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Grand Forks Herald

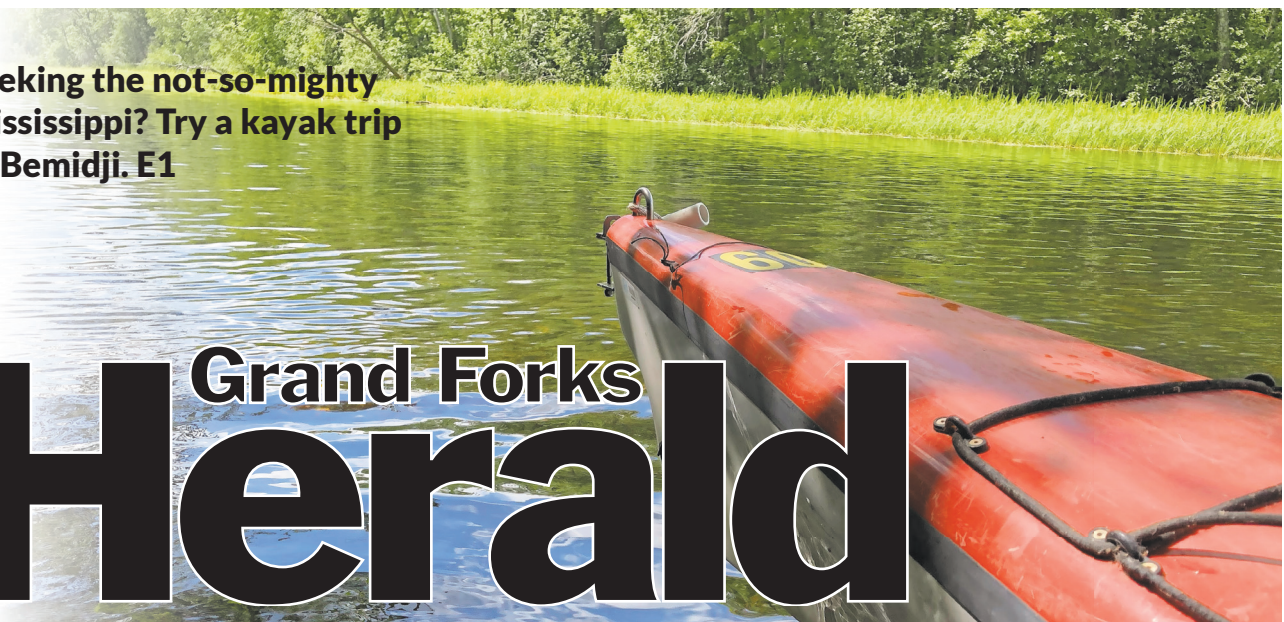
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NDUS total with search firm: \$431k

AGB has done seven searches for system since 2012

By Sydney Mook
Grand Forks Herald

The North Dakota University System has spent more than \$400,000 with Washington, D.C.-based AGB Search over the past eight years.

Of the seven searches conducted by AGB, three of the leaders hired have left the university system in that time, including former UND President Mark Kennedy.

AGB Search will be used once again as the NDUS prepares to

replace Kennedy, who now is the president of the University of Colorado system. The NDUS plans to spend \$57,000 with AGB for the search, a number that's less than the search that eventually brought Kennedy to UND.

AGB was one of four companies to place a bid to be part of

NDUS: Page A6

University Corridor planning session set for Aug. 15

By Pamela Knudson
Grand Forks Herald

A meeting to gather public input on developing University Avenue from downtown Grand Forks to UND is set for 5 to 6:30 p.m. Aug. 15 at the Salvation Army building, 1600 University Ave.

Anyone interested in how this traffic artery can or should be developed is invited to discuss ideas and learn more about the University Corridor Master Plan, said Jonathan Holth, community and client development manager with JLG Architects, Grand Forks.

Results of a recent online survey about potential developments on University Avenue, from North Third Street to Columbia Road, will be discussed.

The event, sponsored by JLG Architects and the Knight Foundation, is the first public

PLANNING: Page A6



The North Dakota State Penitentiary is pictured July 15.

Mike McCleary / Bismarck Tribune

Then And Now

The political sea changes that built North Dakota's prisons

By Sam Easter
North Dakota
Newspaper Association

Bismarck

In early 1995, North Dakota parole officer David Birrenkott told state leaders about a very, very busy criminal. This man had been on a decades-long crime spree across at least three states — and to hear Birrenkott tell it, there was no sign he was slowing down.

From his early 20s into his 30s, that unnamed criminal racked up convictions on almost a dozen charges in Pennsylvania, from aggravated assault to drunken driving to resisting arrest. He'd later gotten a DUI in Maine. Then he was back in Pennsylvania, where he'd absconded parole for a late-1980s hit-and-run accident. By 1995, when Birrenkott was supervising him, he'd already been in North Dakota for years and had a criminal mischief charge, another DUI and a strong-arm robbery charge.

"In retrospect of the criminal record I have just related to you ... does it seem appropriate that his sentence was reduced to a misdemeanor?" Birrenkott

asked in state legislative records.

Birrenkott's testimony came as legislators weighed a new criminal justice bill. It was a tough-on-crime package, written in a tough-on-crime era, and it was poised for overwhelming support from state politicians. Birrenkott was there to support a provision that would ensure judges would review the totality of more felons' rap sheets, ensuring they'd get what they deserve — and not just skate by.

The road between then and now has been paved with expert opinions that say that, often, punitive measures feed incarceration rates without making offenders less dangerous. That belief has become one of the guiding forces in criminal justice reforms today, both in North Dakota and nationally, as both respond to dramatically rising prison populations and a growing belief that the policies of yesteryear don't work.

Leanne Bertsch, director of North Dakota's Department of Corrections and Rehabilitation, echoed those ideas in a May interview.

"I think just the get-

tough-on-crime (approach), the more punitive approach, longer sentences, it has that cumulative effect that you just continue to have more and more people in this system, serving longer periods of time, (with) fewer people being released," she said.

Crime and punishment

But in the 1980s and 1990s, America was caught in a war on drugs and other crime. Perhaps one of its most famous moments was the "Willie Horton" political attack ad, used by George H.W. Bush to paint 1988 presidential rival Michael Dukakis as soft on crime. The ad — now widely viewed as racist and fear-mongering — features a foreboding image of Horton, who is black, paired with a warning about the violent crimes he committed while on "weekend passes from prison."

In 1984, Congress passed the Comprehensive Crime Control Act, which ended federal parole and established mandatory minimum sentences, which were expanded by the Anti-Drug Abuse Act of 1986. In 1991, it passed a provision that tied highway funding to states'

OUTSIDE CHANCES

NDNA

EDITOR'S NOTE

This series, sponsored by the North Dakota Newspaper Association and the Grand Forks Herald, aims to answer questions at the difficult intersection between budget crunches, criminal justice and the well-being of North Dakota's communities. As rising prison populations stress the state's corrections system, how will state leaders address what some say is a risk to public safety?

- **Today:** The political sea changes that built North Dakota's prisons
- **Monday:** North Dakota's other housing problem
- **Tuesday:** Is North Dakota's criminal safety net too thin?
- **Wednesday:** How will North Dakota balance budgets and criminal justice?

willingness to suspend drug offenders' driver's licenses. In 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994, which promised more funding to hire police officers and expanded the federal death penalty. It also gave grants to states that passed laws locking away their violent prisoners for longer periods — meant to help defray

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ND's next COO has small town roots

Miller leaving CEO position to become state employee

By Robin Huebner
Forum News Service

FARGO — Tammy Miller has come a long way from a childhood in small-town North Dakota, helping out in her family's general store, later working as a certified public accountant, starting a career at Border States Electric here, and eventually, becoming its chief executive officer.

In eight months, however, she leaves the private sector for a different venture — employment with the state of North Dakota as Gov. Doug Burgum's next chief operating officer, or COO.

Burgum named Miller for the post in mid-June, prompting some to won-



David Samson / Forum News Service
Border States Electric CEO and Board Chair Tammy Miller will leave her post after working for the company for nearly 30 years to become Chief Operating Officer for the State of North Dakota.

der whether the highly successful CEOs, former and current, could work

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PRISONS

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the costs that might come with the extra prison beds.

North Dakota adopted exactly such a law in 1995, passing its “Rule of 85” in a broader tough-on-crime package that sailed through both its House and Senate unanimously. The rule identified a class of violent crimes — murder, manslaughter, aggravated assault, kidnapping and the like — for which criminals had to serve at least 85% of their sentence before parole.

That rule was part of the same package Birrenkott endorsed to North Dakota legislators. Testimony records from 1995 are a litany of praise for the bill, including the state’s top criminal justice leaders and the North Dakota State’s Attorneys Association. A lobbyist with the Aging Network of North Dakota even weighed in, telling legislators that “older North Dakotans are traumatized by (reports in) the news media and the manner that they see the legal system operating in at the present time.”

But public opinion on that era is rapidly changing. Compared with the tough-on-crime days of the past, criminal justice legislation today is often less focused on punishment than it is on rehabilitation. Last year, for example, Congress passed a sweeping reform bill expected to help cut federal offenders’ recidivism, providing job training and cutting back on harsh sentencing for many nonviolent offenders.

“Mass incarceration has crushing consequences: racial, social, and economic,” Michael Waldman, president of the Brennan Center for Justice, wrote in a report released in May. “We spend around \$270 billion per year on our criminal justice system. In California, it costs more than \$75,000 per year to house each prisoner — more than it would cost to send them to Harvard. Mass incarceration exacerbates poverty and inequality, serving as an economic ball and chain that holds back millions, making it harder to find a job, access public benefits and reintegrate into the community.”

Since the 1990s, national crime rates have fallen precipitously. According to Pew Research Center, reported violent crimes per 100,000 people have fallen from almost 750 in 1993 to roughly 383 in 2017. But according to the U.S. Department of Justice, the number of state and federal prisoners per 100,000 people has grown from almost 330,000 in 1980 to more than 1.5 million in 2016. There’s growing agreement that punitive measures — lock-them-up policies — aren’t the answer.

That’s true even in North Dakota, where crime rates are moving in the opposite direction. A March 2018 report from the Council of State Governments shows the state’s violent crime rate grew 96% between 2006 and 2016. According to Attorney General Wayne Stenehjem’s office, there were about 55.6 “Class A” crimes per 1,000 people in 2013 — a group that includes a



Eric Hylden / Grand Forks Herald
Chris McPhail plays a guitar and sings as inmates look on at the Missouri River Correctional Center in Bismarck.

wide range of crimes of varying severity, such as homicide, rape, burglary and arson — and that the number grew to 63.4 such crimes per 1,000 people in 2018. The number of incidents in which drugs are a factor also are on the rise, his office reports.

In a phone interview, Stenehjem said one of the strongest upward pressures on North Dakota’s crime comes from drugs. “It drives, in many instances, the increase that we see in burglaries and thefts and aggravated assaults and even simple assaults — so the drug problem kind of reverberates in (many of) the other classes of offenses,” Stenehjem said.

It’s no coincidence, then, that as North Dakota has sought to fight rising crime and prison populations, one of its chief solutions has been to solve — as much as a government ever really can — drug addiction and problems like it.

Reforms

In January 2015, then-state Sen. Kelly Armstrong, R-Dickinson, spoke to a committee of his peers in Bismarck. The topic, like 20 years before, was crime and punishment.

But this time, legislators were weighing a bill that would cut directly against the 1990s-era tough on crime measures. Armstrong was there sponsoring a bill that would take a very specific kind of assault out of the Rule of 85, allowing for earlier parole for those offenders. He explained that it would “deal with limited jail space and continuing costs” that come with “overcrowding.”

“We want that our most serious offenders, when they go to prison, they stay in prison,” Armstrong said, according to testimony records. But he explained that, for some assaults, the jail time was tied directly to “how unlucky you get” in a scuffle — not just the assault itself. “If you punch someone, knock them out in a bar fight, they fall down, break their leg, now it’s a C felony,” as opposed to a lesser misdemeanor charge.

The bill passed 46-1 in the state Senate and 88-0 in the House. Armstrong is now

North Dakota’s at-large representative in Congress.

The North Dakota Legislature continued producing its own changes — notably a 2017 legislative package called “Justice Reinvestment.” The idea was that, instead of investing in punitive measures like prisons, the state would instead invest in rehabilitation. It was explicitly based on a need to bring down North Dakota’s growing prison population.

That set of bills allowed for big sentencing changes. First-time drug possession was demoted from a felony to a misdemeanor. Drug users could no longer be denied certain government assistance.

Another bill passed in 2017 set aside millions to launch behavioral health programming in North Dakota. “Free Through Recovery,” the program launched by that effort, had worked with more than 900 people in the criminal justice system as of January since its launch a year prior, and had grown to 627 active participants.

The state corrections system is even overhauling its approach to prisoners in its care. Colby Braun, warden at the North Dakota State Penitentiary, beams with pride as a tour winds past a volunteer-led class in astrophysics. Inside, a University of Mary instructor stops after class to exhort the value of teaching prisoners that they have potential.

Braun stops for a moment in the “prison within a prison” at the state penitentiary — where offenders go when they’ve been on bad behavior. New reforms in how that unit run aren’t just making for better behavior — they’re actually making it more tolerable to even walk through the unit.

“If we were having this conversation in July 2015, we wouldn’t have been able to do it,” he said. “There would have been banging, pounding, screaming. Now, it’s a whole new place.”

A tour at Missouri River Correctional Center leaves a visitor with the same impression. There are prisoners sunbathing, playing softball, hanging out at the library. They are welding in the shop; they are lifting weights.



Eric Hylden / Grand Forks Herald
Orlando Glover and Demoris Frederick exercise in the weight room at the Missouri River Correctional Center. Officials say transitioning inmates to the routines and everyday habits of life in the outside world is paramount for their success as private citizens.



Eric Hylden / Grand Forks Herald
Colby Braun, warden of the North Dakota State Penitentiary, leads a tour in May.

This is all part of a departmental philosophy that helps prisoners function once they’re released. Bertsch, the DOCR director, suggests thinking about how many decisions a free citizen makes in a day. They choose their lunch and their clothes. They set their alarm clock and their daily schedules. But prisoners, lacking that autonomy, don’t always leave prison with the skills to make such a wide array of decisions.

“They’re pretty much lost. And so when we start doing some of these things, particularly closer to the end of their sentence, it’s not because we’re trying to coddle anyone; we’re trying to prepare them to actually be a little bit more normal, to be able to function in a manner that allows them to be successful,” she said.

Since 2017, the Legislature has continued to debate legislation that cuts against tough-on-crime thinking. One proposed bill would have reduced the serving 85% of a sentence rule to a 65% rule, so to speak, allowing prisoners to go free earlier. Another unpassed bill would have required prosecutors to state the estimated cost of imprisonment for inmates headed to state, regional or county facilities.

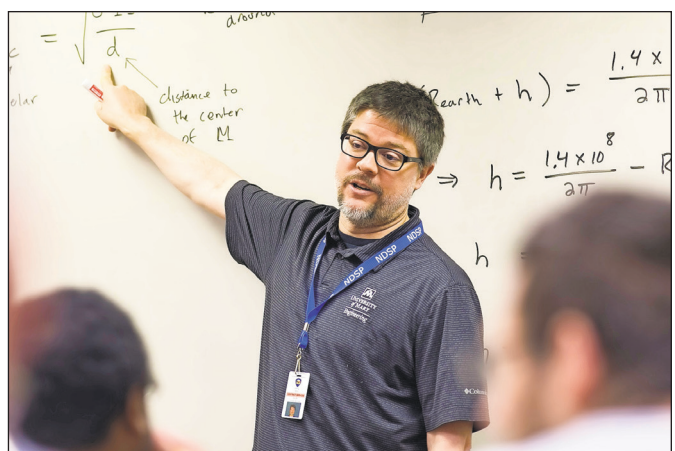
One bill that did pass was a modification of probation law. Prior to the 2017 session, state law mandated that probation violators have to serve their original sentence. The new law only requires they serve the time for the crime they committed to break probation, which is often much shorter.

State Rep. Kim Koppelman, R-West Fargo, summed up the bill to the North Dakota Newspaper Association during the session.

“I want to make sure that we’re not only tough on crime, we’re smart on crime,” he said.



Eric Hylden / Grand Forks Herald
David Candy (left) works with Gary Red Eagle (center) and Shilo Old Rock as they study math at the North Dakota State Penitentiary in Bismarck.



Eric Hylden / Grand Forks Herald
Terry Pilling, an astrophysicist who heads the engineering department at the University of Mary, donates his time and textbooks to teach inmates at the state penitentiary.



Eric Hylden / Grand Forks Herald
Steve Bannister works toward his GED in a classroom at the North Dakota State Penitentiary.



Eric Hylden / Grand Forks Herald
Taylor Wilkie plays softball at the Missouri River Correctional Center.

Northeast Central Judicial District
By Sam Easter

North Dakota Newspaper Association

The Northeast Central Judicial District includes two North Dakota counties: Grand Forks and Nelson. Like many parts of the state, it’s grown in recent years, though not nearly as much as other regions. Population increased 5.2% between 2010 and 2018, compared with the state average of 13%.

But according to the North Dakota Attorney General’s Office, law enforcement staff in Grand Forks County — both officers and civilians — grew by about 7.2% between 2010 and 2017. And between 2010 and 2017, the most recent FBI data avail-

able, the number of violent crimes reported to the Grand Forks Police Department grew from 119 to 183, about a 50% increase. That’s far faster than the city itself, which grew from about 53,000 to almost 57,000 in the same time span, according to the U.S. Census Bureau.

In 2018, the 58201 zip code — the heart of Grand Forks — is where about 50 parolees were discharged. The same zip code saw about 50 more parolees discharged in 2015.

According to state data, there were 12 correctional employees supervising a range of offenders in the Grand Forks parole and probation office, a broad population that includes more than parolees. According to state records, they were

managing about 950 cases, about 140 of which were being supervised in another state. The borders for the supervisory area aren’t the same as the borders for the court district.

“Folks that are sentenced to serve a sentence with the Department of Corrections and Rehabilitation are being paroled at a far earlier rate than historically they would have,” said Grand Forks County State’s Attorney Haley Wamstad. “And so in turn, that puts a burden on local resources, because these folks are back in our community. So whether that be parole and probation officers, or treatment facilities, our local jail ... these people are committing new offenses, and coming back into the system.”