

Alternatives To Incarceration Committee Meeting 1/9/12
Michelle Tweed, "HB-1028, From The Other Side Of Incarceration"

* Good Afternoon. I am just a citizen with concerns about House Bill 1028 ... and appreciate Chairman Lyson allowing me to speak before you all today last minute. So, thank you Mr. Chairman.

* I am a little out of my element today, to say the least ... so thanks for making me feel a bit more comfortable. I have only one handout ... and he is why I am here before you today. (passed old drivers license taken 2 months before incarceration, in 1991.)

* Committee members and citizen members ... thank you for allowing me to address you today with my concerns with how the DOCR is implementing HB 1028. I also have similar concerns of how they are excluding inmates from application to contract facilities ... such as BTC, in our case.

* My name is Michelle Tweed, and my husband is Reginald Tweed, inmate #16139 at the NDSP. It is my hope today, that I can give you a perspective of the effects of your legislation ... from the other side of incarceration ... I would also like to inform you of how the DOCR interprets and implements your legislation. With my husband's case as an example, I would like you to determine if the DOCR's practices are in line with your legislative intent.

* It is my belief that the core goals of this Committee is to find beneficial alternatives ... rehabilitative alternatives ... that help turn offender's lives around and give them the skills they need ... that deter them from re-offending ... which will make them better citizens ... make us have safer

communities ... and in turn, reduce the costs for the State. Incarceration does cost everyone something ... but it also creates jobs. With Rehabilitation as part of the DOCR's namesake ... it is their welcome sign to everyone that *rehabilitation* is one of their main goals, as it should be. But I want you to know one thing ... inmates won't be rehabilitated ... if they do not want to be. They each own everything they have done in they're lives ... and they are each in charge of their futures. You all, are good enough to give them the tools they need for success ... and the DOCR must also do more than just "talk the talk" of rehabilitation. The DOCR "walking the walk" is what I am here for today.

* The DOCR has set their guidelines recently of how they plan to determine which inmates are eligible for inclusion in programs for work and education release as a result of HB 1028. I spoke to Pat Bohn of Transitional Facilities last week ... and questioned him of how my husband could apply for the educational programs. He is very familiar with our case, and told me that my husband could not apply, because the DOCR excludes all inmates with murder convictions ... and I believe aggravated assault and sex offenses. I asked him to fax me those guidelines, but he has not. My husband falls under the *murder* category. House Bill 1028 states,

"An offender, except an offender sentenced to life imprisonment without the possibility of parole as the result of a "AA" felony murder conviction, may be eligible for programs outside the facilities of the DOCR, when the department determines the offender is not a high security risk, not likely to commit a crime of violence, and is likely to be rehabilitated by such program."

It is outside the legislative parameter for the DOCR to exclude the classes of inmates I named previously ... inmates like with my husband ... who does indeed have the opportunity for parole.

* Also, the DOCR does not allow inmates to apply to contract facilities ... such as BTC, in our case ... although BTC's own guidelines DO allow him application ... 12 months prior to his parole eligibility date. This includes inmates convicted of murder ... if other guidelines are also met. Over two months ago ... my husband tried to apply to attend BTC, and at that time he was well under the 12 month parole eligibility time frame. He properly applied through his Case Manager ... but his application was rejected before it ever went to the Screening Committee. Prior to his application, I met personally with Kevin Arthaud ... BTC's Program Administrator ... to see if my husband was eligible and explained his situation. He encouraged the application ... and said as long as he hasn't had any violent behavior while incarcerated, it shouldn't be a problem. He also said he was on the Screening Committee and would look for his application in the near future. So with our case ... two programming possibilities that would greatly benefit my husband's rehabilitation through educational programs, as well as his re-integration back into society after nearly 21 years behind bars, are being withheld from him by the DOCR's implementation practices.

Director Bertsch told this Committee at the August, 2010 meeting ... that the DOCR uses work and education release programs conservatively, about 2 to 3 of the 150 at MRCC at that time, WITH GOOD REASON. Since reading her testimonial, I wondered what the 'good reason' was. Each inmate is different, as well as their personal determinations to be successful

with their future ... because they can only succeed ... if they *want* to succeed. The DOCR should do everything they can to give opportunity to inmates that are seeking access to available programs to do one thing only ... to better themselves. It is counter-productive of the DOCR to lock doors that legislation has already opened. I feel my husband is being 'warehoused' rather than 'rehabilitated'.

* With my husband's case, he was 22 years old when he was convicted of 'AA' murder in Cass County. We have been fighting within the courts to have his conviction overturned, and recently the ND Supreme Court reversed in part and remanded his application for post-conviction relief, back to Cass County for re-hearing. My husband was wrongfully convicted back in 1991, and we are doing everything possible within the court system to see that he comes home a free man ... with a clear record. Prior to the conviction, my husband had no criminal record ... not even a speeding ticket. Since his incarceration nearly 21 years ago ... he has had zero incidences of violence. Mr. Arthaud of BTC, called the conviction 'situational'. So although the conviction was born of violence, the man convicted is not. Self defense against a sexual assault is a mitigating circumstance, in any case.

* My husband does NOT fall under the 85% rule. He receives 10 days per month good time, plus an additional 2 days per month for his continued involvement with the Crisis Intervention Team. His Parole Eligibility Date is April 28th of this year ... and he is scheduled to be reviewed before the Parole Board this June. Why not afford my husband the opportunity to show the parole board that he is worthy of parole. He has accomplished

everything the DOCR has deemed necessary ... and then some ... long ago. In fact, they tell him he is doing such a good job ... and just keep doing what you are doing (meaning staying out of trouble). Well isn't 21 years of staying out of trouble enough?? He wants job skills, education, and a chance to prove he is trustworthy ... Why limit him? Why limit his success, and why limit his opportunities? The legislation is there.

* On my husband's yearly Security Classifications, he has scored a '2' for the past 6-7 years or more. A '2' means he qualifies for placement in a minimum security facility. The DOCR always over-rides his security level to maximum, due to his conviction. Director Bertsch says in her Biennial Report, under 'Transitional Facilities Overview', that ...

"Each inmate is held accountable for his or her actions during their incarceration and opportunities are available to those who remain compliant and display satisfactory work habits and behavior."

She also states under 'Inmate Transportation and Movement', that

"When an inmate behaves well, good behavior is rewarded and the offender may be moved to a less restrictive or lower custody facility. Moving inmates in this fashion is also financially prudent so that high cost prison resources are not expended on inmates needing lower levels of prison resources."

This is what I call 'talking the talk'. It sure sounds good ... and responsible ... and effective ... and, like they are actually 'walking the walk'. My husband's case is proof that the DOCR is falling short of their promises. Although my husband is accountable for his actions ... compliant on every level ... has always remained employed ... and, has never displayed violent

behavior ... there has been **no** reward for him ... only more closed program doors.

* My husband has completed college business courses thru BSC ... back when grants were available to qualified inmates. He was recently accepted for two new classes, 'Public Speaking' and 'Automotive something' ... but funding was pulled at the last minute. He was never recommended by the prison to attend Treatment ... and he has completed every programming recommendation the prison has set forth. When he was newly incarcerated ... he requested alcohol treatment on 3 occasions ... but, was turned down, despite alcohol being a factor of his incarceration. He has been a tutor for several years, for inmates getting their GED ... which has been very rewarding for him. He has spoken to several youth groups over the years, and has letters of accommodations and positive achievements that are about an inch thick. So I would like you all to wonder with me as to WHY my husband is not eligible to participate in the programming opportunities you Committee Members have made available to him?

* All this leads me back to why I was compelled to come before you all today. My husband is a rehabilitation success story waiting to happen. But without the DOCR's support through programming ... there he will sit, like he has been sitting for years ... not moving forward preparing for his future or improving his skills ... he is not doing a single thing, but costing us taxpayers more and more money every day by being 'warehoused'. My husband has the will and family support ... but we must give him the way to achieve his re-integration goals, that your legislation has intended.

* What my husband is trying to achieve with these programs is that he be

allowed to attend BTC ... so that he may qualify for the educational programs available through the Workforce Initiative Act through ND Job Service. My husband wants to attend Lynn's Welding School in Bismarck for their 12 week course, and graduate with every certification available so upon release, he can become a welder with the company I work for in Minot. MRCC's welding training is less intense and would not give him all the qualifications he needs to be competitive in our wonderful energy field opportunities. My employer has agreed to hire my husband when he comes home ... which we both appreciate ... but with this additional education and training ... my husband's pay-scale would be significantly higher, in minimal time. After 21 years of making \$1.50 - \$5.00 per day ... that doesn't leave much to retire on. I met with the WIA coordinator last month and presented my husband's application. Karen Siegfried confirmed my husband would qualify for the program and be accepted into their program ... but, he had to be placed at BTC for full funding.

* All of this information has been explained to the Patrick Bohn, head of the DOCR's Transitional Planning ... of whom supported this very legislation ... and all we have received were 'no's' ... or, that it's not their policy to let Reggie apply for these programs that the DOCR, as well as this Committee say are there and available??

* In past meetings minutes, I have noticed you request statistical information from the DOCR on inmates regarding aspects of their incarceration and programming. I assume it is so you can accurately assess needs, problems, or other areas that need improvement to help reduce recidivism. Director Bertsch says in her Biennial Report that ND uses a

'Recidivism Reduction' philosophy in managing the offender population. Since their goal is to reduce recidivism, they assess EVERY inmate for criminogenic risk and needs. They then apply their 'evidence based programming' to reduce that risk. She goes on to say that *every inmate* is scored on a (Level of Services Inventory - Revised) or LSI-R scoring system to develop a Case Plan for each offender. Inmates are scored on their criminal history ... education and employment ... financial matters ... family and marital issues ... their leisure and recreation ... accommodations ... companions ... drug and alcohol use ... emotional and personal issues ... and, their attitude and orientation. The LSI-R sounds like it covers everything and is a good tool for the Administration to continually assess an inmate's rehabilitative needs. But, ... in my husband's case, ... after nearly 21 years of *great* opportunity for informational gathering ... he doesn't have an LSI-R score ... even though the Director says that every inmate does. This scoring is not a one time deal. It is supposed to be done on a regular basis to continue assessment for programming needs. We didn't know the DOCR had excluded my husband from this excellent scoring system ... that could have accurately tracked his successes over the years ... until we needed it in his application to BTC. We immediately asked for my husband to be tested, and told his Case Manager why ... and we got another 'no'. We asked the Treatment Department ... 'no'. We asked the DOCR's BTC liaison, Troy Schultz ... 'no'. We asked Pat Bohn of Transitional Planning ... 'no'. And then I spoke to Director Bertsch herself ... and was told 'no', yet again. She said the testing costs money, and that not all inmates have it. I told her that they are all *supposed* to have it ... and that Reggie needed it

for his BTC application. She told me that is was not their policy to test him now ... we would just have to wait until right before he see's the Parole Board. I said ... "It would sure be nice to score him now, so he could see if he needs to do anything in the upcoming months to improve his score before his Parole Board appearance." ... The answer was still no. **I want to know why???** Was it their way of further blocking his application to BTC ... or further blocking any attempts on his part for self-improvement. It appears in our case, that 'warehousing' is more important than 'rehabilitation'.

(Warehousing equals another \$35,000 per inmate, in the DOCR's pocket.)

* A 'Transitional Accountability Plan' is another assessment tool the prison says they utilize for every inmate ... that it is updated every year and used by Case Managers to help the inmate with their rehabilitation goals. When my husband asked his Case Manager for a copy of his T.A.P, he told my husband it did not exist. So Reggie was excluded from this growth assessment tool also.

* So again ... why I am here before you today ... is to point out to you with my husband's case as the example ... of how the DOCR is 'talking the talk' and not 'walking the walk'. Who does this improper implementation benefit? What does it achieve to keep offenders away from this key programming? Why is the programming even in place if it's being withheld from people like my husband, that desperately want to take part??

* I hope you realize what it took for me to come before you here today ... to make you aware of what is really going on with this system. Me appearing before you here today ... is the only thing I have ever kept from my husband. This I did for fear the DOCR would retaliate against him for

me coming forward. But ... this was all me. I didn't want to do anything to jeopardize my husband's chances with the Parole Board this year ... but the *truth* is equally important to me. I am asking you to look into these very important issues to our family. We feel it is unfair for the prison to exclude my husband from BTC and the educational opportunities available to him through your legislation. Since Director Bertsch says each inmate is accountable for his actions ... let my husband prove himself. His record says he is trustworthy and capable. Let him do his very best ... right now ... so he will have his welder's certification papers to show the Parole Board in June. He would also have several months participation at BTC ... to further prove he would be a successful candidate for parole. If this man is sincerely asking for help to succeed with the rest of his life ... how can we, with good conscience, say 'no' to him again ... especially with programs in place that says he can. I am asking for your help with this matter ... with hope that you will create a system of checks and balances. The DOCR must prove it is implementing the legislation they get funding for... and doing their part to rehabilitate offenders, as their namesake says they do.

* Lastly, regarding prior discussion in the Committee before break today ... I was not hearing a lot of action from the DOCR on educational programs vs. work release and community service. Although the DOCR's Educational Department spoke of inmates having several educational opportunities ... it seems more so that they don't, if they do not have the money to pay for the classes themselves. The vast majority of inmates can't afford even a minimal, post-GED education with out the help of grants, etc.

What I came here for today is an example of this. It is also why, with my husband's case, we had to look 'outside' the DOCR 'box', and on to ND Job Service's Workforce Investment Act as a funding option.

Thank you for your time today. Does anybody have any questions?

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