**For Release Wednesday, April 24, 2019**

**Capitol View**

**Commentary by J.L. Schmidt  
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**The Nebraska Press Association**

**Prisons Still Overcrowded, Is There Any Relief?**

The state’s prisons remain overcrowded. They are short-staffed and the current employees are over-worked. Assaults on staff continue. The watched pot continues to boil.

Nebraska's prison system currently has 2,127 more inmates than design capacity, putting it at 163% capacity. If that number doesn't go down, Nebraska must declare a prison-overcrowding emergency on July 1, 2020.

It’s not a good situation for staff or those who are incarcerated. It’s frustrating to say the least and what led the Legislature’s Judiciary Committee Chairman Sen. Steve Lathrop of Omaha to offer a bill (LB686) that would change the timeline for what happens after the Correctional System Overcrowding Emergency is declared. It’s not a matter of if, but when.

The current trigger, a population more than 140% of design capacity on July 1, 2020, requires the governor to declare an overcrowding emergency. Lathrop said that means the parole board would have to look through the list of inmates and begin paroling inmates until they get to 125%.

That’s not going to happen in an afternoon, Lathrop said. Relying on the Parole Board to be mindful of its obligation under statute and to be mindful of public safety, hopefully it will be done in a thoughtful way.

Lathrop’s bill, a priority of the Judiciary Committee, proposes changing the hard deadline to a stair-step reduction in six-month increments. From July 1, 2020 through December 31, 2020, the Department of Corrections would need to get to 140%. Then, starting January 1, 2021 through June 31, 2021, it would drop another 5 percent and so on through January 1, 2022.

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Corrections Director Scott Frakes, testified in opposition to the bill. He said arbitrary benchmarks that are not possible to attain within the described time frames would do nothing to improve the prison system. It will not cause the prison population to drop to an acceptable level. Measures to address crowding take time, strategic planning and perseverance.

Frakes, appointed by the governor in 2015, has had time. Numerous reports have pointed to overcrowding as the cause for unrest in the system, including two deadly “incidents” (we used to call them riots) at the maximum security prison in Tecumseh that left four dead. Pleas for reform through sentencing and programming have been around decades.

Time, planning and perseverance. Seems like it took no time for the department to carry out the execution of a death row inmate after voters approved a repeal of the Legislature’s ban on the death penalty. I guess some things CAN move ahead quickly in the prison system.

Frakes blames a ballooning inmate population that has left the system at a recent count of 5,502 incarcerated people. The system is designed to hold a total 3,375 inmates in its facilities in McCook, York, Lincoln, Omaha and Tecumseh.

Only Alabama, with its 182 percent overcrowding, outranks Nebraska. Nationwide, prison population is at 103 percent of capacity, ranking it 113th in the world.

Frakes told the Judiciary Committee that the department needs $50 million – the request is in his budget before the Appropriations Committee – to add 384 beds at Community Corrections in Lincoln. But those will be several years away if the request is approved.

He said some of the money would be used to switch the security levels of the Tecumseh State Correctional Institution and Lincoln Correctional Center. The plan is to turn Tecumseh from a maximum into a medium security prison to help with some of the staffing issues (too few and too inexperienced).

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Prison reform activist John Krejci, a retired Nebraska Wesleyan University sociology professor, has been discussing issues with the department and lawmakers for at least 20 years. He says it’s important to look at sentencing and at after care.

Krejci says many inmates are serving short sentences for low-level drug offenses, driving under the influence and other nonviolent crimes such as forgery and bad checks. Treatment in the community is a better alternative to incarceration. Aftercare-supervision, aid in housing and job search, and alcohol and drug treatment are better ways to spend corrections dollars to prevent the situation.

I agree. I like Senator Lathrop’s practical approach to handling the mandated emergency release in the short term. Krejci’s suggestions are by far the best long-term solutions at this point.

Let’s hope the Department listens.

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