
- Oregon: [https://www.oregon.gov/osp/Docs/SOR\\_Web\\_Announcement.pdf](https://www.oregon.gov/osp/Docs/SOR_Web_Announcement.pdf)
- Las Vegas: <https://www.lvmpd.com/en-us/Press%20Releases/PO%20042%2003-18120.pdf>

Therefore, we the Nebraska Criminal Defense Attorneys Association and Nebraskans Unafraid respectfully move you for an Executive Order allowing registrants to satisfy their statutory requirement by telephone, electronic, or video conferencing. In the alternative, we ask for a statement from the Attorney General's Office that the executive branch will refrain from prosecuting citizens who register telephonically, by electronic means, or by video conferencing.

**Editor's note:** Nebraskans Unafraid reports that Governor Ricketts has not responded to the letter.

## Florida, Iowa and Nebraska differ on payment of "tax" prior to felon voting

*By Mel Beckman, Editor*

According to a *Washington Post* article quoted in the May 25, 2020 *Omaha World Herald*, U.S. District Judge Robert Hinkle "gutted a Florida state law requiring felons to pay court fines and fees before they can register to vote." The judge likened the restrictive legislation to a tax and concluded that the state had not created a system that would allow felons to identify their financial obligations. Critics of the law said it made it virtually impossible for most felons to register, because of an inability to pay or because the state offered no way to know what they owed or whether they had already paid. The judge's ruling is expected to be appealed.

In Iowa, recent news reports indicate that *some* felons will be given the right to vote, but only after court costs and fees are paid up. In addition, persons convicted of homicides, sexual offenses, child endangerment causing death, and election misconduct will have to apply to the Governor individually!

In Nebraska, too, voting rights are denied to felons until they "pay up", whether able to pay or not. In addition, a waiting period of two years is imposed after release from prison.

## These young people are inspiring

*By John Krejci, Lincoln. This letter appeared originally in the Omaha World Herald's "Public Pulse" section. Reprinted with permission.*

For those who can recall the '60's, it was police brutality, racism and segregation that impelled Martin Luther King and millions of civil rights advocates to protest nonviolently and march peacefully to bring about change. But at the same time, riots broke out in Omaha after the police shot Vivian Strong in the back of the head as she fled, and killed a black youth coming out of a vandalized business. Add the George Wallace rally in Omaha and the torching of much of what was then termed "the near Northside."

Those were terrible days, but perhaps even worse were the results of that violence. Fifty years later and the neighborhood has still not recovered. The civil rights movement was given a black eye, and we continue to deal with racism, police brutality and segregation.

When will we ever learn? Violence begets more violence. The president tweets, "When the looting starts, the shooting starts!"

I applaud our young people who fault my generation and have responded in the millions (7000 in Lincoln), raising their hands and their signs saying, "Black lives matter." I beg them to learn from the mistakes of our generation. Violence is wrong.

Granted, there is evidence that the Black Lives Matter movement has been infiltrated by right-wing elements, determined to vilify the movement. And there are left-wing anarchists and "crazies" committed to violence. But I am heartened by young, white women—and men—who have put themselves on the lines to seek structural and institutional change in our still racist society. They haven't given up. They give me hope. Power to you, young people!

**Your thoughts  
are invited**

**The death of George Floyd  
occurred as this issue of  
the NCJR was nearly  
finished. We will be happy  
to publish your views  
about his death and other  
events of June, 2020  
in our September issue.**

# The therapeutic climate of a state youth correctional facility: Excerpts from a dissertation

By Eric Meyer, PhD

**Alone** without treatment of the soul, the **conspicuous deprivations of autonomy, self-identity, or even security** for our imprisoned youth, not only goes against the current of **parental patriae**: but more importantly, they are an **unethical means of reforming docile bodies**, largely of the minority, into the expectations of society, rather, the **demands of the majority**.

- Anonymous

Many people are curious of what life is like in prison. They obtain their answers from a multitude of sources, with some doing a better job of accuracy than others. For instance, many use movies and imagine life is like *The Shawshank Redemption* (Marvin & Darabont, 1994) or *The Green Mile* (Darabont, Darabont, & Valdes, 1999). Others will use the latest reality television program, such as *60 Days In* (Gregory, Woodard, & Grogan, 2019). No matter the movie or television show, prison life is usually portrayed as having its own unique culture and every moment of an inmate's day is filled with tension and danger. Other people, however, turn to scholarly research for their answers, such as Goffman's *Asylums* (1961), where life for the inmates is not a culture at all. Inmates are forced to live within prison and staff members use incentives that remind the inmates of their home cultures to encourage wanted behaviors. No matter the source it seems, all paint a picture that life inside prison is a **complex system**, filled with **symbolism**, that work together under an **authoritarian structure**, which has the united goal of isolating criminals away from society (Goffman, 1961; Sykes, 1958, 2007). Although all prisons have this goal, the precise strategies used in prison vary from one jurisdiction to the next. Thus, the questions turn from description to effectiveness. Which strategy is better and why?

Contained within the following article are a few of the details of a qualitative research study (my doctoral dissertation to be precise) that was completed at a correctional youth facility that house males between the ages of 15 and 21 years. All the youth inmates were adjudicated by a state's criminal court as adults for the violent felony offenses they committed. Most of the inmates will eventually return to their home communities, while others might not ever see beyond the prison walls that surround them. This study had the specific aim of exploring the **therapeutic climate** in this correctional youth facility where rehabilitative programs were administered as attempts to transform the youth into law-abiding adults. Although the youth inmates were mandated to live in the correctional facility, their participation in programs was voluntary. Thus, this study explored the incentives and programs that led many inmates to their participation. This article contains a few of the examples I observed of incentives and rehabilitative programs and how these components affected voluntary participation.

## Methods used in this study

To explore a therapeutic climate, this study used the qualitative method of ethnography as its primary method of research. Think of an ethnography as a documentary without the cameras (although many ethnographers do use cameras). The primary method of data collection was **participant observation**, which is to say I embedded myself into the prison community. Most research is completed from the outside looking in (e.g., survey, existing data, clinical trials). I, on the other hand was on the inside looking around. I spent several days every week for approximately three months collecting and documenting my observations on my field notes. The general rule was that for every hour I spent in the prison, I wrote my field notes for two hours. The results from this ethnography led to the development

of a nested **ecological model** for what the therapeutic climate resembled at this youth correctional facility.

The following sections are quotes that come directly from my field notes. Please excuse any and all grammatical and structural errors. The notes were analyzed as they were written during the data collection phase, which is to say they were not edited. To make any corrections now would affect the validity of my notes and my final conclusions. Thus, despite how much it pains me to have readers copy edit what I wrote, I cannot and did not make any changes to them.

## My observation: The warden

In the beginning: "Eric, I cannot thank you enough for doing this study. I want you to know that I want to be as transparent as possible while you are here. What we do is valuable. The fencing and razor wire you see that keeps the inmates safe. The programming inside, that's what keeps the community safe". The words the warden said on my first day of this ethnography continuously repeat in my head. What he said surprised me. I had been often greeted with skepticism by other criminal justice practitioners. I thought the warden must truly believe in what he was doing to allow me to spend the next three months in his facility, carefully documenting everything that I observed. He must have known the therapeutic programming he offered his youth inmates was worth the financial investment the state spent. However, I assumed that he also must have felt pressure from others that he was spending too much (approximately \$100,000 per inmate annually). Although the warden was a practitioner in corrections, an employee of the state, his position, and his roles were political as well. He said as much, and I could feel the stress it caused him, "It's a heavy investment, but it just makes sense".

## My observation: Inmate Incentive Program

The assignment of the warden to the youth correctional facility was for one purpose, which was to improve the safety of those who lived and worked in the facility. Prior to his arrival, the correctional youth facility was considered by the department of correctional services to be the most violent among all prisons in the state. They had more fights, injuries, and deaths per capita than those that housed inmates on death row or had received convictions for some of the most violent crimes the state had ever experienced. Before the warden's arrival, inmates at the correctional youth facility had been issued not only more misconduct reports (MR) but the level of severity of those MRs were high as well. For instance, inmates regularly fashioned their own weapons out of items they found in the facility. Toothbrushes and other pieces of plastic (or metal) were sharpened into knives and other instruments that were designed to hurt and kill others. Inmates often threw their own urine and feces at staff members (i.e. **splashing**), as they considered this to be the greatest insult. Even more disturbing were the frequencies of suicides and attempted suicides. Before the warden's leadership, multiple times per year staff members had to deal with inmates who were so emotionally distraught that they determined the only way to escape their mental traumas was through the taking of their own lives. After only a year of working at the correctional youth facility, the warden saw dramatic decreases in all violent behaviors. At the time of this study (8 years after the warden's arrival), the correctional youth facility went from being the most violent to the safest in the state. The inmates it seems, no longer felt so angry or threatened that they had to make their weapons to assault each other or staff

As the warden believed it was his responsibility to improve public safety, as well as the safety in the correctional youth facility, he also recognized, through evidence-based therapeutic programs, many of the barriers that many of the inmates faced could be overcome. Barriers,

such as anger management, drug and alcohol addictions and abuse, education and job training, as well as many other areas not only needed to be formally addressed but addressed with limited resources. Thus, as an effort to increase the success of his new therapeutic climate for inmates, the warden authorized the development and implementation of the *Inmate Incentive Program* (IIP). The purpose of the IIP was to motivate the inmates to address their identified individual needs and for them to develop the skills necessary to living a prosocial healthy lifestyle through rehabilitative programs. The IIP allowed the inmates to build upon their successes and progress through the therapeutic programs they participated to achieve the desired behavioral change. In other words, the IIP was mainly based on positive reinforcement. Programs were developed and implemented to assist the inmates in strengthening their capacities in personal hygiene, work, education, mental health, sanitation, and other pro-social behaviors and activities. Every month, the program manager reviewed with each inmate the programs they successfully participated in or completed to determine the level of incentives that reflected their performance. There were four tier levels in the IIP: bronze, silver, gold, and platinum. Each incentive level had specific privileges the inmates could use. For instance, for those inmates who were at the tier levels of silver, gold, or platinum they could view a new-release movie every other Friday afternoon.

For the Inmate Incentive Program to work in a positive manner, the incentives must be composed of items or activities the inmates wanted. For the program manager, this was a barrier, as he quickly learned that what he believed to be popular incentives, often held little meaning for the inmates. Thus, the program manager interviewed several of the inmates (i.e., inmate council) to learn the things that could motivate their participation in the IIP. It was only after doing this that the program manager discovered that the activities and items that many people on the outside considered minor were valuable to the inmates on the inside.

### ***My observation: The incentive of movie day***

Every other week, throughout the week, I often heard inmates ask the program manager what the movie for Friday was going to be. As the days passed, the questions with a sense of excitement increased. Even the enthusiasm of the program manager grew. It seemed that this incentive was popular among many. Because of this, the program manager felt it appropriate to open it to most of the inmate population, as they only had to be on the incentive tier of silver or above to see the theatrical release. The movies were generally newer released titles, rated PG or PG13, and the rights for public viewing were donated to the correctional facility; thus, other than a few snacks, there was no real financial cost for this incentive.

The movies were projected on a large 4-feet by 8-feet screen in the community room located within building "E." On movie day, the plastic chairs were organized into rows by the program manager to give it more of a theatre-like feel to space. On this movie day, while prepping the room, the program manager said, "what kid doesn't like going to the movies?" The question, of course, was rhetorical, as he asked it with a smile and a giggle. Often, the program manager provided popcorn for the inmates; however, on this movie day he was able to score some donated ice-cream sandwiches and popsicles, "They are going to love this" he exclaimed. Apparently, the program manager was looking forward to the movie as much as the inmates were. I found my level of enthusiasm for the movie was growing as well.

On this day, the movie the inmates (and I) were going to watch was *Ready Player One* (2017). Ironically, the premise of the movie was about a young adolescent male playing a video game to escape the realities of living in impoverishment. I could not help but associate the main character of this movie with the inmates, and I was excited to see how the inmates reacted to the film's premise. Before the start of the movie, the inmates gathered outside building "E" waiting anxiously to be

frisked by the custody staff, so they could enter the converted community room, now movie theatre. Each inmate was holding a 12 ounce can of soda that they had purchased earlier from the vending machines in their housing units. They had saved their sodas for this day, which was a time they could drink a "pop," eat a snack, while watching a movie. I was amazed at how many of the inmates were aware of the details of the movie, as I assumed they could not have known much about it by being cut off from the outside world. However, I later learned that a few of the inmates had sought descriptions of the movie from their visitors and shared the details with others, which was an indicator to me that they were excited to see it.

All the inmates sat in their seats, and for the most part, they were well behaved. They were laughing, jokingly bantering with one another, and had trouble containing their enthusiasm. They even socialized with inmates that were outside their own race or ethnicity. This was one of the few times I observe this as for the most part, inmates socialized only with inmates within their own race or ethnicity. However, on this occasion, they did not feel this pressure. The White inmates were talking with the Black inmates, and everyone was laughing with each other. As the program manager lowered the lights, the inmates settled down and became silent. The projector began, and as the opening scene was displayed, I could hear some of the inmates make comments like "This is going to be awesome!" and "All week I've been waiting for this!". The program manager handed out the ice-cream sandwiches and popsicles. All but a few accepted the treats and devoured them entirely after only a few minutes. Surprisingly, the inmates then voluntarily passed a trash can around for all to throw away their wrappers. I then heard popping sounds as the inmates opened their sugary carbonated drinks. The program manager then proceeded to pass apples out to the inmates. The apples were not as well received as the ice cream sandwiches and popsicles, but some of the inmates thankfully accepted the program manager's offer.

During the movie I found myself forgetting that I was in a prison facility. I even forgot that I was sitting next to offenders who had received convictions for serious crimes, such as murder, rape, robbery, among other violent offenses. I felt utterly at ease like I would at a movie theatre on the outside. Apparently, the inmates forgot their statuses as well. They no longer felt the need to display harsh and tough personas. Instead, they laughed, giggled, and smiled like teenage boys do when seeing a movie at the theatre. The event reminded me of my own childhood experiences of going to the movies on Saturday afternoons with my friends. In other words, the inmates were having a good time and apparently escaped from their reality—for two hours anyway. The program manager laughed and smiled as much as the inmates did. The only people in the room who did not seem to approve of the event were the two corporals standing guard. They stood in the rear, with their arms folded, never cracking a smile.

- To be continued in the September *NCJR*.

**Editor's Note:** For additional explanation about this study, from the author, please see page 7.

## LETTERS and MORE

### Calling on the Church

By Herman Buckman 39533  
Omaha Correctional Center

Being in prison for 32 years, this is my view. Why isn't the Church standing behind men in prison who are doing "life" and have served 25 to 30 years and have showed the administration that they are ready for release? It has been proven that inmates who have done 25 to 30 years don't go back to prison. It's the 5, 10, 2 and 3 year offenders who leave prison and want to be gangsters who come back to prison.

We need strong leadership from the Church to oppose "throwing away the key" on lifers.

Murder is the worst crime there is, but rape and hurting our children is what? Everything is judged harshly when it's not your family member. But as soon as your family member gets convicted of a serious crime, you want to change laws to get him or her out. In this world we live in, people kill, lie, and betray one another, but we can do better. Why? Because we have God and the Church.

### Parole regulations in Nebraska and potential housing options

By Tony Franks and Taylor Gould, students in "Race and Justice" at Creighton University.

**"Parole is a PRIVILEGE which may be granted to an offender to serve a portion of the court-imposed sentence under supervision in the community."**

- Nebraska Board of Parole

Parole is something that the public, more often than not, are not well-read on. There are many rules that parolees must follow upon release from incarceration. One such example is that parolees may not "frequent places where controlled substances are illegally sold, used, distributed, or administered." One thing the public often knows nothing about is housing regulations for parolees. It seems to be assumed that people on parole go straight home right after this sentence, or are able to live wherever they desire. This is often not true, however. Prior to actually being released, individuals must work on an individualized strategic plan in order to be considered by the Parole Board. What some may not be aware of is the rights of those up for parole, protected by Nebraska Statute 83-1,107:

**(4)(a) "The department shall ensure that a release or reentry plan is complete or near completion when the offender has served at least eighty percent of his or her sentence. For purposes of this subsection, release or reentry plan means a comprehensive and individualized strategic plan to ensure an individual's safe and effective transition or reentry into the community to which he or she resides, with the primary goal of reducing recidivism. At a minimum, the release or reentry plan shall include, but not be limited to, consideration of the individual's housing needs, medical or mental health care needs, and transportation and job needs and shall address an individual's barriers to successful release or reentry in order to prevent recidivism. The release or reentry plan does not include an individual's programming needs included in the individual's personalized program plan for use inside the prison."**

**(5)(a) The department shall make treatment programming**

**available to committed offenders as provided in section 83-1,110.01(<https://nebraskalegislature.gov/laws/statutes.php?statute=83-1,110.01>) and shall include continuing participation in such programming as part of each offender's parolee personalized program plan.**

The plan is largely formed by the potential parolee: however, this law provides the individual assistance by the department of corrections to ensure that the person may succeed. In regard to housing, potential parolees must have their living quarters approved by the parole board and a parole officer prior to their release on parole. This often proves to be quite a challenge for those trying to re-establish their lives outside of the correctional setting they were in previously.

### Jailing a woman, 3 days postpartum

By Joanna Lindberg

There are so many questions as to why Maria Paiz-Perez was jailed for abandoning her child on the doorstep of a home, April 6. She was careful and left the child at a home where she knew someone was home. It would not have been a crime if she knew of Nebraska's safe haven law which allows people to leave babies at a fire station or hospital. If she had known of the law, her attorney said, she wouldn't have left the baby at the home.

Why jail? Maria was 3 days postpartum when she was arrested and jailed on April 9. Any woman who has delivered a baby knows of the physical pain, vaginal bleeding and health risks up to 6 weeks following child birth. Maria had no medical assistance during the delivery and could have torn her perineum during child birth. It is inhumane for any woman to be jailed following childbirth.

Why was she held on a \$150,000 bond which was reduced to \$25,000? Was Maria a danger to the community?

Maria pleaded no contest to the misdemeanor charge of abandonment and was sentenced to 3 months in jail. Her pregnancy was the result of a sexual assault, and her attorney said she was scared and unsure of how to take care of the child. She was sentenced to three months in jail.

Values are a culture's standard for discerning what is good and just in society. I ask why was Maria jailed? And wonder out loud, do our community values change if applied to an undocumented immigrant?

Source: Omaha World Herald, May 22, 2020

## Thank you!

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## Community Corrections Center, Omaha

By Anne Carroll

This is an update on the activities of Crossroads Connection, the prison ministry working with Community Corrections Center-Omaha (CCC-O).

Our last day of worship in the community was March 22nd, with no information on how long it would be until we could meet again. My first reaction was that we had to keep in touch with the men at CCC-O and let them know we were still thinking of them. I created a flyer with a few Bible verses and took it to the facility to be put into the mailboxes of Crossroads attendees for March 29th.

My husband, Jim, realized that CCC-O is the only facility in the Nebraska Department of Correctional Services which does not have a commissary/canteen, and with shopping passes cancelled, there was now no way for the men to get hygiene/toiletries and other necessary items. We asked Warden Mahr if we could bring those items to the center. YES! They would be distributed to all the men. So, we contacted our partner churches asking for hygiene products. The response from **First Presbyterian Omaha** was swift and overwhelming. I took down a load which filled the back of my Subaru wagon! We received more items from **Presbyterian Church of the Master**, **Discovery Presbyterian**, and the Crossroads Connection clothes closet run by Carol Chereck.

When we learned that one of our worshippers didn't have funds to write a letter to his "mentor" we asked Warden Mahr if we could provide stamps, envelopes, paper, pens, etc. We took down a roll of stamps, envelopes, etc.

On April 6th, I received the following email from Warden Mahr. "I hate to ask for anything else since you all have been so generous. We are doing pretty good on hygiene products so the only other thing I can think of is some individually packaged snack items." **Definitely!** That request went out to our partners churches again. We got a call almost immediately from Pastor Portia Cavitt at **Clair Memorial United Methodist**, that they, with help from Sugar Hill Package Liquor, could supply enough snack items for 180 men! Jim and I took our trusty Subaru there and filled the back of it again, took that to the center, and got more snacks from **St. Timothy's Lutheran and Trinity Lutheran**.

Warden Mahr requested some more stamped envelopes—easier to deal with than stamps AND envelopes. These were purchased by Crossroads and delivered immediately.

With help from some partner pastors, we have also been creating a "sermonette" flyer to have in the mailboxes of Crossroads attendees every Sunday. Rev. Bob Keefer of **Presbyterian Church of the Master** sent an inspiring Easter message. **Celebration Covenant** and **Trinity Lutheran** have also provided messages.

Since the men at CCC-O on work release are still going out to their jobs, Jim has been kept busy supplying

and maintaining bicycles for men needing transportation. So, in spite of COVID-19, Crossroads Connection is still in the game! We look forward eagerly to welcoming worshippers back

Snack items donated to the incarcerated at CCC-O



### **Postscript to assessing the therapeutic climate of a youth correctional facility**

(see article on pages 4 and 5)

The reason I did this study was twofold. First, this study was my doctoral dissertation at the University of Nebraska Medical Center, College of Public Health. However, prisons and the issues that surround them are not often thought of as "public health" issues. Instead, many in academia classify them as criminological or criminal justice issues. While this classification is appropriate, I argue the key to lowering the levels of recidivism begins with addressing the determinants of offending. In traditional public health research, such as influenza, research begins with studying what causes people to become infected. In other words, what are the root causes or determinants of health that lead to people getting sick. In this example, public health researchers have learned the biggest determinant to getting the flu is being exposed to the influenza virus. Thus, the best strategy to prevent people getting the flu is through vaccines.

For an issue such as recidivism, it is logical to use the same approach as we do for the flu. Obviously, there is no 'vaccine' to prevent recidivism. However, people who are exposed to crime, violence, or poverty are the most likely to go to prison. Therefore, if prisons use programs that attempt to counter the effects of these negative determinants, it becomes possible the programs can act as a defacto vaccine, which can help lower the likelihood people will reoffend and return to prison.

Thus, the second reason I completed this study was to explore what the overall climate looks like in a youth prison facility that is attempting to reduce the likelihood of recidivism for youth.

Eric Meyer, PhD

## Trauma and the Brain

By Megha Jacob, student in Race and Justice  
Creighton University

Childhood traumatic events have long been known to adversely impact victims into their adult lives. While studies on the correlation between trauma experienced at a young age and experiences in adult life have traditionally focused on psychological and behavioral impacts, research conducted in the past two decades indicates that traumatic events can actually affect the structure and function of the developing brain itself; that is, stressful events have the power to essentially rewire the human brain. Looking at the neuroscience of trauma could be key to the development of new treatment programs for at-risk populations and victims.

Dr. Bessel van der Kolk, M.D. has spent years studying the traumatized brain and attempting to incorporate neuroscience into psychotherapy. His studies in the neurobiology of traumatized patients has contributed to the belief that “the malfunctioning of entire circuits may underlie many mental disorders” (van der Kolk 2014, 331). This suggests that faulty connections between the neurons, or nerve cells, of the brain, may be a common biological feature among traumatized individuals. Dr. Van der Kolk has also observed abnormalities in the prefrontal cortex of the brain, which, when healthily developed, serves as the body’s “watchtower” (van der Kolk 2014, 62). It allows us to consider the sensory and emotional information that we take in and then take the time to come up with appropriate responses, a function essential to forming relationships with other human beings. On the other hand, we have the amygdala, which acts as our internal “smoke detector” and responds to new information by assessing whether it poses a threat to our well-being (van der Kolk 2014, 60). Stimulation of the amygdala causes an increase in the release of stress hormones, putting the body in defensive mode (van der Kolk 2014, 60). The pattern often seen in traumatized people is that the amygdala is constantly overstimulated. Some past event has forced extended stress responses, making the “smoke detector” hypersensitive so that letting your guard down becomes much more difficult, and any event has the potential to signal danger and cause a severe emotional reaction. In combination with this, the prefrontal cortex becomes dulled and less responsive in traumatized individuals. The interaction of these two brain structures, when malfunctioning, can lead to excessive anger, distrust towards other people, and problems like addiction in an attempt to dull emotional intensity (van der Kolk 2014, 63). The hyperactivity of the amygdala in even minimally stressful situations also means that when no danger is present, emotion becomes dulled. This, in turn, can drive people to act recklessly to counteract the numbness they feel (van der Kolk 2014, 67).

What do these findings mean as far as prevention and treatment? In populations that are statistically disproportionately affected by early traumatic experiences, like incarcerated individuals and veterans, understanding how trauma affects the brain may be useful in rehabilitation programs to improve overall mental and physical well-being. In a 2018 survey of 200 prison inmates, it was found that most inmates surveyed reported some form of adverse childhood trauma and family experiences. These

numbers included 68%-98% of females reporting childhood sexual abuse, 37% of inmates having experienced physical neglect, and 68% reporting emotional neglect (Altintas and Bilici 2018). The study postulated the possibility of a link between traumatic experiences in childhood and subsequent criminal behavior later in life (Altintas and Bilici 2018). With information like this, treatment designs incorporating both psychotherapeutic and neurobiology-based interventions could be implemented preventatively and therapeutically in affected populations.

An aim in treatment of traumatic stress disorders from a neuroscience perspective is to rewire old, harmful neural connections into ones that more effectively respond to stress responses. Psychotherapy and new innovations like neurofeedback have gained more ground in achieving this goal in recent years. In neurofeedback, participants are hooked up to electrodes and asked to respond to their own brainwave patterns, displayed on a screen, by way of virtual games or exercises (van der Kolk 2014, 316). Although it is unclear why, the ability to visually monitor and respond to one’s own brainwave patterns has shown remarkable success. Veterans suffering from PTSD and individuals battling drug addiction have shown heightened awareness, increased sense of self, and a greater willingness to discuss trauma after undergoing neurofeedback therapy (van der Kolk 2014, 324). This in turn facilitates psychotherapy. Dr. van der Kolk suggests that the aim of using neuroscience-centered treatments like neurofeedback in combination with psychotherapeutic approaches is not to force someone to forget their trauma, but to help them integrate the events into the greater context of their life and use that perspective to come to a place of healing (van der Kolk 2014, 330-331).

Understanding how the human brain processes and is shaped by trauma could be crucial in the development of more holistic treatment programs for affected individuals in the coming years. Implementing neuroscientific treatment with psychotherapy may be useful in helping children and adolescents who have been victims of physical, emotional, and sexual abuse so that their brains can learn healthy coping mechanisms. Learning how to address trauma when possible at early ages may also have preventative or protective value against future offending behavior, mental health struggles, and poor physical health. Incorporating knowledge of the workings of the brain into what we already know about trauma’s impacts may be a valuable new approach to helping its victims find normalcy and peace in their lives.

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## The killing of Mattieo Condoluci and a critique of registries (Continued from page 1)

children, parents and roommates—are also at risk because they live at those addresses too. In July, 2013, Charles Parker and his wife Gretchen were murdered in their North Carolina home by two strangers because Charles was on the registry. The murderers, using the registry to find Charles, came to kill him and killed his wife too, just because she was there. We don't want more of that.

An anonymous email, purporting to be from Condoluci's killer, claimed that seeing playground equipment in the backyard was a motivation to kill the man. How many registrants with children or grandchildren have playground equipment in their yards? Has that trampoline, swing or slide put a target on their address? Will harm come to the family who plays there?

Will Nebraska finally see the danger and do away with the registry?

It is possible to deplore sexual violence *and* to oppose the registry. People listed on the registry have already served sentences handed down by the courts. Like others who come back to the community after incarceration, they need to be able to rejoin society in peace. A government that makes it possible for vigilantes to target people for harassment up to and including death, is not a government with which any of us should be comfortable.

For those who still believe there is value in registries, the data do not back up that belief. Feeling safer because there is a list of people who committed crimes we deem deplorable does not prevent the next sex crime. The next arrest for a sexual offense in your community will almost certainly be of someone not on the registry.

As for deplorable crimes, there is no shortage of crimes that cause heartache and long-term distress for victims. Other states have registries for arson, animal cruelty, domestic violence, or drunk driving. Tennessee has a registry for people convicted of drug crimes. Indiana recently considered legislation that would have listed people convicted of *any* felony on a registry. Florida lists people convicted of three or more violent crimes.

And what is a violent crime? Those familiar with felony murder laws—anyone *present* when murder is committed during commission of certain crimes, can be charged with murder—should be wary of how the government can twist definitions so that those twisted definitions result in more convictions, adding to our overcrowded prisons. In 2018, the federal Community Safety and Security Act redefined what was considered a violent crime. Crimes that had not been considered violent before (burglary or coercion through fraud, for example) were simply redefined as violent even when nothing violent happens.

Someone breathing a sigh of relief because his offense and sentence belong in the distant past, needs to

know that when the Nebraska sex offense registry moved to the internet in 2010, people were listed *retroactively*. This is what happens when legislators are pressured to create laws based on an appeal to the emotions instead of using facts and evidence.

When Nebraskans Unafraid talks about abolishing the registry, we are not talking only about the sex offender registry. We are talking about any registry (in use now or a future possibility) that can be used to deny housing and employment, or to expose families to risk such as that faced by Mattieo Condoluci.

While we fight to keep you, your children and grandchildren off registries, we wait for community leaders—elected officials, law enforcement, clergy, educators, business and industry—to speak up and protest the dangers of vigilante violence made easier by pointless government policy.

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## A review of the Marshall Project, and its report on tracking Covid-19 in U.S. Prisons

By Linda Ohri

The Marshall Project started in 2014, with its mission *“to examine justice—how it is pursued, perverted and denied”*, according to its editor-in-chief, Susan Chira, previously a 40-year reporter and editor at the New York Times. It is described as a *“nonpartisan, nonprofit news organization that seeks to create and sustain a sense of national urgency about the U.S. criminal justice system.”* The Marshall Project founder, Neil Barsky asserts, *Being nonpartisan is not the same as being neutral. We approach the issue with the view—shared by a growing number of conservatives and liberals—that our system needs serious rethinking.”*

The Project is named for Thurgood Marshall. He was the first African American justice of the U.S. Supreme Court (1967-1991). He founded and worked as a lawyer for the NAACP Legal Defense Fund over two decades. He led the successful 1954 landmark Brown vs. Board of Education Supreme Court case, which found segregation in public schools to be unconstitutional.

Since March 2020, the Marshall Project website ([www.themarshallproject.org](http://www.themarshallproject.org)) has provided a regularly updated [State-by-State Look at Coronavirus in Prisons](#). This frequently updated summary reports on Covid-19

Continued on page 10

## Tracking Covid-19 in U.S. prisons

(Continued from page 9)

cases and deaths among both prisoners and staff at prisons across the U.S. They clearly describe the limits of their reporting relative to available data provided by state and federal officials, as well as from other sources. In particular the authors note that, *understanding of the spread and impact of the virus is limited by the availability of testing*, with 16 prison systems (including Nebraska and the Federal Bureau of Prisons) failing to provide testing data.

Nationally, as of May 27th, 34,584 or more prisoners (an 18.5% increase from the previous week) had been reported as positive for Covid-19. The Project report indicates that 18,303 (52.9%) have been reported as recovered. A total of 455 prisoner deaths have been reported nationally. In five states (OH, TN, AR, MI, NC) where aggressive prison testing policies have started, large increases in state rates suggest prior under-identification of positive cases.

As of May 31st, Nebraska overall had 14,101 reported Covid-19 cases and 170 deaths. Statewide recovery and testing rates are not available.

Nebraska has reported a total of 12 prisoner cases across 10 prison facilities. Seven men housed at the Omaha Community Corrections Center (CCCO) have tested positive. Prisoners in this facility participate in work-release programs, including in the local meat packing industry. No information was found regarding the sites

of the other 5 cases. There has been no report from Nebraska as of May 27th on whether there have been any Covid-19 related deaths in prisons, nor on the number who have recovered from Covid-19 illness.

Nebraska data was not available for prisoner testing rates, as of May 27th.

Nationally, for prison staff, there is limited data provided by the states, but the summary reports at least 7,987 cases of coronavirus, with 3,990 staff recovered and 33 deaths reported in public records, as of May 27th..

There have been at least 14 Covid-19 cases and no deaths reported among prison staff in Nebraska, as of June 1st. Testing rates of staff have not been made available. Prison staff cases have been reported at the Nebraska State Penitentiary (at least 6), at the Lincoln Correctional Center (at least 1), Diagnostic and Evaluation Center (at least 1), Tecumseh (at least 2) and at Douglas County Corrections (at least 3).

Prisoners at the Nebraska Correctional Center for Women (NCCW) are producing face masks through a contract with Cornhusker State Industries. The masks are being distributed across the prison system's prisoner population.

The Marshall Project website provides a useful Covid-19 survival guide for prisoners at: [www.themarshallproject.org/2020/05/05/covid-19-a-survival-guide-for-incarcerated-people](http://www.themarshallproject.org/2020/05/05/covid-19-a-survival-guide-for-incarcerated-people).



Advocates Rex Waltoon and Paul Feilmann hold a sign outside of the Nebraska State Penitentiary in Lincoln.

## The Bristol Station Residential Reentry Center, Hastings, Nebraska

By *Angela LaBouchardiere, MSW*  
Executive Director

Bristol Station Residential Reentry Center (RRC) in Hastings, Nebraska provides transitional housing services to individuals transitioning out of incarceration, as well as those who are serving a term of probation, parole or who are supervised by a problem-solving court. **Bristol Station RRC is owned by Western Alternative Corrections, Inc.** and has been providing residential reentry services since 2008. Western Alternative Corrections, Inc. has been a recipient of Vocational and Life Skills (VLS) grant funds since its inception in 2014 and has provided reentry services at Bristol Station RRC to approximately 470 individuals. Western Alternative Corrections, Inc. also holds contracts with the Administrative Offices of the Courts and Probation, as well as the Nebraska Division of Parole Supervision to provide transitional housing services at Bristol Station RRC to those serving a term of probation or parole, as well as to those being served by a problem-solving court.

Reentry programming components are guided by the risk/need/responsivity principle which dictates the degree and type of services provided to each individual. Some programming components offered at Bristol Station include Moral Reconciliation Therapy (MRT), Relapse Prevention, Transition Skills, Anger Management, Employment Readiness, Personal Growth and Basic Money Management. Bristol Station RRC is staffed 24/7 by dedicated employees who offer ongoing support and guidance to residents. Weekly case management services are also provided for residents at Bristol Station RRC.

Western Alternative Corrections, Inc. has a tremendous amount of support from the Hastings Community. Bristol Station RRC residents volunteer countless hours within the community each year. Some volunteer highlights include Bristol Station RRC residents helping set up and serve pancakes at the annual Kiwanis Club Pancake Day Fundraiser, volunteering to serve hamburgers and hotdogs to community members at National Night Out with the Hastings Chamber of Commerce and Hastings Police Department, as well as volunteering at the Hastings YMCA. Most recently, Bristol Station RRC residents volunteered with Pacha Soap to make and bottle hand sanitizer for the community due to the Coronavirus Pandemic.

### Testimonials

Many who come to Bristol Station RRC choose to participate in the highly structured program. Here are a few testimonials of Bristol Station RRC residents.

*I have been a resident at Bristol Station for 9 months now. Since I have been here, I have reached almost all of my goals. Prior to coming here, I had no goals for myself. I'm thankful for Bristol and all the staff and everyone here. Without them I don't believe I would have made it this long on a clean and sober slate. My first goal was, and still is, to be and stay sober. I've been sober since I was released from prison.*

*I took a Relapse class which helped me open my eyes and helped me learn more about my addiction, my triggers, which was many things,. Also, if I was in a bad situation what steps to take to get myself away from them. I learned that I'm a strong-minded individual that deserves sobriety and an amazing life. Before I took that class, I doubted myself and put myself down and believed drugs was the only way out. I also took a Transitional class that helped me transition from incarceration to the free world, which is something that I was worried about when I was released. But now I know what to expect and how to handle my freedom in a positive manner and outlook.*

*My parole officer was amazing. He helped me when I was going through tough times, no matter what the situation was, he knew the answer on how to calm me down and how to come up with options to handle things. I successfully completed parole here and I have the staff, case manager and everyone here to thank for that. I also took a Money Management class which I really had no idea about bank accounts, checks, savings, any of that until I took that class. Since I've been here, I am able to save money to get my own place, which is awesome because prior to coming here I never saved money. I also took an Employment class and learned how to fill out applications correctly and how to properly do an interview. I found a job 2 months after I got here, which I love. I haven't had a job in 7 years so it feels great to have a job and making money due to hard work and dedication. Also, a huge goal I had was to reconnect with my son and be back in his life, which has happened. We talk every day.*

-- Amber Pedersen, Hastings, NE 5/6/20

*I chose to come to Bristol Station because I was in a bad place in life. I seen this as a opportunity to get my life together. What I've gotten out of this program is that there are people that are willing to look past your mistakes to help your future. It's been helpful because they gave me another chance at life. They have been very patient with me. My goals are to become a great father and tell my story around the world how I took the bad route but it didn't define me. I've been through so much that I feel like failure is not an option.*

-- Gary Barnes, Hastings, NE 5/7/2020

*I'm grateful for the Bristol station providing a chance to come to their facility. It's a structured and resourceful facility with ample opportunities for those who choose to put the best foot forward. I obtained 2 separate jobs in my first two weeks and continue to work the same jobs currently. The whole experience was great for me and my transition back into society after being incarcerated for over a decade. They provided information for ways to be successful and I'm fortunate to have been selected for this half way house. I hope my story gives someone in a similar position hopes for the best. I'm Shaquille Falcon a former inmate and current functioning member of society.*

--Shaquille Falcon, Hastings, NE 5/7/2020

# Nebraska Criminal Justice Review

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