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**Capitol View**

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**Bonehead Move by State Attorney General Should Not Stand**

At a time when people’s trust in government is waning, Nebraska Attorney General Mike Hilgers issued an opinion that the Legislature’s Office of the Public Counsel, better known as the Ombudsman’s Office, is unconstitutional.

The office exists to promote accountability in government by independently and impartially investigating issues related to state agencies and employees. The departments of Health and Human Services and Corrections, which are subject to this oversight and often make headlines because of their actions, requested the opinion.

Since Hilgers’ opinion was issued, Corrections and DHHS have limited information being provided directly to the Ombudsman’s office. Specifically impacted are the Inspector General for Corrections and the Inspector General for Child Welfare.

For 10 years, the inspector general for child welfare has issued reports of youth suicides, sexual abuse of foster children and the most memorable report on the conditions at the Youth Rehabilitation and Treatment Center in Geneva, a residential mental health treatment center, which was ultimately closed.

The inspector general for corrections was established in 2015 following a series of scandals including the wrongful release of numerous offenders, the troubling use of solitary confinement for the mentally ill, and lack of oversight for people who complete their sentences. Remember the storied case of Nikko Jenkins who “jammed out” and then killed four people in the Omaha area? Don’t forget the riots, which killed several inmates in the first months of then-new Corrections Director Scott Frakes’ tenure.

Full disclosure, I’ve read several excellent opinion pieces since Hilgers’ action and my thoughts agree with those of the authors, state Sen. Danielle Conrad of Lincoln and the Lincoln Journal-Star Editorial Board.

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Conrad noted that Hilgers’ opinion talked about separation of powers but forgot the checks and balances for which the Ombudsman’s office and the special counsels were created. The Legislature’s oversight and investigation powers are undeniable and were negotiated among policymakers and lawyers in Nebraska when the watchdog positions were created, she said. She was serving in the Legislature when it happened. I was observing and reporting.

She takes issue with the attorney general’s “callous disregard of the shameful and uncontroverted facts that led to the creation of the inspectors general, his disregard for their professional, objective work and the ongoing crises plaguing these agencies.”

Conrad cautions that Hilgers “should not manufacture a constitutional crisis. However, his opinion is now being weaponized by lawyers at HHS and corrections to subvert existing law, which allows access for independent watchdogs to do their work.” Both counsels have openly reported the frustrations caused by such action.

“Nebraskans should pay careful attention to bureaucrats who seek to hide their work from other branches of government and from the people of Nebraska and to the elected officials who facilitate obfuscation,” she said.

Perhaps that will be the guiding light as lawmakers seek to address Hilgers concerns. Imagine, bureaucrats seeking to hide their work – or lack thereof – from citizens and we didn’t have to go to Washington DC to experience what’s crooked about government.

I like the way the Journal Star editorial summed it up. “Nebraska has seen a slow and disturbing erosion of government transparency and accountability, even as politicians tout their devotion to those pillars of our government while on the campaign trail.

“Public records requests are denied on broad grounds they involve pending litigation, ongoing investigations, or ‘executive privilege.’ If they are granted, entities claim great difficulty in gathering them and charge exorbitantly for them. Government at all levels appears to believe that public records requests and open meetings laws are hardships that are better avoided than endured rather than an essential part of public service.”

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Conrad and the newspaper concluded that taxpayers deserve a window into how their government carries out its duties and as clear of an understanding as possible of how it treats the people placed in its care or custody. I agree.

Real solutions, not legal shenanigans and political posturing.

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*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for more than 20 years.*