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State watchdogs say they're still doing their job, albeit slower, since legal opinion

Ombudsman tells North Omaha group that they're hoping for a resolution during 2024 legislative session

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State legislative 'inspectors general' (from left) Doug Koebernick and Jennifer Carter, along with State Ombudsman Julie Rogers and moderator A'Jamal Byndon take questions Wednesday night. (Paul Hammel/Nebraska Examiner)

OMAHA — Members of a North Omaha racial justice group expressed fears Wednesday night that a recent, adverse legal opinion may be shutting off a vital resource for addressing problems in state agencies.

If state "inspectors general" for corrections and child welfare can't get access to what's going on, how can they report on concerns with government functions and suggest changes? they asked.

"The key words are transparency and accountability, and we don't have enough of that in government," said A'Jamal Byndon, chairman of the board of the Movement in Omaha for Racial Equality (MORE).

On Wednesday night, about 20 people crowded into the Fabric Lab along North 24th Street to learn more about the two inspectors general offices, established by the Nebraska Legislature, as well as the State Ombudsman's Office, which investigates complaints about state agency performance.



A'Jamal Byndon, Chair of MORE's Board of Directors

Legal opinion

At the forefront were concerns about [a recent legal opinion](#) from the state’s top attorney, the Nebraska Attorney General, which opined that the investigative powers conferred on the inspectors general violated the separation of powers clause of the State Constitution.

The opinion, signed by Attorney General Mike Hilgers, also said probes from those legislatively appointed watchdogs “significantly impairs” the powers of the Executive Branch and state judiciary to govern their operations.

The legal opinion, while lacking the power to change state laws or shut down the inspectors general, has put a chill on their access to information needed to look into complaints from inmates and those involving state wards.

For instance, the two offices have received no report of deaths and serious injuries — previously a routine matter that would prompt an investigation — since Hilger’s Aug. 16 opinion.

The office of Inspector General for Child Welfare was established by the Nebraska Legislature in 2012 to provide increased accountability over the state’s child welfare and juvenile justice systems.

The Inspector General for Corrections was created in 2015 amid a scandal involving the wrongful release of dozens of prison inmates and other concerns, including the four murders committed by a mentally troubled inmate, Nikko Jenkins, shortly after his release from prison.

The two offices generate reports on deaths and serious injuries in their specific agencies, as well as annual reports which include suggestions for improvements.

Shut off was the two offices’ access to disciplinary actions, reports on disturbances, and grievances in the computer systems of state prisons and the Department of Health and Human Services.

Prison visits limited

Visits with prison inmates also were severely limited, with access denied to some inmates, and visits restricted to public areas only — meaning the Inspectors General for Corrections can go to visiting rooms, but are blocked from seeing housing units and other parts of a prison where problems may have been reported.

“We’re in a holding pattern,” said State Ombudsman Julie Rogers, whose 19-person office dedicated to government accountability includes the more specialized, inspector generals operations.

Her office, an independent investigator of general complaints about activities of state agencies and employees, also had its access shut off immediately after the AG’s opinion.

Doug Koebernick, the inspector general for corrections, and Jennifer Carter, the inspector general for child welfare, both said they are still trying to figure out what access they have, and what access has been taken away.

Both officials, along with Rogers, insisted that they're still doing the job assigned by the Nebraska Legislature — to inform lawmakers about issues in state prisons, with state wards and state agencies — only they're doing it more slowly.

But how can you do your job if you're denied access to information? one women in the audience asked.

Rogers said that she is expecting a "legislative response" to the AG's opinion. The Legislature's Executive Board has hired an attorney to advise lawmakers on reacting to the opinion. Some discussions, she said, have taken place with the involved agencies.

"We try to be patient," Rogers said, since the 2024 legislative session, and the introduction of bills to clarify access issues, is nearly four months away.

Koebernick said his office is still getting letters from inmates about conditions inside state prisons, even though other channels of information have been cut off.

The concern, the three officials said, is that "we don't know what we don't know" about problems in agencies.

"We're still trying to figure things out," Carter said.

The officials told the MORE group that they're optimistic that something can be worked out with state agencies to allow good access to information.

Rogers added that, at a recent conference of inspectors general, representatives from other states said it's common for such government watchdog agencies to be "attacked."

"Especially if they're doing a good job of shining a light on issues," she said.

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