

MARCH 20th, 2025

My name is Nathan Tebay and on February 4th, 2025 I was afforded the opportunity to speak to Senators Dever, Magrum, Cleary, Davison, and Mathern at the North Dakota State Penitentiary, (NDSP), where I presented a brief overview of a program I am involved in here. In my address I described the Resident Crisis Support Team, (RCST), and how it benefits the inmates/residents who participate. My brief address can be viewed online I am told under the 'Harvest Room' designation for that day's hearings and is indexed by name should you wish to acquaint yourself quickly.

Teddy Roosevelt gave a speech entitled "The Strenuous Life" addressing the Hamilton Club in Chicago years ago wherein he challenged them to consider *merit as a paradigm shifting principle that separates sincere change agents from those who just talk a 'good game.'* This historic man's spirit is imbued in just about every aspect of North Dakota Heritage. His advocacy for the 'little guy' and independent spirit is cited and adopted in business names, park designations, and generally as an ideal virtue the whole of humanity should pursue. In that worthy spirit, I ask for your thoughtful consideration of my submission here.

On January 8th a letter to the editor was printed in the Bismarck Tribune where the swollen prison population was addressed. I have been a 'resident' here since September of 2019 and feel I can offer a great deal of insight that would benefit this body and our state. I wish my voice to be heard and that it be given due deference for the objective context it offers.

Since my arrival, I have made an involved study of the revolving door issues plaguing this institution and I can confidently share that the prison population problem is entirely due to:

- 1] Disparate sentencing among the district courts
- 2] The overuse of plea agreements
- 3] Technical violations of parole and probation.

To first dispel skepticism, even I as a member of this population, agree that prisons exist for a reason and there are many that belong in an environment such as this. While it is true, I have a significant liberty interest here, my lived experience has proven, with certainty, that we as a society, use this institution entirely too much, for too long of a period, and at too great a cost to the North Dakota Taxpayer.

You have likely heard the statistic that we Americans account for 5% of the world's population but imprison ~25% of the world's prison population. ~2.2 Million were in jail or prison with another 4.75 Million on parole or probation in 2019. To bring it home, The Fargo Forum published in 2020 that it was estimated at that time ~28% of North Dakota's adult population possessed a felony conviction. When running for President, former Gov. Burgum addressed a townhall meeting in New Jersey where he expressed his disdain for the \$500 Million spent annually on the penal system in North Dakota. What can be done about this?

In my experience, numbers don't lie—people do. The real cost to ND taxpayers is not the token \$36,000/year that is most often cited. The actual cost is closer to \$68,000/year per inmate and that's if they don't get in violent altercations here or have medical conditions that require more security or care costs respectively. We are all entitled to our own opinion, but we are NOT entitled to our own set of facts. Statistics tell a story and we would do well to observe them objectively. We pay to study and collect them to be presented for our consideration but

then so often react emotionally rather than rationally. Even bills proposed this session are asking for money to fund criminal justice studies—what will be done with that information?

It is also true that 90% or more of the prison population will return to society at one point. We, the 'outcast' and 'irredeemable' among North Dakota's population will be living in your neighborhoods and working among you. This may be lost on many proponents of blindly retributive prison sentences. Prison culture is an exercise in the decomposition of humanity. Within its clutch exist good and bad men and women just as in the whole of society. Prisons simply distill that population and geographically concentrate these individuals. While bad actors can thrive in this concentration—good men struggle.

HB-1417 addresses the #3 concern asserted above and in my opinion is a good move and would go a long way to relieving strain on the system presently.

SB-2128 however, does the complete opposite. AG Drew Wrigley is being disingenuous with the people of North Dakota and their representatives. His characterization of SB-2128 does not include all the pertinent facts for anyone to make an informed decision.

For instance, is the general public aware that the 5 days per month of 'good time' credit statutorily granted to ALL prisoners requires them to already serve 83.6% of their sentence? That is in ALL criminal categories except the enhanced/mandatory minimum offenses that already exist within NDCC with NO additional enhancements or additions to the law as SB-2128 suggests. That means Mr. Wrigley's chief argument is for an additional 1.4% of a sentence to be served for ALL offenders before being parole eligible.

Now the facts—the proposed law would require every inmate to serve 310.25 days/year vs. the 305 days/year they serve now after their statutory 5 days/month is credited. 4.75 more days/year overall. The parole board presently has the authority to review individuals not serving mandatory minimum or enhanced sentences prior to their 'good time release' date. These board members are not 'nameless and faceless.' They are exercising the authority given them through their appointment by our elected Governor should they grant parole to someone before their good time release date. This is the Governor's executive authority in action granted him by the voters of North Dakota.

Further still, our elected Governor appoints the members of the Parole Board and they have broad authority with regard to who is granted the opportunity to parole. This amounts to their authority, and by extension Governor Armstrong's authority, being usurped by barring the entirety of the inmate population from the board's very informed decision on any one individual before this nominal 4.75 days/year is served. This board has available to them a prepared parole plan assembled by those who the state of ND has hired, *professionally*, to maintain daily contact with this individual inmate. It includes case managers, treatment staff, officers, education staff, work supervisors, and even the warden and director of DOCR. What's more, the faith and confidence the State of ND places in those just mentioned is being invalidated by saying the AG knows better from afar than these vested and specialized fields who encounter each offender on a daily basis.

In a December 27th, 2024 interview with Gary Emineth, (SP?), Mr. Wrigley stated, "*If a door is not locking behind you at night you are not serving your sentence...*" only seconds later in that same interview he said "*everyone deserves a second chance...*" Which is it Mr. Wrigley? Part of SB-2128 wants to remove a 'correctional facility' designation to transition centers, aka: 'half-way houses', used for re-entry efforts and programming by DOCR. This blanket change would *require* that treatment must only occur within the confines of the prison walls before an inmate leaves to begin re-entry. This sounds like a benign change on the surface but in effect it would

be dramatic because of the exceedingly rare exceptions that would require administrative intervention to accommodate. Those eligible for release would further congest the crowded prison and be delayed due to the massive bottleneck that would form in the treatment department—backing up like water behind the wall of a dam. During this time, costs to house this otherwise 'release-eligible' population would skyrocket because they would still be borne by the state. If eligible inmates move on to a transition center and can access recommended or *required* treatment there, that inmate *pays for their own housing there* due to the ability to hold a job that pays a commensurate wage while concurrently re-familiarizing themselves with living a lawful and productive life. This is a win-win for ND and accomplishes the overarching concern with public safety and self-sufficiency that everyone wants.

During this same interview AG Wrigley claimed the title of, "*Mayor of Reals-Ville*," mentioning that transitional care would be made available after someone serves 20% of their sentence. This is in stark contrast to what he is pushing for in SB-2128. He went on to say, "*Behave like a saint while you're in and do all you're required to then have access to release...*" Well, I am here to inform Mr. Wrigley, and anyone who wishes to learn, meritorious conduct does NOT earn an earlier release. You might earn a Positive Behavior report for said conduct but meaningful reduction of your time is not made available to you for being a decent human being while you are in North Dakota's Prison System. SB-2128 attacks even the extraordinary meritorious sentence reduction that *can* be made available for outstanding performance or perform an act of heroism like saving a life or rendering aid, (NDCC 12-54.1-03). The new language changes the previously allowed 2 days per month down to 1 day per month. All these proposed changes do NOT align with what Mr. Wrigley is saying. If you, "*behave like a saint*," these changes effectively bar you from being awarded even merited relief and if you are deemed worthy of receiving such, it is now **half** of what it was previously. Prisoners are no different from the public in their response to incentives. Incentives exist to encourage certain behaviors—just look at our tax code to illustrate this point. Remove incentives and you can witness a nearly instant drop in participation of desired conduct. I have seen it first-hand. The most dangerous individuals in this place are those with **absolutely nothing to lose**.

Upon arrival here, your classification has PREDETERMINED dates you are scheduled for treatment and even parole review. This is one of the areas that is most misunderstood by the voting public and even our elected officials. Using a 10-year sentence as an example, your classification document will show you will be scheduled for treatment roughly 6-7 years in and a parole review date will be very close to your anticipated completion of that treatment. Given the 5 days of 'good time' statutorily guaranteed by NDCC 12-54.1-01 one would earn 600 days of 'good time' over the 10 years making their 'good time release date' reduce from 3,650 days down to 3,050 days which is 8 years + 130 days or 83.6% of 10 years. One would serve every day of that sentence if the parole board was disallowed from reviewing an inmate's conduct and granting him parole which they can *technically* do at any time if a sentence enhancement or mandatory minimum is not in play.

It is not like the movies where you behave yourself and you get to have a physical sit down with those on the board—quite the contrary actually. You seldom get a face to face review and only 2 of the 6 members must be present to make a decision regarding an eligible parolee. Sadly, there are more instances of parole being granted to those who are back here for their 3rd or 4th tour and are nothing but trouble and seed chaos within the facility. They conduct themselves this way while they occupy an otherwise available chair in the treatment department attending programming they have taken multiple times with little to no effect.

SB-2128 usurps the executive authority bestowed upon the Governor's Office of the State of North Dakota by disallowing Mr. Armstrong to exercise it and I maintain that this is the main thrust of AG Wrigley. Do not interpret my argument as a justification for criminal behavior or a compromise of public safety. I was raised in a home where when you told the truth, you received the benefit that the truth brought—that does NOT mean you were free of consequence, but it does mean you should be afforded due consideration. Those of us deserving of merited consideration are being cast asunder and this consideration being removed even further than it is presently.

I wish to be involved and to be considered an objective source of information that this body has a *right to*. Prior to this season in my life my credibility was never called into question. I was a successful contractor, helpful neighbor, faithful volunteer and contributing member of society. Now, any opinion or statement is called into question almost automatically by someone in my position. Veracity of a claim can easily be verified if the right questions are asked. I can offer information that will help to form those questions. I pledge to you, reader, I will maintain objectivity because I am a father and I have no interest in plaguing our society with those who wish to destroy it. Speak to Colby Braun our Director—he knows how I conduct myself here.

I have not sat on my hands while I've been here and I strive daily to warrant merited consideration to return to my precious children and family as soon as possible. I have set an example for them through my conduct and accomplishments while I've been here through additional college education, treatment completion, obedience, job performance, and living my Faith. I pray that my civic participation will contribute to that example.

I ask that you use me as a resource and sounding board—you are not prohibited from doing this with incarcerated individuals—in fact it is your First Amendment Right. I welcome a dialogue and your help in informing the ND electorate that certain neighbors of theirs are languishing due to delayed consideration for their meritorious conduct. I need your help—my children need your help. God Willing, this is just the beginning of a larger conversation.

Respectfully and sincerely,



Nathan Tebay