

Transcript Prepared By the Clerk of the Legislature  
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Rough Draft

Department of Correctional Services Special Investigative Committee  
November 06, 2015

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[LR34]

The Department of Correctional Services Special Investigative Committee met at 9:00 a.m. on Friday, November 6, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR34. Senators present: Les Seiler, Chairperson; Kate Bolz; Ernie Chambers; Colby Coash; Laura Ebke; Bob Krist; Heath Mello; Adam Morfeld; Patty Pansing Brooks; Paul Schumacher; and Matt Williams. Senators absent: None.

SENATOR SEILER: (Recorder Malfunction)...quorum. We'll start on the left--introductions. That would be you, Laura.

SENATOR EBKE: Me? Oh, Senator Laura Ebke, District 32.

SENATOR PANSING BROOKS: And I'm Patty Pansing Brooks, District 28.

SENATOR BOLZ: Good Morning, Senator Kate Bolz, District 29.

SENATOR SEILER: Les Seiler, Chairman, and District 33.

SENATOR SCHUMACHER: Paul Schumacher, District 22.

SENATOR WILLIAMS: Matt Williams, District 36.

SENATOR SEILER: Go ahead.

SENATOR COASH: Colby Coash, District 27.

SENATOR SEILER: Ollie.

SENATOR PANSING BROOKS: Oh, movie star.

OLIVER VANDERVOORT: Oliver VanDervoort, committee clerk.

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DIANE AMDOR: Diane Amdor, legal counsel.

SENATOR SEILER: We're here again to start on LR34. For anybody new coming before us, pull yourself up to the mike and speak into it. I'm not going to have you on the lights today. That may be something I'll regret but...as it gets close to 10:00 tonight. But I think you all are professional people and have a lot to say about the programs you're here representing, and we want to hear about them. And speak in...right up fairly close to the mike, not for the ability of us to hear but so the transcription comes out clear. Take your seat and give us your name and spell your full name so the transcriber gets it correct. With that, I'd like to call Sheri Dawson. [LR34]

SHERI DAWSON: Good morning. [LR34]

SENATOR SEILER: Good morning. [LR34]

SHERI DAWSON: Do you want me to begin or do you want your sheets first? [LR34]

SENATOR SEILER: Pardon? [LR34]

SHERI DAWSON: I said do you want me to begin or do you want your sheets first? [LR34]

SENATOR SEILER: No, go right ahead. [LR34]

SHERI DAWSON: (Exhibit 1) Okay. Well, good morning, Senator Seiler and members of the LR34 committee. My name is Sheri Dawson, S-h-e-r-i D-a-w-s-o-n. And since August 13, I've had the honor of serving as the director of the Division of Behavioral Health at the Department of Health and Human Services. The Department of Corrections and the DHHS Behavioral Health System share a commitment to address the behavioral health needs of individuals served by our agencies. While early in the tenure of new leadership for both departments, it's clear there's a commitment to an integrated framework where the most effective approach to achieving both public safety and healthcare goals will be pursued, and that the future of criminal justice and behavioral health interface requires a focused, strategic, data-driven approach to address the complex needs of individuals. I appreciate Senator Seiler and the committee's attention and

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efforts and would like to continue work with Director Frakes and others in Corrections to evaluate the system, identify resources at hand, collect and analyze data, and weigh the needs and risks to determine specific solutions. To be cost-effective, as well as to have maximum impact, we'll need to align each individual's risk and needs with programs and practices. There are persons with behavioral health illnesses who are incarcerated who would require treatment in prison; other persons who will be referred to community treatment by their probation or parole officer. Still others will complete their jail or prison term and need to be reconnected to the community health system. All of these crossroads between criminal justice and behavioral health present challenges, as well as opportunities to improve outcomes for the people we serve. There will be many parts to the solution. Creating the right balance between providing treatment for illnesses and deterrence from dangerous and unhealthy behaviors is complex. We will only identify the proper balance as the two systems work together to make system improvement and ensure the opportunity for recovery. DHHS Behavioral Health and Corrections are engaged in this work. Regular meetings are being established and there's a commitment from both agencies. This is a unique moment in serving individuals with behavioral health challenges. By agreeing upon common goals and moving forward together the systems can make a difference in the lives of thousands of Nebraskans. And I'd be happy to answer questions. [LR34]

SENATOR SEILER: Okay. Senator Coash. [LR34]

SENATOR COASH: Thank you, Senator Seiler. Sheri, I just wanted to hear you comment on capacity for...and I'll limit this to the community-based programs. We know with the reforms that we're trying to put in place, a lot more inmates are going to be released into the community. We know they'll have mental health needs, and we know they're probably...the majority of the inmates being released are probably not of means to go out and pay...find and pay for behavioral health treatment out of their own pocket, so a lot of them are going to need to find Medicaid providers. I'm concerned about the capacity of our state to fill that need, because I think we have a gap now for non-inmates who need mental health treatment. So the willingness to do it is one thing, but without the providers out there...willingness on the part of the department to support it, but without the providers out there to deliver the service, I think we may be in trouble, especially if you get west of Lincoln. Would you comment on that? [LR34]

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SHERI DAWSON: Well, I would just say, you know, there's certainly the opportunity now. You mentioned Medicaid, and certainly Division of Behavioral Health and Medicaid have had some challenges in working together. But the leadership now is in place with Director Lynch and CEO Phillips and Behavioral Health for us to really look together at how that funding can, you know, are we duplicating our...how are we spending those dollars to make sure that it can go as far as it can to serve the number of folks that need the service. Addition to that, you know, I think the opportunity for us to look at our...continue training of providers. For example, the Division of Behavioral Health has a contract to be able to look at substance abuse treatment and training for those professionals. And part of that contract has been the opportunity for folks to learn about criminogenic factors. And so, indeed, to be a provider for probation vouchers, we also help provide that training. So I think there's the training issue and then there's also really looking at how...where those dollars are spent now and how we can maximize those and leverage those to go as far as they can. [LR34]

SENATOR COASH: What about efforts to increase the providers that are out there, because I don't think we have...? I mean, I hear from citizens and advocacy groups across the state that mental health treatment is not out there for people with mental health needs that are not inmates. And we're getting ready to dump several hundred inmates into communities that also need that. And I'm worried about their ability to get the treatment that they need which will keep them in the community and not reoffending and back in prison. [LR34]

SHERI DAWSON: Sure. Sure. No, I think there's great opportunity for us to really look at how we can integrate the system. To be honest with you, Senator Coash, I get calls from individuals that say, you know, they tell me where they live and that there's no providers, when in fact there are but they just weren't connected with them, or they are...needed a Medicaid provider and weren't aware of where those were. So I'm not going to say that there's not gaps and that certainly in any state you go to that there's a need for behavioral health services. On the other hand, I would rather have us really look at, from a strategic standpoint, what's available and what those needs are before we make any decisions about how many additional providers do we need in a particular city. Let's look at what we have. As you know, we're stretched with behavioral health work force as well, and so we're going to have to be creative about creating that access across the state. [LR34]

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SENATOR COASH: So you mentioned a strategic look at that. Is that...is the Department of Behavioral Health, Department of Medicaid, HHS as a whole, I mean, are we going to be presented with some type of a strategic plan that says this is what we're doing and this is how we're trying to get there? [LR34]

SHERI DAWSON: Yeah, I think, again, with the leadership that we have in place, I believe that we really will have the opportunity for the Division of Behavioral Health to lead that larger behavioral health system strategic plan. And certainly with Medicaid and their Heritage Health plan that will be rolling out, that will be key for us to stay step in step. And so we have our current strategic plan ends December 2015. We're going to have a guidance document. But in 2016, we will be doing a large effort for strategic planning. [LR34]

SENATOR COASH: When do we get to see that guidance document? [LR34]

SHERI DAWSON: At the end of November... [LR34]

SENATOR COASH: Okay. [LR34]

SHERI DAWSON: ...is when I have stated before. [LR34]

SENATOR COASH: All right. Thank you. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SEILER: Okay. Any other questions? Senator Mello. [LR34]

SENATOR MELLO: Thank you, Chairman Seiler, and thank you, Director Dawson. I've got maybe some background questions a little bit in regards to the Division of Behavioral Health, primarily as it relates to financing and funding of the regional system and then who that population is. Are you aware of a report the behavioral health regions did in 2013, I believe, and then they updated it in 2014, that walked through the population, so to speak, that they're serving in light of the passage of the Affordable Care Act at the federal level? [LR34]

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SHERI DAWSON: Yes, I've seen that. [LR34]

SENATOR MELLO: So you're aware then of the population, that almost 90 percent of the population that the state spends General Fund tax dollars on is the population that's zero to 138 percent of federal poverty level? [LR34]

SHERI DAWSON: Thirty-eight, yes. [LR34]

SENATOR MELLO: Is the department at all considering any other financing options to try to recoup any federal funding or any additional state funds that could be used to provide more direct service to this population that would, hopefully, help provide the additional funding and providers? Because I pose that to you in the sense that I heard Senator Coash's question, which was great, in respect to what I've heard, that mental health providers, behavioral health providers that I talk to in Omaha is...part of the issue is in regards to provider rates and financing; that the reality is they can't expand their services because they're not getting the reimbursements needed from the state in regards to the population they're serving. But back to my original question: Are you or anyone in the division looking at other alternative financing mechanisms that could assist us in covering that zero to 138 percent population? [LR34]

SHERI DAWSON: I have. The Division of Behavioral Health hasn't been a part of those discussions other than, again, in looking at Medicaid Heritage Health and what that looks like for us to continue to work together. [LR34]

SENATOR MELLO: In respects to the population we're talking about in the Department of Corrections, are you aware of the number of the people who are going to be coming out of our facilities, do they have health insurance? [LR34]

SHERI DAWSON: I can't answer that. [LR34]

SENATOR MELLO: Do they utilize...do you know, do...from looking at population trends in regards to your division, are you seeing a number of individuals who are coming from the Department of Corrections utilizing services through the behavioral health regions? [LR34]

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SHERI DAWSON: We have in our data system now, we have a question on there about justice involvement. And I think we actually provided that data. And there's about a third of the individuals have some touch on the justice system as, you know, from a variety of places that as they come to the regions to be served. [LR34]

SENATOR MELLO: So we're so...and I guess we can look for that information. If you provided it to us, I'm sure it's here somewhere and we'll get a look at it. So just so I understand clearly, though, about a third of the population that we're serving now through your division has some involvement with the criminal justice system, so to speak. [LR34]

SHERI DAWSON: Um-hum. [LR34]

SENATOR MELLO: I think that's all I've got for right now. Thank you. [LR34]

SENATOR SEILER: Okay. Senator Bolz: [LR34]

SENATOR BOLZ: Hi. You and I have had some ongoing conversations about the Lincoln Regional Center. For the benefit of the committee as a whole, can you just...let's talk a little bit about that. Is the Lincoln Regional Center currently at capacity? [LR34]

SHERI DAWSON: Yes. Yes, we are. [LR34]

SENATOR BOLZ: And is there a waiting list? [LR34]

SHERI DAWSON: And when I checked this morning, there were two people on the court-wait list and three people for mental health board for commitments. [LR34]

SENATOR BOLZ: Okay. And for the benefit of the record or the committee or me, I guess, explain the different ways that you pull apart those numbers you just shared. There's not just two people on the waiting list, right? Can you explain that in a little more depth? [LR34]

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SHERI DAWSON: On the...we keep two waiting lists, if you will. So for individuals that come through the courts, and those would be individuals that are coming through for competency restoration, not responsible by reason of insanity, primarily, although there are some competency evaluations inpatient. Those three categories are kept on a separate list. And then the individuals that are served, generally, through mental health board commitments are kept on a different list. As we talked, there are beds that are allocated to each of the regions for individuals that are mental health board committed. And so we maintain both of those lists. So this morning when you asked about the two, there were just two people on the court-wait list. [LR34]

SENATOR BOLZ: And the other list, there were... [LR34]

SHERI DAWSON: Three. [LR34]

SENATOR BOLZ: Three. Okay. And can you tell me, the waiting list over time has waxed and waned, right? [LR34]

SHERI DAWSON: Yes. It's actually come down. [LR34]

SENATOR BOLZ: But during the session, it was something like 17. Is my memory correct? [LR34]

SHERI DAWSON: Yes. When we first started...when I first started this spring in looking at the list, we were actually up higher than that, but a little higher than 17, and started meeting with the Court Administrator's Office to look at processes on their end as well as processes that we have in the regional center to see if, on the front end and back end, we could increase that flow and movement through the regional center. So it has steadily come down. But there's still a wait. [LR34]

SENATOR BOLZ: Uh-huh. Okay. Well, I just...I think this committee...it's important for us to keep our eyes on that waiting list and the demand for those services. Those are some of the most high-risk, high-need individuals across our communities. And I think there has kind of been an



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ongoing challenge with the capacity of the Lincoln Regional Center that we really need to pay attention to. So, appreciate the dialogue. [LR34]

SHERI DAWSON: Yes, I agree. And we certainly are looking at opportunities for individuals that are being served there that are very complex and trying to find that service in the community for them and work hard so that we have flow-through. We also have, as you and I have talked, some beds at the Lincoln Regional Center because of hospital capacity for Region V and how...with our Crisis Center and utilizing the regional center for acute and subacute, and pursuing some options for that to begin to free up some additional capacity. [LR34]

SENATOR BOLZ: Um-hum. But just maybe one last comment is, you know, I think it's concerning when we have that court-ordered list, especially when the court-ordered list grows. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR BOLZ: You know, those folks should be being treated at our Lincoln Regional Center. And any waiting list for that specific population I find concerning. [LR34]

SHERI DAWSON: Yes, I think we have the same goal to continue to get that down. [LR34]

SENATOR SEILER: Patty. [LR34]

SENATOR PANSING BROOKS: Thank you, Chairman Seiler. And thank you very much, Director Dawson. I guess, can you give me a little bit of a background? I understand that you came on August 13. What did you do before that? I'm new, so I'm sorry I don't know. [LR34]

SHERI DAWSON: Yeah. No, that's no problem. I worked in the Division of Behavioral Health. I've worked in a variety of roles. Right prior to the appointment, I was the deputy director. [LR34]

SENATOR PANSING BROOKS: Okay. And how long were you deputy director? [LR34]

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SHERI DAWSON: Good question. [LR34]

SENATOR MELLO: A while. [LR34]

SHERI DAWSON: Four years or more. [LR34]

SENATOR PANSING BROOKS: Four about, okay. Okay. And then you worked in that division prior to that? [LR34]

SHERI DAWSON: Yeah, I actually started at the Division of Behavioral Health in 2006. And I was the program specialist. I was the liaison with the region...with one of the regions. And then I was the quality improvement and managed care administrator for a few years before deputy. [LR34]

SENATOR PANSING BROOKS: Wow! So you have a lot of knowledge. That's great. I guess I'm interested in the discussions about trying to come up with some sort of strategic plan and trying to understand. I mean, you know what needs there. What are the needs of the department right now? [LR34]

SHERI DAWSON: Are you talking specifically for behavioral health needs or some other integration needs? [LR34]

SENATOR PANSING BROOKS: I'm talking about any needs that you think that you have right now. [LR34]

SHERI DAWSON: Well, as the director, I have a few priorities, in addition to ensuring access for services. I think there's great opportunity for us within our own...our division to better integrate community-based services with the regional centers to have that grow to be able to help again the flow-through and the communication process. Amongst the three regional centers, I think there's some additional opportunities for looking at effectiveness and efficiencies. So I see that. But certainly we haven't had the opportunity in the past to really look at and be viewed as a behavioral health authority, which was intended with LB1083. And so the opportunity we have

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now with the leadership in the DHHS with CEO Phillips and Director Lynch is that really looking larger system, so look at behavioral health system. That includes Medicaid and the Division of Behavioral Health and those services from Children and Family Services and Corrections and justice. So that's the larger strategic plan, I think, that have a need in the state to be developed and move forward. [LR34]

SENATOR PANSING BROOKS: Okay. And so are you also...so you're working...I didn't hear a mention of the Department of Corrections with that group that you're meeting. [LR34]

SHERI DAWSON: Yeah. And you know, when I speak, when I say "criminal justice," I don't know if that's the proper language, to be honest with you, but I include... [LR34]

SENATOR PANSING BROOKS: I don't know either. [LR34]

SHERI DAWSON: ...I include the Department of Corrections. And we actually have had some meetings and our clinical staff are meeting. And so they're definitely to be included. [LR34]

SENATOR PANSING BROOKS: Okay. And so have you had discussions with the Department of Corrections on moving people from the prisons to, like, the regional center and those are ongoing discussions? [LR34]

SHERI DAWSON: Um-hum. We have had a couple of meetings in regards to that. We actually had our clinical teams come together and the regional center did a clinical evaluation on a particular inmate and made some recommendations to be able to be helpful to them. [LR34]

SENATOR PANSING BROOKS: Okay. And then as far as the needs for, I'm understanding now, the overarching needs of all the programs coming together, what about the needs of...your needs regarding employees, regarding patients? What about those needs and what else do you need as far as providers and all those things? [LR34]

SHERI DAWSON: Yeah. Well, no, and thanks for asking about that. Taking care of the talent that we have, because we have some great staff across the state, not only in our communities, but

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certainly I'm very proud of the folks in the Division of Behavioral Health. And taking care of them is very important. As you know, Nebraska is challenged in terms of behavioral health work force. And so we have to continue to try and be innovative and recruit and retain folks so that they can continue to provide the quality care to our patients. [LR34]

SENATOR PANSING BROOKS: Can you give me some examples of taking care of those people? [LR34]

SHERI DAWSON: Um-hum, um-hum. I think one of the more recent opportunities we've had is looking at all of the length of service and employee of the year and supervisory of the year. And what that brought up is it shouldn't take a special event to recognize employees and show them appreciation and really having the staff look at what are those opportunities that we have on a day-to-day basis to show appreciation. Really, looking at the opportunity for our supervisors and leaders to have the knowledge that they need to support their teams and to grow their teams, trauma-informed care and looking at vicarious trauma and compassion fatigue and training on that, so folks are more aware of how to take care of each other and how to take care of themselves in this very complex work. [LR34]

SENATOR PANSING BROOKS: Okay. Are you having trouble with recruitment? [LR34]

SHERI DAWSON: We are challenged. I will say most specifically with nurses right at this time. I think, as I talk to colleagues across the state, and not just state hospitals but in other hospitals and even in Omaha with behavioral health, that folks that used to have eight and nine applications, you know, whenever there was an opening are having one or two. So it's not just in the state system, but we are challenged with recruiting nurses. [LR34]

SENATOR PANSING BROOKS: Okay. I have trouble understanding that since we have the nursing school at the University of Nebraska; we've got Bryan Nursing School. We've got excellent nurses being pumped out into the system. What is the problem? [LR34]

SHERI DAWSON: I actually have meetings coming up with UNMC again to see what opportunities we have. But, you know, I think you have to also look at behavioral health nursing,

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and especially state hospital nursing as even a specialty, if you will. So we're already in the state having difficulty keeping up with nurses as...the number, the gap, as we age out, those of us that are nurses, and I'm one of them. And we also have nurses then that want to work in behavioral health and then into the state hospital. So I don't know what specifically the problem is, but I can tell you that we're certainly trying to look at all angles and opportunities with the schools of nursing, with recruiting, with training, with trying to grow our own perhaps and what does that look like. I can give you an example. I was at Boys Town probably about two months ago touring their high school. And they had a nurse aide class in the high school. And went in and was asking the nurse aide folks if anybody was interested in nursing. And there was probably about a third of the room that raised their hand. Those young people are interested in behavioral health. It's touched their lives either personally with them or their family members. And what initiative or what opportunity does that look like to mentor to grow folks? So those are the, I guess, innovative and creative things that we're going to just have to continue to try and figure out. [LR34]

SENATOR PANSING BROOKS: So, do you believe it's money that is the problem? [LR34]

SHERI DAWSON: I think that's a factor, and I'll tell you why. Certainly when you have a smaller pool, and you know the state has very low unemployment, so our pool is probably smaller than in other areas. But we compete...the Lincoln Regional Center, for example, competes with Lincoln and Omaha with the local market. We've had hospitals that came out of having not a lot of patients and as they're building, they have lots of incentives, if you will. So I do think pay is a factor. I think, again, the challenge and the work is also...so we've got to really continue to work on creating a culture that's welcoming, that takes care of its talent so we can retain the folks that we do get. [LR34]

SENATOR PANSING BROOKS: Okay. And I think you're uniquely situated to understand some of the issues that I think are complicated regarding the movement of people from Corrections institutions to the mental health centers and to the Lincoln center. Can you talk to us a little bit about what those issues are and what your perspective on how we could better improve what's going on out there. Is it building more spaces...behavioral health beds? Is it...what is it? [LR34]

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SHERI DAWSON: Are you talking specifically about folks in Corrections that should come to the Lincoln Regional Center or just as they transition into the community in general? [LR34]

SENATOR PANSING BROOKS: No, I'm talking about the issue of transitioning people from the prisons to the Lincoln Correctional Center... [LR34]

SENATOR EBKE: Regional Center? [LR34]

SENATOR PANSING BROOKS: Regional Center. Regional Center. Sorry. [LR34]

SHERI DAWSON: Okay. Well, I think there's a couple of factors that we are going to have to continue to work together as departments. The Lincoln Regional Center is a hospital. And it operates according to joint commission, licensing standards, which are quite different than the Department of Corrections. So with those standards come physical plant requirements, staffing requirements, those kinds of things, and they're very different. When you have individuals that are quite challenging, it also is going to depend on their clinical picture. For example, individuals with personality disorders only, typically, aren't going to be treated in the Lincoln Regional Center or in a hospital setting in general. So I think there's a variety of factors that make us different, that we're going to have to continue to look at how can we work together. The approach we're taking right now, because of those physical and security challenges, as well as staffing, is to come to the table with what can we do. And what we can do is have our clinical staffs meet and we can go to Corrections to help evaluate and identify some opportunities. [LR34]

SENATOR PANSING BROOKS: So that's important information for me because what you're saying is only those that need to be hospitalized will really have directed mental healthcare and the rest is just mental healthcare in the prisons. And we've heard that there isn't a need or no knowledge of a need for programming right now. And so how are we going to deal with those people with mental health issues in the prisons? [LR34]

SHERI DAWSON: I think...it's my understanding there is quite a behavioral health programming and treatment in the Corrections center. I'm not the expert on that; I'm still learning. I'll certainly

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have Corrections people speak to all of the detail of what they do and what they provide. I was trying to speak to those...the interactions when they have a very challenging individual that they've requested some consultation about. [LR34]

SENATOR PANSING BROOKS: Okay. And we've heard that the Lincoln Correctional Center cannot handle somebody with the mental health disabilities and seriousness of Nikko Jenkins. So there are certain standards that they cannot handle. Is that correct? Certain... [LR34]

SHERI DAWSON: You said Lincoln Correctional...so are you talking at the Lincoln Regional Center? [LR34]

SENATOR PANSING BROOKS: I'm sorry. Yes. I'm so sorry. [LR34]

SHERI DAWSON: Okay. So at the Lincoln Regional Center, that particular case, I think, the challenge was the court-wait list in general and the order of taking individuals into treatment. I wasn't there at the time. I'd have to do some additional follow-up on that, Senator. But I do think...again, we have to recognize the difference between hospital and Correctional standards and identifying, you know, what's that path for us working together. We've just begun those conversations. [LR34]

SENATOR PANSING BROOKS: Okay. Thank you. That's all I have right now. [LR34]

SENATOR SEILER: Anybody...Senator...Laura. [LR34]

SENATOR EBKE: Thank you. Could you tell us just a little bit, kind of in a theoretical way maybe, what you see as the way that behavioral health could help to integrate with Corrections as people are leaving the system. As we've been out and about, we've heard that that's one of the biggest problems. And that's one of the biggest contributors to recidivism... [LR34]

SHERI DAWSON: Um-hum. [LR34]

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SENATOR EBKE: ...is that we, you know, we turn people loose and then what? And so, you know, talk a little bit about where we are right now and where we could be in an ideal world. [LR34]

SHERI DAWSON: Sure. Yeah, no, I appreciate that. There are certainly conversations in groups that do meet in terms of discharge planning. Some of our team from the Division of Behavioral Health recently met with Women's Corrections in York. We had a case, oh, it's probably a couple of months ago, that sort of precipitated a crisis because of the way the discharge planning happened at the last minute and we were trying to, again, establish a partnership and what that could look like. So we pulled in the regional emergency system coordinators with the folks at Women's Corrections to really develop a better process and then talking about what that looks like to set people up for success in terms of medication, in terms of access to appointments, and so that they get the services right away. There are some states that have set up some initiatives where folks coming out the very first day they have their appointment or some touch to be able to make sure that they're going to follow through. I don't know what that looks like in Nebraska. We certainly have to have additional conversations to look at what that discharge planning and reentry can look like. [LR34]

SENATOR EBKE: Thank you. [LR34]

SENATOR SEILER: Senator Mello. [LR34]

SENATOR MELLO: Thank you, Chairman Seiler. And I appreciated Senator Ebke's question because I was going to follow up a little bit on some of the previous questions I had in regards to...what...assuming, and I guess I'll let you challenge my assumption, that when an individual is coming out of the Department of Corrections, they will fall in that zero to 138 percent of federal poverty level because they will, essentially, have no employment...or little employment if they're part of the work release program. They're essentially left, in regards to their parole or their discharge from the Department of Corrections. Are they receiving services? Are they on wait lists? Is there interaction between you...your division and the Department of Corrections to ensure they're getting the services they need as part of their discharge? [LR34]



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SHERI DAWSON: Um-hum. [LR34]

SENATOR MELLO: Can you walk us through that process a little bit more in regards to how the two agencies interconnect to ensure what Senator Ebke's question just was about of how do we stop the recidivism and ensure they're receiving the mental health services that they require? [LR34]

SHERI DAWSON: Sure. And I just want to comment that I don't know the data that you're talking about in terms of folks coming out, if they're the 138 percent of poverty, if they're Medicaid eligible. I don't know the answer to that. That would be data that we certainly could get. In terms of the opportunity for discharge planning, right now we do have groups that work with folks coming out of the Lincoln Regional Center and Corrections and the social work staff and emergency system coordinators. So those are pulled in from another system standpoint in terms of community services. I think we have some work to do to continue to establish a system so we have that across the board. [LR34]

SENATOR MELLO: I would appreciate...I think the committee would appreciate finding any analysis you can give us in regards to the population...and we can ask Department of Corrections, I see Jeff Beaty in the audience, in regards to the research division in regards to getting information, in regards to the population coming out of Corrections, in regards to what, in theory, their income level would be in regards to potential...where they would fall in regards to service category, in respects to the behavioral health regions. And maybe it's a clarifying point that I asked you earlier and maybe it's to reiterate for the public record a little bit more. My understanding is that your appropriation for the fiscal year starting July 1, 2016, is roughly \$74 million a year for the behavioral health regions. You are aware of and I'll make sure our colleagues on this committee receive the report that you and I discussed earlier in regards to behavioral health regions stating that almost 90 percent of the population that that \$74 million will pay for mental health services fall between that zero to 138 percent of the federal poverty level. We're going to make an assumption that 99.9 percent of the people coming out of the department, for this conversation, this questioning, we're going to assume that 99.9 percent of the people coming out of the Department of Corrections fall in that category. What would happen overall to that \$74 million a year in aid if that population started to receive health insurance?

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Would that number change dramatically? Would there essentially be those...those funds would not be then used to serve this population? Would it be used then to serve greater needs in the state? What would happen in regards to this population...this 90 percent of the users, so to speak, using the \$74 million, what would happen if they got health insurance? [LR34]

SHERI DAWSON: Well, I think there would be opportunity to look at the system in terms of how to, perhaps, reinvest those dollars. Certainly, we know for recovery that housing is a key part of that. Employment, having a purpose, those kinds of things are certainly important. And so, again, there could be some opportunities to look at that. Right now, we have a emergency crisis system; we have a prevention system where, again, we have efforts to try and get out ahead of the system. Those would be some things that, certainly, could be considered. [LR34]

SENATOR MELLO: And, Sheri, I appreciate and I may follow up with you off-line, off the hearing, and learn a little bit more about a couple of the items you mentioned on the emergency crisis components. The question I guess I've got, more for the understanding of this committee and the understanding the public at large, a lot of the conversations we've had regarding the Department of Corrections involves a lack of resources that have been put towards programs, services over a number of years. And I'm trying to get my hands wrapped around that we've got a population right now of people coming from the Department of Corrections who otherwise we can find a way to find some way to get them health insurance that would then mitigate the state's resources that we would need to spend in your division on their mental and behavioral health services. I'm just wondering, if that's not something you've spent more time and energy trying to find a way to stretch those existing behavior health dollars, if we can find some mechanism to assist the Department of Corrections in getting these individuals some kind of insurance that pays for their care so you don't have to pay for it. Because unless I'm not understanding the logic of how this process works, you are covering all of the cost from the Department of Corrections once they leave. [LR34]

SHERI DAWSON: I don't know that because Medicaid...I mean, there could be other sources of payment for individuals. But I hear what you're saying. [LR34]

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SENATOR MELLO: We're, for purposes, nine...unless my information is incorrect from the regions and everyone else involved, 99.9 percent of the people coming from the Department of Corrections are not Medicaid eligible as it currently exists in the state. So they're not getting their behavioral health through Medicaid as we know it. They're getting their behavioral health through your division, through the regions, through aid to direct providers. And I'm just trying, I guess, to understand how we can, quote unquote, make a Nebraska tax dollar stretch a little further of getting the services that people need while trying to reduce recidivism so that we can find better ways to improve our Correctional facility. So I mean, I'll leave that as an open-ended question to you a little bit. [LR34]

SHERI DAWSON: Well, again, you know, I think part of the opportunity that we have between Corrections and the Division of Behavioral Health and Medicaid right now is to really do that data look at who we're serving and who are those folks coming out and what are those dollars looking like, and plan according to that data. I can't, again, confirm or speak to the percentage that you're giving right now. But certainly looking at the data should help us drive where we're going strategically. [LR34]

SENATOR MELLO: Is that a report that you and the Department of Corrections could provide this committee and the Legislature prior to the beginning of the legislative session in regards to being able to give us an analysis in regards to the population that you serve in your division that is coming from the Department of Corrections that otherwise is utilizing dollars from your division? Because I think most people don't view...most of the public, I should say, view government all as one entity. They're not seeing a tax dollar coming from your division that's impacting the Department of Corrections and/or vice versa. But as we do budgets, as we do laws and programs, that's obviously how we are able to separate different categories, different eligibility, and to some extent what I'm talking with different financing mechanisms in respects to finding ways to provide health insurance to a population otherwise is...what appears is draining resources from the Behavioral Health Division. [LR34]

SHERI DAWSON: Well, I think that opportunity to do what I hear you saying is more of a financial blueprint to really look at the data across the Division Behavioral Health and Medicaid and Corrections. We have just in the last months gotten a Memorandum of Understanding with

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Medicaid. So even Behavioral Health and Medicaid can share data. We certainly would need to do that with Department of Corrections and there would be a process to, you know, data systems aren't just easy, just knock it out right now kind of thing... [LR34]

SENATOR MELLO: Completely understand that. Completely understand that. [LR34]

SHERI DAWSON: But certainly that could be a process to get that. [LR34]

SENATOR MELLO: Okay. [LR34]

SENATOR SEILER: Senator Krist. [LR34]

SENATOR KRIST: And the reason I'm going out of turn here is that I want to dovetail on that. You are aware that we passed a law last year that suspends Medicaid when a person is incarcerated so that that suspension can immediately terminate when they are released from the system. [LR34]

SHERI DAWSON: Right. Right. [LR34]

SENATOR KRIST: My information when I put that bill forward last year is over 60 percent of the people that go into the system are Medicaid eligible, which means that 60 percent number, if that number is...let's just say X number of percent, should be Medicaid eligible coming out (snaps fingers) immediately, not have to go through the three to four to five to six months of getting eligible for the system. That process should be in place by now because the law was passed. I understand data systems don't necessarily talk to each other, but people do. [LR34]

SHERI DAWSON: Um-hum. Sure. [LR34]

SENATOR KRIST: So of all the people that are there in the system, it seems to me that the follow on to that piece of legislation, which is now law, should be, how many people who are currently in the system were not Medicaid eligible before they came in and the paperwork can

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start to flow to make them Medicaid eligible when they hit the street. The other part of it that we heard yesterday was that...yesterday, day before yesterday? What was the audit... [LR34]

SENATOR MELLO: Wednesday. [LR34]

SENATOR KRIST: ...the audit report? Is that there's an incredible amount...I mean, just of the snapshot that they took that Corrections should be using Medicaid dollars once they're out of the facility for 24 hours to pay for stuff. I'm telling you, from a high-level view, and I don't want your job, but from a high-level view I think there's a lot of Medicaid dollars that could be spent to offset those dollars. And we have to understand that...what tools we have in place right now. [LR34]

SHERI DAWSON: Yep. [LR34]

SENATOR KRIST: So I would like to see those numbers and I'd like to see the numbers start coming up, particularly with that piece of legislation that passed last year. [LR34]

SHERI DAWSON: Yeah. Well, and, Senator Krist, for me that makes the point why I couldn't answer Senator Mello's point about that combination or those percentage of individuals that will be coming out that would be Medicaid eligible. [LR34]

SENATOR KRIST: Good. Thank you. Thank you, Chair. [LR34]

SENATOR SEILER: Senator Williams. [LR34]

SENATOR WILLIAMS: Thank you, Chairman Seiler. And thank you for being here. I'm going to change directions for just a little bit, something that I'm concerned with, with this. We recognize that we have a significant part of our inmate population that has mental health issues, addiction issues. We're concentrating our efforts and our discussion today has been on providing services to them while they are incarcerated and then services to them upon release and reentry--clearly important things. Part of what we have tried to do in the past year with LB605 is to have fewer of these people coming in the front door to start with--low-level, nonviolent offenders

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treated differently with LB605. That said, in addition to that, I would like to seek your advice and expertise on what are called problem-solving courts. We have a situation in our state where we've used drug courts relatively effectively throughout the system to handle situations with people where they get community-based treatment instead of going to jail, so to speak. And many of us are talking about doing something similar to that with mental health issues. Could you comment on that, please? [LR34]

SHERI DAWSON: I would just say that, you know, in looking at other states and how they're looking at criminal justice and behavioral health interfaces and trying to get out earlier into doing that, in part of our strategic planning process, they've done what they call cross-system mapping, so where are people interfacing to...whether it be law enforcement and emergency, at schools, at...you know, where are folks interfacing and entering the justice system? And again, trying to develop some prevention and diversion kinds of activities. But I think at this point we really need to look at, as a system, where those things are happening to be able to best identify what those solutions are. Is it a court of some sort? Are there more diversion activities that need to happen? Are there some communities services that have reimbursable prevention? I mean, there's a variety of things we need to look at. Certainly, that type of court, I don't know that much about it, to be honest with you, Senator, but those are the things we need to look at. [LR34]

SENATOR WILLIAMS: Okay, thank you. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SEILER: Paul. [LR34]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. One of the things that appeals to me a little bit is the idea of running government like a business. And what we have learned over the last few years is that we got a really broke business. We have mental health problems on the street; the closing down of the regional centers and no substitute facilities provided. We have a real mess in the penitentiary. We've got a broken system. And if the Corrections System is looked at as a manufacturing facility, making cars, and that car manufacturer was putting defective products out on the road day after day with high recall rates, some of those products so

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defective that they kill multiple people, the board of directors would call the CEO and the decision makers, policymakers in and there would be a real serious meeting. And if the policymakers and the administrator said--look it, we don't want to do anything this year, because after all, it's in the middle of our budget cycle and it will mess up our paperwork, we'll wait a year, and then we're going to implement a plan. Well, you know, maybe starting two years down the road, and after that...you know it may take two, three, four two-year cycles for us to do this. And in the meantime, the cars that are on the assembly line we're going to just put them out on the road with the same defects they've always had because we don't have the right wrenches and the right technicians and the right assembly lines in order to fix them. And it strikes me that's not running a business. That business would be shut down. I mean, you just don't do it that way. And when the administrators start talking in terms of meetings and evaluations and analysis, and all it is, is talk. Now I'm going to ask you the \$64 million question. If you, you, not your committee, not your associates, not your commissions, whatever, you were given a direct order to clean up stuff within your purview within six months and a unlimited financing commitment, what would you do and how much would it cost? [LR34]

SHERI DAWSON: Senator, I don't know the answer to how much it would cost. [LR34]

SENATOR SCHUMACHER: Well, you got general ideas; you've been in this business a while. [LR34]

SHERI DAWSON: Yeah. I very much believe...I grew up a superintendent's daughter. I understand budgets that are both...have local and state dollars in there. And the importance of, from a business standpoint, running those budgets in a way that's prudent to taxpayers. I would look at...from a strategic standpoint, which is what I believe we are, you'd have to look at the data, be able to come up with the solution, to be able to find out how much it costs. I don't...I don't know the answer because we are in the process of trying to look at who we're serving, where we're serving them, where are those opportunities. And this is the first time that we're going to be able to do that across Medicaid, the Division of Behavioral Health, and now Corrections. It has to be a data-driven decision. And so I can't answer the question on how much money that would be at this time. [LR34]

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SENATOR SCHUMACHER: If you were on a board of directors, and the executive said, you know, I just don't know; I've been in this business a long time, been hired for this job; I just don't know and I don't know if I can come with anything within six months, I have no idea how much money it was, would you believe the board would consider that to be a satisfactory answer?  
[LR34]

SHERI DAWSON: Well, I didn't...I didn't say we couldn't come up with some solutions. I said I...I don't know how much that costs, because I don't know what the data is going to tell us.  
[LR34]

SENATOR SCHUMACHER: But the data is going to tell...this data has been around for a long time. And common sense has been around for a long time. You've been in the business a long time. I mean, what do we need to do? And as a general thing, are we talking tens of millions of dollars, hundreds of millions of dollars? What...you've done some budgets in the business or the aspect of government you've been involved in. What are we looking at here? We're going to be asked in a few months to make massive tax cuts, massive. As a board of directors declaring dividends out there into the community, before we can declare a dividend we know what it's going to take to fix it, we need to know what it's going to take to fix some of these problem areas, and not ten-year plans like they used to do in the Soviet Union. We need to act and we need to act fast and talk doesn't cut it. And I'm asking you from your perspective, what's your best guesstimate, how fast we can address this if we put the pedal to the metal and what's it going to cost? [LR34]

SHERI DAWSON: Well, and again I'm speaking for our plan for the division of... [LR34]

SENATOR SCHUMACHER: I don't want to hear "our"; I want to hear "your." [LR34]

SHERI DAWSON: The plan for the strategic process that we are undertaking is to undertake it in 2016. So I have the opportunity to look, at a system's level, at our strategic...the strategic planning process. It's got to happen. I can tell you that from what you're saying the opportunity for us to look at how we can get out in front of individuals so that they don't enter the system has to be considered. How do we take dollars from treatment, when we have capacity issues now,



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and move it to get out in front, for example, for prevention efforts? How do we take the opportunity for individuals that are in the regional center to flow differently so that those individuals can be served without a wait list? How do we take individuals coming out of our systems and reentering them so that they will be successful in the community? Those are things that have to be considered in that strategic plan. [LR34]

SENATOR SCHUMACHER: If you were a business, and if this were a business instead of government, and I was a regulator, I'd say then shut your assembly down...line down until this is done. You aren't going to put another car on the road. We don't have that luxury of shutting you down because we're continuing to put wheels and product in your back door and expecting you to spit something out the front door. But this...I mean, this timetable of waiting forever, these are not new problems. Other states have addressed this problem. And what we're trying to do here is avoid addressing a problem so we can pursue other political objectives. [LR34]

SHERI DAWSON: We, Senator, we do serve about 30,000 individuals in the system right now. And there are, certainly, waits. And so I do think that there are services that are helping individuals while we are continuing to work at the strategic plan. [LR34]

SENATOR SCHUMACHER: Thank you very much. [LR34]

SENATOR BOLZ: Can I... [LR34]

SENATOR SEILER: Senator Bolz. [LR34]

SENATOR BOLZ: Just a couple of follow-ups from Senator Schumacher, if I may. The first is, and correct me if I'm wrong, but I think I've seen your strategic plan. I think there's both a strategic plan and a bridge strategic plan. Am I incorrect about that? [LR34]

SHERI DAWSON: We have our current strategic plan which ends December of 2015, so that's coming up. The guidance document, the bridge document that we talked about that's coming out at the end of November, will continue us while we're doing that larger system strategic plan. So you have seen documents. [LR34]

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SENATOR BOLZ: Right. So there is an existing strategic plan. There's a bridge strategic plan. I guess I maybe share some of Senator Schumacher's impatience with the ongoing strategic planning when we can identify real pain points in terms of specific services, in terms of waiting lists, in terms of capacity within the system. So I guess I wanted to make that point. My other point or question for you is can you...and I actually don't know the answer to this question and I'd be curious to understand better. What performance criteria or expectations or outcomes or financial reporting, what are the expectations for the regions in terms of...I mean, you've talked a lot about data-driven decision making and data-driven service provision. What kinds of accountability measures are in existence currently for the regional system? [LR34]

SHERI DAWSON: Sure. And I just wanted to comment on the strategic plan, because this is a unique moment, as I said. In the Division of Behavioral Health strategic plan was the Division of Behavioral Health. The moment that we are at now is to really do that, exactly what we talked about with the financial blueprint, with planning together with the right partners. So we've got Medicaid, the larger funder even more than the Division of Behavioral Health in terms of, you know, a funder of services; also, Corrections. Those strategic plans have not been happening together, so I do say...think there's a difference. [LR34]

SENATOR BOLZ: Well, and I appreciate what you're saying which is you're trying to bust the silos. And I affirm and applaud and appreciate that. I think my other point though is that doesn't mean we haven't identified problem areas, clarified strategies, and made decisions about problems and issues to address in the system already. [LR34]

SHERI DAWSON: Sure. [LR34]

SENATOR BOLZ: And so I think we need a "both and" conversation, not a...my opinion is we need a both and conversation, not a "just wait" conversation. That's my opinion. But I would like to hear the answer to the question about your expectations related to the regions' performance. [LR34]

SHERI DAWSON: Um-hum. We have a couple of different avenues in which we have performance, if you will. You are aware our relationship is a contractual relationship with the

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regions. And so within the contracts, we talk about them participating in our data system. The data system is our center for looking at admissions, readmissions, are people coming out with housing. There's national outcome measures that all of the providers that are regional-funded enter into. So we have, on Tuesdays, we have a data call to look at the national outcome measures, you know, stability in housing, the retention in services, completion, like I said, readmission rates. So there are a variety of outcome measures that we look at. Over this last year, we've been working on what's called results-based accountability where we've worked with the regions and the providers to identify a common set of outcomes that our idea is, in this next year, is to put those into performance contracting, so it has a little bit more teeth to it, if you will, or everybody is on the same page in terms of what we expect for outcomes for the individuals that we serve. And we can, you know, have it at the provider level. [LR34]

SENATOR BOLZ: I appreciate that. And I think your work to create more performance-based contracting is the right direction to go, but I think it's also a conversation that this body should have in terms of our expectations for outcomes from the dollars that are currently flowing to the regions. I think we could strengthen our expectations so that we're getting real outcomes for our dollars. And that's not to insinuate that we're not getting real outcomes now, but I don't think that we've done the work to articulate what our vision, what our expectations are, and what we expect from partnership from the regional system. So I affirm your work and I hope that we'll be able to continue that conversation. [LR34]

SHERI DAWSON: I would just like to add, Senator Bolz, that I do think that there are...we do have challenges and we have to be in those today. But there are also many individuals that get the services that they need and do well and stay in their community. And it is challenging when we do have gaps. But we do have some great outcomes that I'm very proud of and I think the providers do a very nice job. [LR34]

SENATOR BOLZ: Right. I mean that's not a criticism of any individual provider or the outcomes of any individual practitioner's work with any individual person. But I think from a state perspective we really need to have that conversation about what our overall strategic vision is for the use of the regions' dollars. Frankly, data reporting is not a strong enough outcome for me. So

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I don't want to take up any more of the committee's time on this subject so I'll pass the microphone. [LR34]

SENATOR SEILER: Senator Krist. [LR34]

SENATOR KRIST: "Uhh," I think what you heard from Senator--and that's "uhh," u-h-h, for the transcribers--what you heard from Senator Schumacher's comments is the frustration of at least two years on most of our parts being involved with special investigative committees and hearing people sit in that seat and say: my strategic plan, my data-driven, my metrics, my...my...my. And it's getting old. And so I have to...I have to take a page out of Senator Chambers and say, I need to take some time and make some points. I get to go around to fund-raisers and spend time with my colleagues, and I watch as Governor Heineman somehow has reappeared and has threatened to run for Governor. The reason we're in the situation that we are with behavior health, and I will extend that to several other areas--can you close those doors, please--and I will extend that to several other issues is that you have not been allowed in behavioral health to spend Medicaid dollars in the past because an administration wanted to make sure that we didn't spend Medicaid dollars. The debate we've been having over Medicaid expansion or any kind of use of Medicaid dollars is ludicrous. These state taxes have been going to the federal government, they've been going to CMS, and we have not been spending the money. Instead, we've been spending General Fund. I chair a committee that will meet on the 18th of November and we will look at the Forecasting Board's numbers. And there will be at least \$150 (million) to \$200 million worth of less revenue and we will have less money to spend. And I'm going to start out the whole session by saying everybody takes a 10 percent cut, because what we're doing is not identifying any of the issues that have been identified in the past couple years in all the studies that we have done. Where has, in terms of the strategic plan that we got, the eight pages from Corrections, where has any of the fundamental findings of CSG, last year, been incorporated in there? We're going to spend time talking about behavioral health. Well, how? What dollars? What cents? Where are we going to make beds available for people who need to go into those beds? That question has been around for 372 days. And you're sitting in the chair so you're getting my diatribe. But the message goes out to the whole department, to the whole executive branch. We bought...we bought...we brought experts in, I'm told by the Governor, and we need to give them time to make a difference in what they do. We brought in Frakes. We brought in people. We put them in

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different positions. How about let's just take in a little bite at this? How about let's introduce the word "tactical" into your dialogue? From my perspective in my military perspective, we had a strategic plan; we had a five-year plan. But when you got to fight a war, you got to go out and look at tactics involved and have a tactical plan, because you can't just let people die out there or hurt or feel. And I'm not saying it's not happening, that there aren't some success stories, but we've got myriads, we've got bunches, we've got stacks of documentation that says--here are things that need to be changed. Change them. You're going to get around to talk about it. How long are we going to talk about it? Two years ago within a budget cycle, we had money to spend. Last year, we offered--and I wish Senator Mello was here--money to spend. It ain't there; it's not going to be there the next couple of years. Senator Schumacher is absolutely right. The Forecasting Board is going to start taking a turn down the next three or four years. So we're going to have to get smarter about fixing tactical problems and put the strategic plan on the shelf and say--I might get there some day. Now I'm starting to feel like Ernie. (Laughter) The point is, the point is, we have studied it, we have seen it, we have looked at it, we have regurgitated it. And there are still points that I could say, why, if the bill was passed in the early part of last session, why don't we know how many Medicaid-eligible people are in prison right now? And why haven't we bridged that gap and say I can tell you for sure that 30 percent more people are coming out and they're getting their psychotropic drugs when they walk out the door because they're now Medicaid-eligible when they walk out because we didn't cancel them, we just suspended them? That would be a little victory for me, a little battle. Rommel used to say in the desert--you win this one speck of sand, one grain of sand at a time. Tactically you win this. Because when you look at the big picture, it's too much to eat. That elephant is not going to be devoured in one day. And I'm not going to give you a chance to respond to that because I'm just using you as a sounding board for what I need to say. But I think you need to...everyone needs to listen to the fact that we're getting a bit put off by saying--I don't have my strategic plan done yet. So one more person says that to me and I'm going to say, well, we're going to take away the money for strategic plans then and put them back where it needs to be for people. Thank you, Chair. [LR34]

SENATOR SEILER: Anybody? Paul. [LR34]

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SENATOR SCHUMACHER: I'm going to come down from the 30,000-foot level and get into the hangar. A few weeks ago we heard from a very impressive deputy county attorney who brought us some very practical experience and...with what she experiences and how the system is working. And she, unfortunately, is one who is assigned a job in her county attorney's office of dealing with the mental health issues. And I went back and I read the mental health act and how the regions are set up and all that. And it seems that your office is kind of the mental health czar and has a lot of potential power under that act. It was an old act. It's been around for a couple of decades. You're a very powerful person in that system. And here this deputy county attorney described situations: 11:00 at night, she has had an officer pick up somebody who is clearly in need of help and she is...the person is parked on her...literally on her doorstep, down at the hospital awaiting direction for where they go in technical custody of the local police department. And she...the region...the entity the region is contracted with, the hospital, says--we can't take this person, they're too looney, can't do it. She has no place to deal with them and so she ends up parking them in the county jail on some trumped-up charge that she really (inaudible) on filing. Why shouldn't we have a law that says when that person is picked up and injected into the system, they become in the custody of your office and you get the call and you figure out where to park them? [LR34]

SHERI DAWSON: And, Senator Schumacher, with all due respect, through the regions and the emergency system coordinators in my office, we have gotten those calls. And we have 24/7 emergency system coordination in each of the regions. And we have had those calls to do problem solving and find where those individuals can be served. So I understand that in the case that she presented that may not have been the case. [LR34]

SENATOR SCHUMACHER: Can you get me your phone number or the phone number of those people so next time she gets a call from the cops saying we've got a problem case that she can call you and say it's your problem. [LR34]

SHERI DAWSON: We had, after (LR)295 hearing, did have some discussion with the region. And the region, I believe with her and some of the other partners in that area, to try and get the numbers and have the... [LR34]

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SENATOR SCHUMACHER: I had a meeting with her last week. That's an unresolved issue. Can she call you and who can she turn custody over? And do we need a law that says she can turn custody over to the department if the region hasn't provided an immediate placement? [LR34]

SHERI DAWSON: I think the opportunity...I'm happy to problem-solve with her, Senator. She can have my number. There's opportunities in that region to be able to work through this. [LR34]

SENATOR SCHUMACHER: My question, very specific, that is--do we need an amendment to the law that transfers, early in the stage of the mental...of the emergency protective custody process, custody out of the local police department, who really aren't experts in this area, to you or your department, so that she can walk away from it saying, my job as a county attorney is to prosecute crimes, not to hoke up charges to park people in county jails or serve as a mental health coordinator? You're the czar under the statute. [LR34]

SHERI DAWSON: I do not think that you need that law. [LR34]

SENATOR SCHUMACHER: So she can call you and you will take custody. You have the authority to do that? [LR34]

SHERI DAWSON: She can...I don't know that I have the authority under the... [LR34]

SENATOR SCHUMACHER: You don't. Right now you don't, because they remain in the custody of the local sheriff or the local law enforcement person. [LR34]

SHERI DAWSON: There's EPC statute in place. [LR34]

SENATOR SCHUMACHER: Right. And do we need to amend that to say, early in this process your department has custody, it's your problem? And if so, what money will you need to assume that responsibility? [LR34]

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SHERI DAWSON: Senator, I can't say that you need that amendment. [LR34]

SENATOR SCHUMACHER: And so she takes the call and parks the person in the county jail at 11:00 at night? [LR34]

SHERI DAWSON: Again, I think there's opportunities to work through the region and the hospital. And I'm happy to have that conversation. [LR34]

SENATOR SCHUMACHER: Thank you. [LR34]

SENATOR SEILER: Seeing nobody else jumping up onto the chair, that leaves me. [LR34]

SHERI DAWSON: Okay. [LR34]

SENATOR SEILER: I've been watching for three years and it goes back further than that. I was the chairman of the EPC committee for 15 years. And it seems to me we're in a vicious circle. You're on one side; penal is on the other. And all you're doing is passing people around since the 2008 closing of the regional centers. And the lady that Senator Schumacher referred to is the deputy county attorney at Platte County who testified here--excellent, excellent testimony. And it seems like we've got this circle. And yesterday I was trying to talk in terms of breaking that circle and it sounds like the judiciary is interested in doing programming and getting it started. And so that leaves you to break the circle on the other side. Problem is what Senator Schumacher just brought up. People are being...and this county attorney, deputy county attorney laid it out--the 11:00 call. Well, she said the first thing she does is call Mary Lanning in Hastings to see if they've got any openings, and they're usually full. Then she calls Richard Young, and they're usually full. And so in her...I don't know if she is in Region III, but I suspicion she is, making those two phone calls. But if they are full, then she has to go down and charge them with a crime because an EPC patient can't be held in a facility not under the direct control of Corrections, and a county jail isn't. So we've got a problem there. It seems like they're doing these charges and the person just sits. Well, a person that's off his medicine is not a very good candidate to be in a county jail. It seems to me like...let me review that EPC law with you. You got three days to bring them to a hearing. And then you can hold them for seven days without another hearing.



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And that can only exceed a month and then you've got to put them somewhere. Well, my experience is that in a month you don't have them stabilized yet completely. Is that fair? I'm talking the critical people. [LR34]

SHERI DAWSON: Yeah. For a majority the people we serve in the hospitals under EPC and acute and subacute, that's not the case. There certainly are individuals that may not be responsive to medication and take longer to do that. But the average service is much less than that. [LR34]

SENATOR SEILER: What estimate do you have? [LR34]

SHERI DAWSON: I don't have it in front of me. I can follow up with you. [LR34]

SENATOR SEILER: Please do. [LR34]

SHERI DAWSON: But it's in the middle, 10 to 15, in there, but I'll follow up with you. [LR34]

SENATOR SEILER: Okay. But to get them stabilized. Then the question is, where do they go? And I have not seen very many statistics on our community health facilities and whether they have beds available. Now in certain cities I know they do, but over all the state, do you have those statistics? [LR34]

SHERI DAWSON: We have...we have information on the services that are provided by region, by the number of people they serve. So again, a person that's been EPCed and served in the hospital might be at a point where they can go home and have community support or some other service. They may need a more structured, higher level of care and go to a residential; if they need substance use treatment, might go into residential. [LR34]

SENATOR SEILER: Right. [LR34]

SHERI DAWSON: So it varies, but we have a list of the services. [LR34]

SENATOR SEILER: Great. By region...or area? [LR34]

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SHERI DAWSON: Yes. Yes. [LR34]

SENATOR SEILER: Okay. [LR34]

SHERI DAWSON: By region, by provider, we can get that for you. [LR34]

SENATOR SEILER: That would be fine. I'd like to see that and I'll get it out to the committee. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SEILER: It appears to me that what we've got to do to break that is to have a place for them...for you...you're going to get the call, according to Paul. You're going to get the call and...if you don't have the beds available. And it appears that for the critical person picked up at night, it's a real zoo trying to find a bed. [LR34]

SHERI DAWSON: Well, Senator Seiler, I appreciate the deputy county attorney's experience. I do know that we get...our regions do get calls from law enforcement at midnight and are able to have them served and go into the hospital. In those particular instances she shared, that's unfortunate and certainly we need to continue to work at capacity. But there is a lot of calls to our emergency system coordinators that get resolved and a place for people to go. [LR34]

SENATOR SEILER: I believe that. And some of the most critical ones, though, are the ones I'm concerned about that are really dangerous to themselves and others and they are...and finding that they're mentally ill, which is usually pretty obvious... [LR34]

SHERI DAWSON: Yeah. [LR34]

SENATOR SEILER: ...and then the least restrictive position. [LR34]

SHERI DAWSON: Sure. [LR34]

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SENATOR SEILER: And those three criteria have to be met. [LR34]

SHERI DAWSON: Yeah. [LR34]

SENATOR SEILER: And... [LR34]

SHERI DAWSON: Well, one of the opportunities we have for those individuals that are pretty complex, and I think you used the word "violent," if they go to a hospital and they need extra staffing or some other supports for that community hospital, the regions have done that to help support those individuals in the hospital. [LR34]

SENATOR SEILER: I'm not quite aware of that support. But, anyway, do you have a copy of the Nebraska...report to the Legislature, September 2015? [LR34]

SHERI DAWSON: Yes. Diane gave that to me. [LR34]

SENATOR SEILER: Okay. I'm interested in page 3 and that chart. And the committee has had that handed out to them. You make the comment...and I'm interested in your comment on the left...or it's on the bottom, I believe, of your report. And it says the rate of MHB commitments has steadily decreased over past several years, which likely indicates more people are being provided the behavioral services they need earlier and in a voluntary capacity through self-entry into the service system. Do you have statistics to support that or is that just your guess it's what's happening to cause decreases in the population of your EPC? [LR34]

SHERI DAWSON: Well, I think, you know, part of the work that we have tried to do in the emergency system, Senator Seiler, is to put in place some diversion even to EPC, or to get out in front of those individuals in crisis so they don't have to be EPCed. And then of those individuals that are EPCed, are there services in place and are they in a position so they don't have to be mental health board committed. So I appreciate your comment on the likely. We're continuing to look at this. This is actually part of our quality improvement that Senator Bolz asked about... [LR34]

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SENATOR SEILER: Okay. [LR34]

SHERI DAWSON: ...is to look at these numbers and what's going on. [LR34]

SENATOR SEILER: Here's what I think is feeding the system. There's very few programs at the penal side. They're given their set of pills and out the door they go. We pass the supervision program hoping to...when they come out they're supervised, that they stay on their pills. But if they don't and they sell them or throw them away, which most people, once they get feeling normal, they throw them away because they're cured. And you and I both know they're not cured. It's like a diabetic throwing his insulin away. So it appears to me that you've got a steady source of people that are going to be EPCed because they're coming out of the penal without getting the resolution necessary. [LR34]

SHERI DAWSON: Um-hum. I think that's one of the opportunities for us to look again... [LR34]

SENATOR SEILER: I agree. [LR34]

SHERI DAWSON: ...at where folks are coming from that are EPCed; what services have they had; again, are those services needing adjustment; and how can we help support those individuals. So I think, you're right, we need to look at the source of the folks that are EPCed. [LR34]

SENATOR SEILER: Because I think the reason for the decrease is not because they're finding the help as a voluntary. I think the reason for the decrease is that the county attorneys and the police cannot find adequate bedding and they're charging them with criminals and they're going to populate the county jails. That's not just from Platte County Deputy County Attorney. That's from Adams, and I've talked to Buffalo County Attorneys and they're giving me the same story. [LR34]

SHERI DAWSON: Well, again, I think the opportunity, since this is part of our dashboard or our quality improvement, is to take a deeper dive to look at the sources of where those individuals

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are coming from to be able to help us. I don't know that I can totally agree with you, but I do think that we need to take a deeper dive and look at that. [LR34]

SENATOR SEILER: See, if we can break the circle on your side and break the circle on the penal side, this problem can be cured. But if we just sit and watch the circle go round and round, we're no different than we were 15...my God, that's 1975. So it's been around for at least that long as I know it. So I thank you for your testimony. Anybody else? Senator Pansing Brooks. [LR34]

SENATOR PANSING BROOKS: Thank you. I just wanted to follow up a little bit on a couple things. Do you have an opinion about when inmates with behavioral health issues and mental health issues are placed in segregation, how that works for them? [LR34]

SHERI DAWSON: I can't...I'm not an expert in Corrections... [LR34]

SENATOR PANSING BROOKS: But you are on behavioral health and mental health. [LR34]

SHERI DAWSON: Uh-huh. Yes. And I would just comment that certainly, from a trauma-informed standpoint, there are certainly elements of that and I think that's the opportunity we have, again, as the system, to look at the trauma-informed opportunities. [LR34]

SENATOR PANSING BROOKS: And so do you think segregation is a good idea, extended segregation, for people that have mental health and behavioral health issues? [LR34]

SHERI DAWSON: Senator, I... [LR34]

SENATOR PANSING BROOKS: It's a yes or no question, pretty much. Do you believe it's good for people with mental and behavioral health to be in segregation? [LR34]

SHERI DAWSON: From a hospital standpoint, there are individuals that have crisis that have to be away from other individuals for them to be successful in de-escalating. [LR34]

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SENATOR PANSING BROOKS: Okay. But do you believe extended periods of just putting people into segregation with these mental health issues is a good idea? [LR34]

SHERI DAWSON: I think you...I think the extension...the issue that you have with time, I don't think...we always want to have the least restrictive and for the least amount of time for that individual to respond. [LR34]

SENATOR PANSING BROOKS: Okay. The reluctance for you to answer that question is quite disconcerting for me, because this is indicative of protectionism and making sure that Corrections is being protected, that your area is being protected. I don't understand that. And the discussions of further strategic plans, I went through so many strategic planning sessions in fund-raising and...for non-profits and every time we got through with a day-long strategic planning process, we came up with two things: "friend raisers" and "fund-raisers." Those are the two things that non-profits need the most--friends and funds. And I'm going to bet that whenever you finally get done with this process...and to me, for the safety of our people in the state of Nebraska, I would prioritize it and have it done next week. If Corrections and Health and Human Services cannot come together and make a plan, then you're deciding that the health and safety and welfare of our citizens in Nebraska is not worth deciding until the next biennium. I don't understand that. To me that is...if I were the boss, which, obviously, I'm not, I'd be saying--get in there now, solve this now; don't be telling me 2016 or some other biennium is a really good time to sort of make these decisions for the people in the state of Nebraska. And I'm sorry to be sort of strongly stating this with you. You're, obviously, being directed by people to answer and how to answer and how not to answer. And that is very discouraging. When you consider the work that's being done by a bipartisan group of state senators that has been going on for years and now new people are coming in, it's clearly "push it off" and "strategic plans"--oh yeah, that's important to do some more. What was the summary of the 2015 strategic plan that you mentioned? What was your plan and what did you decide? And I don't see it in front of me, so what did the 2015 strategic plan tell you to do? [LR34]

SHERI DAWSON: There's three goals that were in the strategic plan. [LR34]

SENATOR PANSING BROOKS: Okay. Good. [LR34]

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SHERI DAWSON: Actually there were four...three. One was to look at the co-occurring and the capability of the system to provide co-occurring and recovery-oriented services. We've had growth in our co-occurring capabilities so that individuals that come to be served with both mental health and substance use disorder will be able to be served in a more whole-health way. And we've made some progress and done some work with that. [LR34]

SENATOR PANSING BROOKS: What progress has happened then? Thank you. [LR34]

SHERI DAWSON: For the co-occurring? [LR34]

SENATOR PANSING BROOKS: Um-hum. [LR34]

SHERI DAWSON: We have implemented a tool. It's called the COMPASS EZ. It was done by each of the providers to really look at their co-occurring capability from the git-go. We have remeasured that and the capability has increased. We've also done training so that the individuals are able to be more competent in the delivery of co-occurring services. I know other examples... [LR34]

SENATOR PANSING BROOKS: Okay. [LR34]

SHERI DAWSON: ...that you might want. [LR34]

SENATOR PANSING BROOKS: And what else was in the strategic plan? You said there were four things. [LR34]

SHERI DAWSON: Uh-huh. And then we also looked at the financial mechanism. So when we first started, the Division of Behavioral Health was really not utilizing telehealth, for example. We have a behavioral health workforce and being able to finance that and do that differently; to also come up with some flexible funding mechanisms to be able to serve individuals. The third one was to really look at the regional center and reliance and capacity there and flow. We're still having challenges. But we also have made some improvements in the service array that exists in the community services. And I just want to say that the health and welfare of the individuals that

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our division is responsible for serving is paramount and I do care about that. And we do have efforts to continue to move the system forward. Awaiting a strategic plan does not mean that we are not actively looking at things on an ongoing basis and trying to problem solve and move the system forward. [LR34]

SENATOR PANSING BROOKS: But there's no offers of what's needed. What kind of money is needed? What do you need to do? Do we need to hire more staff? Do we need to hire professionals? Do we need to increase the salaries so that we can pay for specialized nurses that are trained in this? If we pay more, we can attract them. [LR34]

SHERI DAWSON: Uh-huh. And those kinds of conversations are happening, Senator. [LR34]

SENATOR PANSING BROOKS: So do you believe that we need to pay more? [LR34]

SHERI DAWSON: It's just, I don't have...I don't have the depth of the specific to say I recommend we have these many dollars go to this solution. I am not at that point yet. [LR34]

SENATOR PANSING BROOKS: But you've worked there for at least five years now and so you, of all people, have more experience than anyone in this area. [LR34]

SHERI DAWSON: The regional centers, for example, are new to me. While that we existed in the same Division of Behavioral Health, that responsibility was not there. And to be honest with you, we were very siloed. So trying to bring the integration of the community services and the regional centers, while I have worked there, it is new and this is a new moment. [LR34]

SENATOR PANSING BROOKS: It's just discouraging. It's not you. It's what's happening. And thank you for your time today. And I can't tell you how discouraging this is. [LR34]

SENATOR SEILER: Senator. [LR34]



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SENATOR SCHUMACHER: One very quick follow-up: Will you provide my office with the phone number for this emergency system coordinator and your personal contact information? [LR34]

SHERI DAWSON: Yes. [LR34]

SENATOR SCHUMACHER: Okay, because this is what I'm going to do. I'm going to tell that county attorney that next time she finds herself in this predicament she calls the emergency system coordinator number and if they don't give her immediate placement for her problem, she call me. Don't expect you to take a call that I won't take at 2:00 in the morning. I've taken plenty of those when I was county coroner, went out and picked up a few bodies. And then I'm going to call you and I'm going to expect you to have immediate placement. And if you can't provide me with that--the Governor did give me his personal mobile number--I'll call him. So her problem is going to be solved today. [LR34]

SHERI DAWSON: Senator, I appreciate the opportunity to work with her and to identify the resources that are available. [LR34]

SENATOR SCHUMACHER: So...okay, just...I don't want to ask you for phone numbers on the microphone here,... [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SCHUMACHER: ...but I'm going to solve her problem today. [LR34]

SENATOR SEILER: I have one follow-up question. On the data that you've gathered, have you been able to secure records from the county jails or the jailers or the sheriffs? It would seem to me like your region people could pick that data up pretty quickly. [LR34]

SHERI DAWSON: You know, that's one of those opportunities again with a memorandum of understanding, Senator, that we...to be able to share that data across systems, and I certainly

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think that there's the opportunity from either the state level or with the regions on a local agreement to be able to look at more. Are you talking about the EPC? [LR34]

SENATOR SEILER: We've got to have that data. We've got to know what's out there. We can't have people getting killed because of our lack of knowledge and our ability not to take steps. [LR34]

SHERI DAWSON: We do have... [LR34]

SENATOR SEILER: The last one is the same data from the Department of Corrections and I'm sure you've got access to that. [LR34]

SHERI DAWSON: Uh-huh. Uh-huh. We do have our regions that do have services that they do go to the jail to do assessments and assist with medications and those kinds of things as well. [LR34]

SENATOR SEILER: So you have the people in contact. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SEILER: But we just need the data. [LR34]

SHERI DAWSON: Uh-huh. [LR34]

SENATOR SEILER: Okay. [LR34]

SHERI DAWSON: Need some agreements to be able to share. [LR34]

SENATOR SEILER: Any other questions? Thank you very much for your... [LR34]

SHERI DAWSON: Uh-huh. [LR34]

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SENATOR SEILER: ...coming and testifying. It's very helpful. [LR34]

SHERI DAWSON: Thank you. [LR34]

SENATOR SEILER: Dr. Lisa Jones. Welcome. [LR34]

LISA JONES: Thank you. [LR34]

SENATOR SEILER: You may proceed. [LR34]

LISA JONES: (Exhibit 2) Okay. Good morning, everyone. My name is Lisa Jones, L-i-s-a J-o-n-e-s. I am currently the behavioral health administrator for the Nebraska Department of Correctional Services. I have been serving in this capacity for the past two months, so keep that in mind when you are coming up with questions. But I really am grateful to be able to have an opportunity to come before the committee and share some information about what we're doing within Behavioral Health. This is clearly a passion of mine. And I do think there are a lot of positive things going on that I would love to be able to share. I have been asked to kind of cover some topic areas today, and I have provided some information in those areas and I'm going to be happy to share that and answer any questions that I possibly can. But before I do that, I would like to share just a little bit about myself, who I am, where I'm coming from, and the approach that I'm bringing to behavioral health services within the Department of Corrections. Prior to becoming the Behavioral Health administrator, I served as a supervising psychologist within the department. Sorry, I'm realizing that you'd asked me to do this. I did serve in that capacity for five years and that basically involved me traveling to each one of our institutions across the state and being able to interact with our inmates and then also our staff in each one of those institutions. As Behavioral Health administrator, that is going to remain a very integral part of my role and a priority to me, because in order for me to best advocate for our inmates and our staff, I need to be able to communicate directly with them. And I have found that over the last five years the best way of communicating with the inmates and staff is being present, being available, being approachable, and then also being responsive. And so that is something that I will continue to carry over in this position. Prior to my work with Corrections, I worked in private practice for 13 years. I conducted forensic evaluations for the courts and in that capacity I

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often became very disheartened. When I would do an evaluation with an individual and I would determine that they needed treatment, I would be disheartened because they would get sentenced to prison. And like many others who are not within the Department of Corrections, I believed back then that there just wasn't any treatment available and that indeed another person would go unserved. Because of that belief and also because of my...just my experience working within the legal system and finding more and more individuals with mental illness being placed in our jails, which is heartbreaking, I decided to pursue a career within the Department of Corrections. And when I began, I was very pleasantly surprised at the amount of treatment and programming opportunities that we are actually providing and then also with the level of competency of our providers. I have been very, very impressed with that. Being in the trenches, so to speak, of Corrections for the last five years, I feel like I've had a good opportunity to observe things that are working well and to observe things that are working not so well. I feel like I've been able to see areas in our system where we're working really well together and areas where we are continuing to function in those silos that need to be broken down. One of the visions that I have for Behavioral Health is just to continue to work towards complete integration of care. The prison population that we work with is the most difficult client population that I have ever worked with. The difficulties come because, as Sheri was saying earlier, these are very, very complex cases. These are not individuals that come in with one problem and we deal with it and we move forward. They have multiple problems, layers upon layers. For example, in substance abuse it was not uncommon for me to be meeting with somebody with one of the most severe addictions that I've ever seen but then also find out that they have mental health issues, they have chronic medical issues, they have traumatic brain injury, and they have a wide variety of different reentry problems such as being...having to register on the sex offender registry, being homeless, not having any social support. So again, integration of care is critical. If we are going to be working with this very, very difficult population, we have to continue to come together as providers and work as a team. One of the other things that I continue to share as a vision for Behavioral Health within the Department of Corrections is providing best practice approaches and finding the different kinds of treatment approaches that work best within our prison population because, once again, this is a very specialized population. One of the focus areas that I have been able to look into over the last couple of months is our Discharge Review Team. That is a team that literally places a microscope on top of our most high-risk, high-needs, violent offenders. And with that review team in place, we are monitoring these individuals and making

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sure that they are getting the treatment that they need while they are incarcerated, in addition to making sure that we have a good solid plan for what's going to happen to them when they are discharged. That team is really quite an amazing team and I'm really glad to be part of the work group for it. I support the work that they're doing in evaluating, identifying and evaluating these very high-risk, high-needs inmates. It's a difficult job and it's one that we take very seriously, obviously, for public safety reasons and then also the reasons for getting these individuals the help that they desperately need. The Discharge Review Team is a multidisciplinary team. We consult with psychologists, social workers, sex offender treatment providers, substance abuse treatment providers, as well as our unit staff, our administrative staff, our security staff. This is a group effort and we're grateful to be going out into each of our departments and in each of our institutions, and actually presenting on our Discharge Review Team what we are, who we are, who to identify and who to call when you need to, providing those numbers--absolutely very important for us to be very visible. And so that's one of the things we're doing with that right now. The other thing that we are doing is we are looking into...we want to have a risk management consultant come in. We want somebody else from the outside to come in and look and make sure that our policies and procedures that we're developing in this very, very critical place for the department are following national standards. In terms of some of the questions that were posed to me, I was asked to comment on the adequacy of funding...adequacy and funding history of programs designed to rehabilitate our inmates. And again, I've only been in this position a couple of months so I will say my knowledge is limited when it comes to budgetary issues. That is something that I have not been exposed to at the level that I am now, and so my knowledge base there is pretty small but I'm getting there. I am familiar, though, with staffing issues and I am familiar with the level of work that our staff are putting out. I see people running around and working so very hard to make sure that they are covering all the areas that they need to be covering and that they are meeting their clients' needs to the very best ability. So I definitely see those staffing needs. I think that Sheri had indicated, too, that, you know, we're competing for mental health practitioners with other departments within the state of Nebraska. We're also competing with the private sector and that makes things very difficult in terms of the recruitment. But that is one area that I know we're focusing on also is recruitment and retainment of these very critical providers within our system. I'm going to be commenting a lot on Dr. Gage's report throughout my testimony this morning, just because that's been such a useful tool. Coming into this position, especially for me, it's been extremely useful in helping me to get some

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focus. And in the area of staffing analysis, I think Dr. Gage put it very well that he was able to kind of identify different full-time employee positions that we may need to look into but also recognizing that there are a lot of places that we do have those needs already met. And those are things that I'll be working with Dr. Wetzel and Dr. Kohl, our deputy director for Health Services, I'll be working with them on. In regard to distinguishing, the second part of that first question was distinguishing between programs and treatment, and I definitely think there is a place within the Department of Corrections for both. And when we are talking about treatment, we're talking about services that are provided by licensed professionals. When we're talking about programming, we're looking at services that are provided...that can be provided by nonlicensed individuals but completely trained. One of the things Dr. Gage pointed out was there are some services that we have within the department that are being led by clinical staff that we may be able to pull in some other staff, train them, nonlicensed staff, and be able to use them to help us in those areas, and therefore, it would free up some of our clinical resources to focus in more on some of the severe mental illness that we are being faced with. I don't know exactly what all that is going to entail at this point in time, but I do know we have trained individuals that are nonclinical staff and clinical staff in terms of domestic violence groups, and we do have those groups up and running right now in three of our different facilities. And those groups are being co-facilitated for the very first time by a clinical staff partnered with a nonclinical staff. So to me that's a big step, I think, in a right direction. I'm really encouraged about that. We have a lot of unit staff who are incredibly talented and very dedicated to working with the inmate population, and they will do a wonderful job in this capacity. So I'm excited to see where all this leads. You're going to hear later from Deputy Director Rothwell, a philosophy of moving more towards a system that is program-driven as opposed to bed-driven--just putting somebody where they need to be because the bed is open. We are going to try to be very intentional about that because we know that if we are able to get people where they need to be and give them the treatment that they need from the front end of things, it's definitely going to facilitate the whole reentry process and then also set them up for success within the community. Dr. Wetzel and I are also looking into a mental health classification system right now. This is going to be looking more at mental illness and level of functioning, which is something that we're really excited about because, once again, it's going to help us to really focus our treatment efforts on the individuals who are at highest risk and highest need for them. I was asked to give my thoughts on the overlap between mental health, behavioral health system, and the criminal legal system. And as I mentioned

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earlier, that's why I'm here within the Department of Corrections, is because for years I saw it happening and found it very heartbreaking to see but it's a reality and it's not inherent in Nebraska. I mean this is happening nationwide. And again, to me, it's a very heartbreaking situation to see somebody who clearly needs mental health treatment and they're being put in a jail to house them. That is a very sad situation. So that is something that I definitely see a lot of overlap. I definitely support efforts surrounding--Senator Bolz, I believe you were the one discussing this--LR295, examining ways that individuals could potentially be diverted out of the prison system and allowed to have that mental health treatment prior to becoming involved in the system. I know Dr. Lukin, Mark Lukin, was able to attend one of those discussions and I know the department is very willing to continue to be available if that's helpful in that area, because we definitely support that. One side note in terms of how we are working as a behavioral health system to address the needs of our inmate population and hopefully keep them out of the criminal legal system is our work with social work. I've been so very impressed with the social workers that we have. That's an area of need I see that we could have...we could probably have ten more of them and keep them very busy, because they are very busy going from institution to institution, helping to make plans for individuals as they are discharging, to make sure that they do have those appointments set with their mental health provider, to make sure that they do have a place to go get their medications and that they're going to have some funding in place to do that. We work really hard at trying to, you know, facilitate that reentry as much as we can. We also have some wonderful reentry specialists that I'm just getting more familiarized working with and I'm really encouraged about the way they are not only working within our department to help these individuals as they reenter the community but how they're partnering with the community to ensure that, indeed, the places that we are sending them are working well with us and are aware of the needs that our inmate population has. As I said earlier, I have been referring to Dr. Gage's report a couple of times already and this was one of the questions that was posed to me was to provide my thoughts on the review of the department's behavioral health services that was conducted by Dr. Gage. And again, I have found it to be a very useful tool. When reading it, I definitely found some of those areas where I'm like, I know, that's been a problem that I've seen for a long time. And I'm so excited to see that it's being targeted and now we're working on that. I really liked his suggestions in terms of trying to help us really focus our service delivery again on making sure that we are looking at the needs of our highest risk offenders and the mentally ill. There's a lot of talk in the report about finding the data, and I do think we need some of that in

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terms of...especially when it comes to program adherence and quality assurance for our programs, to follow up on that and see, indeed, are we offering the very best practice treatment approaches again within the prison population and are we adhering to those treatment protocols. So I think those are things that we are definitely going to be doing. Again, I'm coming from the substance abuse treatment side and I know, for the time that I was within that department, we always did exit evaluations to see what our inmates were saying about our programs and trying to get that information in place so that we can incorporate that into our service delivery. That's something that I don't know if that's being...if that's happening in other programs, so that's something I'll be looking into and I believe that was one of the things that, again, Dr. Gage was saying we need to look more closely at. Right now there's a lot of work to be done, obviously, but I really am excited about the area of our mental health, mental illness hub, so to speak, that is being created at the Lincoln Correctional Center. This is really allowing us to focus our resources there and not only focus the resources but allow the individuals with the severe and persistent mental illness to have more of a transition from different custody levels into a less-restrictive custody level. And ultimately, we're hoping to help them move forward into the general population. That, to me, is very exciting as it is concerning about all of the research that we are hearing about in terms of restricted housing units and how that affects individual's mental health. We've known that if we are transferring our inmates, it definitely can destabilize some of them. And so once again, by focusing these treatment efforts at one facility, we are putting our efforts all there so that we don't have to be transferring individuals across institutions, because, again, it can be very destabilizing for people with mental illness. So I'm excited about that. I think that's a really positive step and a good direction. One other thing that I'm excited about is that we are in a position now that we are moving more towards this mission, housing style with our protective management population being located now solely at Tecumseh. We're going to be able to offer treatment, programming for protective management, protective custody inmates that we have not been able to do before. This is going to begin in January of this next year and, again, I'm very excited about that. We are working. Right now the unit does still have some general population individuals on it that we are working towards having them graduate and get through the program, and then we will be moving in the protective management inmates and providing them treatment, residential substance abuse treatment. The last area of question was directed towards my thoughts on Restricted Housing Unit Working Group. We do have that work group that was established. We had our first meeting on September 15. I was excited to be part of that group. I



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didn't really know exactly what was going on that day because I had been in practice I think for ten days by then, but going into it I was really excited because there are individuals that are from the community that are on this group and so they're able to give us kind of that community perspective of how individuals are looking at restricted housing and different ideas for ways to approach that. We have the VERA Institute that is coming in and they are also consulting with us as a department for just giving us ideas about that "Alternatives to Segregation" is the way their project is worded. So we're looking into that. I know that we already do have a couple of more work group meetings scheduled so that we are able to continue to move forward in those time frames that were established in LB598. I'm sure some people have some questions, and so I would definitely welcome that at this time. [LR34]

SENATOR SEILER: Before we start the questions, we have a witness, Dr. Wetzel, that is only available this morning. So I'd like to be able to finish our questioning of this witness by a quarter after so he has 45 minutes. For the people that were at Omaha and heard him give his talk, I want to see if he can duplicate the quality he did before. So I'm not trying to protect you, Doctor. I'm trying to work in Dr. Wetzel. [LR34]

LISA JONES: I think that's a good idea. [LR34]

SENATOR SEILER: Go ahead, Senator Coash. [LR34]

SENATOR COASH: Thank you, Senator Seiler. Thank you, Dr. Jones. I appreciate your testimony. And I will give you deference. You've been here two months? [LR34]

LISA JONES: Yes. [LR34]

SENATOR COASH: So the first question that the committee wanted to hear from you that I understand you're not able to fully give that, but it's on the adequacy of programming treatment. You weren't really able to answer that. You just went right into staff shortages and staffing issues. I don't have a crystal ball but I would ask you to revisit that question,... [LR34]

LISA JONES: Okay. [LR34]

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SENATOR COASH: ...because we do want to know your clinical opinion on the adequacy of what's being provided within the walls... [LR34]

LISA JONES: Okay. [LR34]

SENATOR COASH: ...of prison. Okay? And you weren't able to...you didn't...I mean I was reading it very carefully and I understand you're not able to give us that answer. But here's what my crystal ball says. You're going to be directed to come back and say, everything is fine, we got plenty. But I hope that your clinical, ethical compass will guide you in answering that question about what's adequate. So I'll just leave that. But I want to talk a little bit about treatment and programs inside the walls and outside the walls. And I'll just tell you what I believe and then I want you to just give me your...I'm not...you're the doctor, so I'm interested in your opinion on this. I think that there's value in treatment and programming within the walls as an inmate management tool, a safety tool for them and for the Corrections officers. But I do believe that skills are best learned in the environment in which you're going to use them, right? So all the treatment that's happening within the walls has to translate into behavior outside of the walls. [LR34]

LISA JONES: Uh-huh. [LR34]

SENATOR COASH: And I'm more and more convinced that we need more outside the walls than inside because that's the environment where you're going to learn the skill. But I was hoping you'd comment on it. [LR34]

LISA JONES: Sure. Sure. I believe that if you were referring back again to the adequacy of our programming, the one area that I did state something about in that is that I've been very surprised at the amount of treatment and the level of competency of our providers, so. And that's not directed by anybody for me to say. That's what I've been saying since I started with the Department of Corrections in 2010, been very pleased to see that. Can we improve? Do we need to grow? Absolutely. Absolutely. And I have some ideas for those things and I'm excited to be in this position to hopefully be able to implement some of them. In terms of the issue that you were indicating about treatment within the walls not being necessarily applicable for an individual

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when they are released, there is some merit to that. However, I do believe a lot of the treatment...and again, I'm going to be speaking primarily from substance abuse because that's my primary base of knowledge at this point in time. But the skill set we're teaching these individuals, we're looking at criminogenic risk factors. So we're looking at criminal thinking and being able to address that, and we are also looking at relapse prevention. We're looking at those mental health issues, making sure they're identified, and helping that person to know about their own mental health needs and issues and what they're going to need to do when they get out. So I see it as a real catalyst for the treatment that then needs to occur when they do get out. And do I see a need for that? Absolutely. Absolutely. I was also practicing in western Nebraska and so I know the resources are very limited in our rural areas. So there are more needs for individuals that are releasing, especially to western Nebraska where there's not a lot for them to become involved in. And I don't know exactly how to solve that problem other than just continuing to try to work with the treatment providers in the communities that we are already kind of partnering with and exploring new options. That's one of the ways our social workers have just been invaluable to us. [LR34]

SENATOR COASH: Thank you. [LR34]

SENATOR SEILER: Senator Pansing Brooks. [LR34]

SENATOR PANSING BROOKS: Thank you for your testimony. And thank you, Chairman Seiler. I appreciate some specific things and some admissions that not everything is perfect. That's sort of refreshing after the past couple of days that there could be some areas where we could improve some things. I'd like to ask you the same question about segregation and I'm interested...you must have seen it. Having worked in Corrections, you must have seen people with behavioral mental health disabilities in segregation, did you not? [LR34]

LISA JONES: I have, very limited, where I have been, housed for the most part have been our residential treatment communities for substance abuse. We do provide co-occurring treatment within each one of those and that was my role, to oversee it. But from the last couple of months that I've been doing tours and trying to get more up to speed on the mental health side of things, the sex offender programming side of things, I have definitely seen the units at Tecumseh and

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also toured the Lincoln Correctional Center. And so I'm familiarizing myself more and more with that process. [LR34]

SENATOR PANSING BROOKS: Okay. Then do you have an opinion about people with mental health and behavioral health issues being placed in segregation? [LR34]

LISA JONES: Yes, I do have an opinion. [LR34]

SENATOR PANSING BROOKS: And what is that opinion? [LR34]

LISA JONES: I do not believe that is the best thing for their mental illness. However, I also have been working within Corrections for the last five years and see the need to protect our staff and to protect the inmates themselves, you know? So it's a really...that's more of a complicated question than it seems. Do I think mentally ill individuals should stay long periods of time, I think was the other question you were asking, in a segregated unit? No, I don't believe that's best for their mental health and that's why we are working towards evaluating those individuals and making sure they are moved to the appropriate placement, again, becoming more of a program-driven place instead of a bed-driven system. At the Lincoln Correctional Center, we have developed a secure Mental Health Unit. It's a 34-bed unit that is for the most violent and dangerous individuals that do have those mental health issues and need to make sure that those issues are being addressed. That unit is full. We do have individuals transitioned over there. And this has actually been going on longer than just the last year or so. But we focus our efforts there now. The other unit that is at the Lincoln Correctional Center is our Mental Health Unit. And so going back to Dr. Gage's report, he talked about a step-down type of a program to help our mentally ill individuals transition back into the most...least-restrictive environment and the general population. And so we have a system in place now where those individuals are in our secure Mental Health Unit and they are able to step down in a program's levels system and move towards that Mental Health Unit side where they gain more and more access to, you know, recreation. They have more out-of-cell time, those kinds of things, and then ultimately, hopefully, to the general population. Although we know there are individuals that most likely will never be able to completely transition to a general population. [LR34]

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SENATOR PANSING BROOKS: If we had more time, I'd ask the difference between the program-driven and the bed-driven plan, but I do want to have...do you feel that we're handling the number of people...it's...from the previous testimony, it sounded like we've got the Lincoln Regional Center, then you mentioned Lincoln Correctional Center, which is why I'm semiconfused about where we are placing people with behavioral mental health issues, because I keep hearing both. And then we've got people at the penitentiary. We've got people all over with mental health issues. [LR34]

LISA JONES: Uh-huh. [LR34]

SENATOR PANSING BROOKS: Do you believe that we're handling that whole pipeline of mental health issues appropriately in how we are placing them? Do we need different moderate-care facilities or how is this...and what's happening in other states as far as that? [LR34]

LISA JONES: That's a very good question. I don't know as much about the research in all the other states. I have been reading up on things as much as I possibly can just to, again, kind of get myself up to speed. But I do...I do see people working towards that. Is it perfect? No. But these are...again, they're such complex cases. You can have an individual who has a mental health issue, and...but they're functioning okay and they're fairly well stabilized. They don't need to be in the Lincoln Correctional Center. So even though they may have a major mental illness, they don't need to be there and taking up a bed that somebody, who is not functioning well and who is more destabilized, needs to be in. Those are all things that we're looking at. It's definitely going to be a process. But I see the efforts being made and I also see the efforts being made as a team in terms of us working with our administrative staff, again our unit staff. They will contact us and let us know that they have a concern about an individual. And so then we have our mental health practitioners or a psychologist evaluate them and then we have our mental illness team review them. And if they need to be moved, then we move them. And so I see this as a process that we're going to just continue to need to hone and look into some of that research that you're talking about in terms of other states and what they're doing. [LR34]

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SENATOR PANSING BROOKS: Well, I hope you might consider coming back and talking to us again, because since we're limited on this time, unfortunately. But I think you have some valuable insight on some things, so. [LR34]

LISA JONES: Thank you. [LR34]

SENATOR COASH: Thank you, Doctor. [LR34]

SENATOR PANSING BROOKS: Thank you for your time. [LR34]

LISA JONES: Thank you. [LR34]

SENATOR COASH: Senator Bolz. (Inaudible). [LR34]

SENATOR BOLZ: (Laugh) Briefly, the last information that I have, which is from March 2015, has some concerning mental health staff to inmate ratios, the most concerning is Tecumseh has 113 to 1; DEC is 76 to 1; OCC, 63 to 1. And to be fair, that is mental health staff to inmate ratio, not necessarily mental health staff to individuals with mental illness ratio. Regardless, given the high number of people with mental illness in these populations, I think that's concerning. It would be valuable to me and I think to the rest of the committee to know any progress that's being made on those ratios. Similarly, the last information I have had 195 people waiting for treatment or programming even though they were parole eligible, and 551 people on the waiting list as a whole. So some updated information on the status of all of those numbers... [LR34]

LISA JONES: Uh-huh. [LR34]

SENATOR BOLZ: ...would be valuable and any information that you can provide about how you are working towards knocking down those numbers would be important to me. So I know some other committee members want to get a question in, but I want to put that request out there. [LR34]

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LISA JONES: Okay. Is that something you want me to answer now or you would like me to provide you information? Is that what... [LR34]

SENATOR BOLZ: If you have a quick answer now, that would be great. Otherwise, I think there are some other committee members who want to get a word in. [LR34]

LISA JONES: I can comment on that. We're really excited. We have gotten two psychologists that are very well seasoned, very knowledgeable, competent individuals. We've hired them for Tecumseh and that is very encouraging. I think they will be a real stabilizing factor for our mental health providers there who have been just working tirelessly, literally. There have been two mental health practitioners there at Tecumseh for the last couple of months and so we're so excited to have those psychologists on board. We still have openings in Tecumseh. It's very difficult to get these to Tecumseh and our Work Ethic Camp at McCook and NCCW, which is also down in staff right now. It's difficult to fill those positions, but we're working on those efforts and trying to recruit individuals in some creative ways. We're doing different things like that to try to get individuals to come in and then, like I said, to support them when they do get there with those stabilizing factors, like the psychologists that are going to be there. In terms of numbers with waiting lists, I cannot comment specifically when it comes to any waiting list except for substance, and that I do know because that's what I've been doing for the last five years. We recently had to look into that in terms of the numbers of individuals who had come through our program and graduated after the parole eligibility date. And in the time frame that I was given, which I believe was a year but I'm not 100 percent sure, and I can get that information for you, there were 54 individuals that were past their parole eligibility date out of over 300 that had gotten through our program. Out of those 54, I believe there were 32 that had gone past their parole eligibility date because of misconduct issues, meaning their behavior had gotten them into a unit where there was not programming offered. And the remaining individuals, there were a couple that just did not apply until later and that may have been just kind of a motivational thing. I don't know for sure. And the remaining I don't remember for sure. But those are things we are looking into. We do want to see our individuals get their programming before their parole eligibility date. Is that a perfect system? No. But are we working on that? Yes. [LR34]

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SENATOR COASH: Thank you, Mr. Jones. We're going to let Senator Mello get the last question before we bring up your colleague. [LR34]

SENATOR MELLO: I'm going to try to ask you about seven questions then and give you the ability to answer them, Dr. Jones. So thank you. In the Gage report, there was a specific item that referenced a disagreement with the Department of Corrections, conservative estimates on the number of individuals who have mental illness. Do you agree with the Gage report's assessment that it's closer to 15 percent of the population has a mental illness in comparison to the 2 to the 4 percent? [LR34]

LISA JONES: Yes. [LR34]

SENATOR MELLO: Okay. [LR34]

LISA JONES: I believe that's completely an informatics kind of issue that we're also working on and desperately needs to be in place. [LR34]

SENATOR MELLO: Can you give us a little background numberswise--if you can't, can you provide it to us after the hearing--the number of job vacancies that are directly related to mental health positions in your division? I know we've heard extensively, over a number of years, the number of vacancies in the Department of Corrections but primarily there's been a focal point in regards to the behavioral health and mental health areas in staffing in Corrections. Can you give a ballpark estimate? [LR34]

LISA JONES: I can per facility. I know at Tecumseh right now I believe we still have two mental health practitioner openings. At York I believe we have two mental health practitioner openings and a psychologist position open. Those are our big areas of focus right now because they are so down in terms of their staffing. In general, there's always staffing deficits, but those are our two biggest areas of concentration right now. And I would be happy to give you any information on vacancies for all the departments. [LR34]

SENATOR MELLO: That would be great. [LR34]



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LISA JONES: I can do that. [LR34]

SENATOR MELLO: An item regarding the Discharge Review Team, the former LR424 did an awful lot of work reviewing the Discharge Review Team process, and particularly relates to Nikko Jenkins. Your written testimony says that you are in the process of having a risk management consultant review. Your verbal testimony said you would "like to have" a risk management consultant. It's a fairly big difference of saying you're... [LR34]

LISA JONES: Yes. [LR34]

SENATOR MELLO: ...having one or you'd like. Can you clarify what really is going to happen, so to speak, with this risk management consultant? [LR34]

LISA JONES: We are in the process of finding the individual that we want to contract with. That's where we're at. [LR34]

SENATOR MELLO: Okay. That's a good clarification, so thank you. [LR34]

LISA JONES: Sorry about that. [LR34]

SENATOR MELLO: One real last item regarding the Discharge Review Team: As you said that you're focusing on developing and implementing the Discharge Review Team processes more, what kind of independent oversight is built into this process to be able to give a non-Department of Corrections staff perspective in regards to what these Discharge Review Teams are actually providing as their final report? And I give a little context as quick as I can that we saw this specifically with the Nikko Jenkins case that Department of Corrections' staff were very vigilant in regards to this is our interpretation, this is our evaluation, and we're moving forward, regardless of anyone else's opinion in that specific case. And there appears, just to some extent, that there's not an outside perspective that may challenge a psychologist's opinion or professional evaluation of an inmate. Thus, they just go through the process and the Discharge Review Team says this is what we agreed to, this is the process and the services that this individual needs. And that's going to be the final verdict, so to speak. Have you built in any independent oversight or

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any independent evaluation as part of this, or is it still simply driven from the Department of Correctional staff perspective? [LR34]

LISA JONES: At this point in time, what we have done is expanded from just being a part of mental health to incorporating social work and to incorporating substance abuse and sex offender services and our unit staff and security staff and administrative staff. It is a very serious role that we take. In terms of outside people having oversight into that, we do consult with the different sheriffs and the different counties when we're providing information, so we're consulting with them. But that's more of us giving them information at this point in time. [LR34]

SENATOR MELLO: So there's not really...and I guess maybe this is a follow-up with our Inspector, the Office of Inspector General for Department of Corrections. It's maybe a conversation we can have off-line in regards to how is it we can provide some independent review, maybe not oversight but independent review of how these Discharge Review Team plans are developed, processed, so to speak, moving forward. Last item relative...really, really quick, and you just mentioned it and you said it earlier, that inmates who are primarily being released back into rural Nebraska are having a challenge or you stated that you see challenges in regard to them being able to have adequate resources available to them, primarily as it relates to behavioral mental health. What is the department...and maybe if this is better for Director Rothwell to answer we can find that out. What is the department doing in regards to trying to evaluate whether or not these inmates have the ability to acquire health insurance that would provide the financing mechanism for them to be able to pay for their behavioral mental health services? Is the department actively working to try to help inmates acquire health insurance if they fall within that zero to 138 percent of the federal poverty level gap? Are you directing them to Director Dawson's area in the Department of Health and Human Services, getting them the behavioral mental health services that are covered 100 percent by state General Funds? Or is that...can you walk us through that process relatively quickly of how you're addressing providing the services once they leave your facility and move into the community? [LR34]

LISA JONES: I can but it might be kind of a cursory view because, once again, this is such a new position for me, I have not had to be as involved in that process as I am now. [LR34]

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SENATOR MELLO: Okay. Okay. [LR34]

LISA JONES: But from what I know in terms of working within the residential substance abuse treatment centers, we worked very closely with the social workers. And the social workers have some type of mechanism in place that allows them to get that information about would this individual qualify or not, and if they do here's the paperwork. [LR34]

SENATOR MELLO: Uh-huh. [LR34]

LISA JONES: And if you need help, I will help you fill it out. I've seen that multiple times. And so we are really trying to take advantage of that for our inmate population. [LR34]

SENATOR MELLO: Are you...is that being tracked? Is that data that we could get from the department in regards to the number of inmates that you're serving that, yes, they qualify, but for whatever reason they're choosing not to apply or choosing not to accept this particular eligible program that would cover behavioral health, mental health services, or any other program that, so to speak, that's being covered by the state in some other department or some other venue? [LR34]

LISA JONES: I do not know the answer to that question. I apologize. But I will find out, absolutely. [LR34]

SENATOR MELLO: Thank you. Thank you. [LR34]

SENATOR SEILER: Your time is up. I hope you're as optimistic the next time we meet as you are now. [LR34]

LISA JONES: Well, I've remained that way for five years, so we will see. [LR34]

SENATOR SEILER: Well, good. [LR34]

LISA JONES: This is a whole different ballgame but, yeah, I really enjoy what I do. [LR34]

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SENATOR SEILER: Thank you for coming. [LR34]

LISA JONES: Thank you. [LR34]

SENATOR SEILER: Dr. Wetzel. [LR34]

MARTIN WETZEL: Good morning. Dr. Martin Wetzel, psychiatrist at the Lincoln Correctional Center where I'm clinical psychiatrist for the Mental Health Unit and the secure Mental Health Unit, and I was recently named as chief of psychiatry for the department in August. And I was told that I would be testifying yesterday, so I don't have a prepared statement or any handouts to give. But I'm certainly welcoming questions and look forward to discuss your concerns. So thank you. [LR34]

SENATOR SEILER: I think, let's see, I did see some... [LR34]

SENATOR COASH: I guess I have a question. [LR34]

SENATOR SEILER: Go ahead. [LR34]

SENATOR COASH: Thank you, Dr. Wetzel. I'm going to ask you the same question I asked Dr. Jones. She was unable to, because of her short tenure, really give us a clear evaluation of the adequacy of treatment within the Corrections walls. She spoke to the quality of what's being provided and I would concur with that, there's high-level quality and definitely competent people providing it. My question for you is just on the adequacy. As you look at all the facilities, all the inmates, all the needs, where are we with meeting the needs of...treatment needs, we'll talk to Mr. Rothwell about the programming needs--but can you speak to the treatment needs and the adequacy of meeting those across the Corrections spectrum? [LR34]

MARTIN WETZEL: Yes. In about 2007-2008, the department put together the plan for the Mental Health Unit at Lincoln Correctional Center, where I am now. And that was the first time that a real initiative was put forward to look at all the restricted housing areas and are we leaving anyone in restricted housing with severe mental illness? Can we bring them to the Mental Health

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Unit? And of the 300 or so patients that were brought to the Mental Health Unit over the past seven years, 150 or so of those came out of restricted housing. Since this past last six months or so, we have expanded the capacity for the Mental Health Unit and now we're bringing even more inmates straight from restricted housing into our secure mental health. As Dr. Gage's report outlined, and I was very pleased to see, in terms of the very severe mentally ill, I think we're doing a very good job. And those inmates, those patients are fairly obvious to everyone who's got major, major problems and who we spend a lot of time and resources on. The real challenge, I think, moving forward is what we'd call the next level of inmates and those are the ones with substance use disorder and major depression, substance use disorder and an anxiety disorder, posttraumatic stress disorder, bipolar disorder--the types of disorders and multiple disorders that require fairly complicated treatment planning and a fair amount of resources. But the real challenge, as Dr. Gage I think very eloquently put it, is trying to find the right bed for the right head in terms of where is that inmate now clinically in the course of their illness and where are we in terms of trying to match resources to that inmate. Right now the department is in a situation where we do a lot of...an inmate sends out a request, I need to see mental health. They're seen by mental health if they're not already involved in treatment. But what we're moving forward with, and Dr. Jones mentioned this, is a better way of classifying these things and then allocating our resources. So again, I think we do a great job with our severely mentally ill, with those that are, kind of, if you will, moving back and forth, either with their illness or with their needs. The real challenge is trying to match our resources with that group. And one of the models that we're going to be moving forward with is, number one, the classification system is going to change, and number two is developing kind of a managed care model so that all inmates will have access to a certain level of care, and then trying to allocate those resources based on where they are clinically to make sure that they're getting the most efficient care. So I know it's a long-winded answer and I apologize for that. I think we're doing a really good job with our most severe inmates. I think our real challenge now is going to be meeting the needs of those with the more moderate, if you will, illness. [LR34]

SENATOR COASH: Let me ask the question in this way. Are there inmates currently in the system, as we sit here today, have an unmet mental health need? And if so, are we talking about 20 percent of them, 30 percent? I appreciate you've kind of described the type of need they have. I just want to get to the scope of the need. I mean how many inmates--and I know you won't be

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able to tell me how many--but do we have unmet...inmates with unmet mental health needs? And if so, where...how...what's the percentage? [LR34]

MARTIN WETZEL: I would have to say that in my opinion, again, I'm operating primarily out of the Lincoln Correctional Center and the Mental Health Unit. But you know, by and large, we have mental health at every facility. We have psychiatric services. We have counseling services. So access is not the issue. It's titrating the proper amount of care. And this isn't just new to Corrections. This is new to my field. Historically, mental healthcare has always been challenging to try and decide how much is enough. Are people getting access to prescriptions? Yes, I think they're getting medication if they need medication. I think they have access to it. Where it really becomes a challenge is, say, for instance if a woman has a major posttraumatic stress disorder, and we know a lot of our inmates, male and female, do, what's the ideal treatment for that? What can the department and Corrections afford to provide for that? And what's going to give us the best prognosis going forward? That's one of the roles that I see as my new role as chief, is helping Dr. Jones and Dr. Kohl look at evidence-based guidelines. And we don't want to miss low-hanging fruit. If there's somebody that could be getting significant benefit and they're not getting access to that care, we want to make sure that we get it to them. I don't think at this point there's a huge percentage of issues that we're missing that major, major problem. It's...to me the real challenge is optimizing it for those patients. [LR34]

SENATOR COASH: So I'll just reflect that back. What I heard is that access for mental health treatment, in your opinion, is not a problem. An inmate who needs mental health treatment is getting it. Is that...am I saying that accurately? [LR34]

MARTIN WETZEL: Yeah, we have very, very strong standards in terms of, from my perspective, again, where I'm coming from, in terms of a time table that requests have to be honored. We have...and not just inmates asking for help. We have staff constantly...they understand that one of their major duties is to identify someone who may be having problems and isn't asking or help. So we get a lot of referrals, too, from both staff and from medical. Sometimes I'll often get a call from our medical staff saying, look, this inmate has been talking to me about this issue; I think it's more mental health related; would you mind taking a look at this person. [LR34]

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SENATOR COASH: Okay. So I'm sorry, I just...I want to get a confirmation that you treat...that, in your clinical opinion, you believe that inmates who need mental health treatment are getting it. [LR34]

MARTIN WETZEL: In my opinion, I think we are. We have a system in place that is providing access and we're providing care, as we're mandated to do. Again, I'm not 100 percent involved in every facility, in every inmate's case. But from my perspective, I think we're doing that. [LR34]

SENATOR COASH: Is your role as the chief of psychiatry to look at that? And maybe I'm asking the wrong person. And I know you're primarily at the Correctional Center,... [LR34]

MARTIN WETZEL: Right. [LR34]

SENATOR COASH: ...but you are the chief of psychiatry for the entire... [LR34]

MARTIN WETZEL: Correct. [LR34]

SENATOR COASH: ...Correctional System, so that's why I'm asking you. [LR34]

MARTIN WETZEL: The position is...I put it together with the director, was, as again outlined by Dr. Gage's report, that my role is primarily to provide a common source for things like treatment guidelines, treatment protocols, pharmacologic issues. Since I've taken the position, I've sent out several sort of informational guidelines for discussion. What we have right now in terms of psychiatry is a fairly limited number of employed psychiatrists and nurse practitioners, and a fairly large number of outside contractors. Those contractors do a great job but it's harder to coordinate communication with them in terms of protocols and guidelines. So I think one of my important roles is to provide some coordination for those services and consistency across that and provide consultation to the Behavioral Health administrator and the medical director. So I'll get calls for complicated clinical cases, for example, and, you know, what's your opinion on this particular issue. So it's...that's the primary role that Dr. Gage laid out in his report. That's been my role going forward. [LR34]

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SENATOR COASH: Okay. Thank you. [LR34]

SENATOR SEILER: Senator Pansing Brooks. [LR34]

SENATOR PANSING BROOKS: Well, I just want to again check. When I went to visit Tecumseh this past summer, it was a Friday afternoon and there was an issue with an inmate who had...I don't know exactly what psychological issue but something was going on and we were with the Ombudsman and they were looking...they were talking with who was left of the staff there. And the number one concern at that point was it's Friday afternoon. This person is not going to be able to get any kind of treatment or be looked at until Monday. So to me, that is an access issue. [LR34]

MARTIN WETZEL: Uh-huh. [LR34]

SENATOR PANSING BROOKS: So to say access is not the issue that they're getting the help needed, I guess the question is at what point are they getting that help? [LR34]

MARTIN WETZEL: Yeah, we have our skilled nursing facilities, for instance Tecumseh has that, so in a situation after hours and holidays, what have you, inmates in acute situations are often moved to skilled nursing facilities. If their acuity level is such that it's clinically determined, we do have therapists that will come in after hours and review their clinical case. So it depends on the level of acuity of the inmate. [LR34]

SENATOR PANSING BROOKS: Okay. And do you think that we have everybody who should be at the Lincoln Regional Center is placed there, or do we have people in Corrections who should be placed there? [LR34]

MARTIN WETZEL: There's...and as I spoke to the committee the last time I was here, there's several patients that we're working with at the Mental Health Unit that at a minimum I would like consultation with the regional center. There's some that I would really like the opportunity to have some time at an inpatient facility to see if they could further benefit from further care. Just as Ms. Dawson referred to, we just had a consultation from the regional center. When I leave



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here today actually I'm going to be going to implement some of those changes. I was extremely gratified and thankful for that information and I think that that's a relationship that's improving and going to continue to improve going forward. Again, it's a great question and it gets back to this issue of level of care, and this has been an issue my entire career in psychiatry. We don't have objective testing to say, well, this person has X level of symptoms so they clearly need this level of care. This is, again, an issue for my entire specialty is figuring out what's the ideal amount of care for people. Again, there are a couple of inmates that I would like to see if they would benefit from inpatient services to see if we could maybe decrease their level of care out of restricted housing or improve their clinical status. All of us within the system are aware of those inmates. Fortunately, it's a fairly small number. And again, my hope is that as we're moving forward we'll continue to develop that collaborative relationship with the regional center. [LR34]

SENATOR PANSING BROOKS: And why do you think that those patients are not being accepted by the regional center? [LR34]

MARTIN WETZEL: Well, again, I think primarily it's a resource issue in terms of beds and also assessment. Before we can assess whether someone might benefit from that inpatient stay, we're going to have to have a consultation from them. That's in our administrative regulations. And as I said, we just had one of those here recently. So there is a process in place in terms of resources and access to beds. That's, at this point up until now, that's been at a level above me but it's definitely something that's improving and I remain optimistic that it can continue to improve. And I'm, again, thrilled, that the committee and the Legislature is shining a spotlight on behavioral health and mental health. This is very exciting. It's an opportunity that we haven't had in a long time. [LR34]

SENATOR PANSING BROOKS: Could you speak a little further on resources and access to beds. I mean you're saying that more money is needed to be able to provide access and care for these people. Is that correct? [LR34]

MARTIN WETZEL: I think that we need a plan and I'm not going to use the word "strategy."  
[LR34]

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SENATOR PANSING BROOKS: A strategic plan? [LR34]

MARTIN WETZEL: No, I'm not going to use that word. [LR34]

SENATOR COASH: Senator Krist. [LR34]

SENATOR SEILER: Tie him down. (Laughter) [LR34]

MARTIN WETZEL: I didn't use it. But it sounds like, again, this is a relatively new arena for me. I'm clinically based, but it sounds to me like for really one of the first times we're having some very big organizations that cover an awful lot of people starting to actually look at the whole picture from 30,000 feet. And that's very, very exciting. I've experienced all the same challenges with trying to find someone...care my whole career in this area. So to have people concerned about this group of patients and willing to provide resources for these people is...it's overwhelming actually. And it's an opportunity that I don't want us to miss because I have a feeling that, like a lot of things, we're in a good time now, it may not always be this way, but I want to make sure that we put in place the things that we can so that going forward the state has an excellent mental health. [LR34]

SENATOR PANSING BROOKS: Okay. I just have a couple more. So I think maybe because I'm a new state senator I'm a little bit confused, but it sounds to me like we have the Lincoln Regional Center and we've got Corrections, and that's how we basically deal with our behaviorally and mentally challenged people. Is there an intermediate step there? [LR34]

MARTIN WETZEL: It's a very, very patchwork system and it's a system that has been evolving and changing, and a lot of it's driven by finances. For instance, when I first came to Omaha, Richard Young Center was here and it was a very dynamic, great place to work. And then funding channels changed such that free-standing psychiatric hospitals were paid less for admission than a hospital associated to a medical facility. And as a result, that affected Richard Young significantly. And then we had EMTALA laws come in, emergency care laws, which changed the staffing issue. And the next thing you know, Richard Young is closed. Now it's reopened again as Lasting Hope. I don't know how it's doing now. I hope it's doing very well. But

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this is an example of sort of private, nonprofit, public patchwork is where we are right now. And a good friend of mine experienced this just a couple months ago. A young man with no health insurance had his first major psychiatric break and 12-14 phone calls later with me and other people, we were able to finally find this individual some care very briefly. But it becomes very evident once you step into it that it has not been put together in a coordinated way. And it's not just for Corrections. It's for anybody. So again, to me this is an opportunity. And one of the roles that we can have within Corrections is interacting such that there aren't those holes in the system and there aren't big gaps where people can fall through. [LR34]

SENATOR PANSING BROOKS: Okay. And also I'm understanding that I think the Lincoln Regional Center does not want to take the most violent. They'll take sexual offenders, but they do not want to take the most violent mentally disturbed, is that correct, and that's why they're still remaining in Corrections? [LR34]

MARTIN WETZEL: They have the... [LR34]

SENATOR PANSING BROOKS: Mental illness with violence keeps them in prison but sexual offense with mental illness puts them in the regional center. Is that too simple? [LR34]

MARTIN WETZEL: Well, the violent inmates with severe mental illness are, by far, one of the most challenging issues. Because the regional center is licensed and credentialed, as any psychiatric hospital would be, they have a very, very different set of standards and capabilities in terms of controlling people who are violent. Corrections does not have that. So they have to be, for their own protection, for their staff and for the protection of their credentialing, they have to be very careful about the level of violence that they can tolerate within that facility. [LR34]

SENATOR PANSING BROOKS: Uh-huh. [LR34]

MARTIN WETZEL: So again, this is where the collaborative part of it I think becomes key. Other states I know have built correctional psychiatric inpatient facilities, too, and I don't know if the state has looked at that. That might also be something that we can look at as we're again trying to look at this from 30,000 feet what our needs might be. So at the same time, we have

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hopefully more access to mental healthcare, which we know is critical when someone gets ill for the first time like that young man that I mentioned. We know that their prognosis is so much better when they have access to care immediately, long term, whether you look at incarceration, whether you look at their ability to get a job, whether you look at their ability to stay in a relationship. All those things are much, much better if they have immediate care for a major psychotic break. So the more access we can provide there at the front end, the less people we're going to have in Corrections with major mental illness. And at the back end, the more services that we have for people when they get out, access to medication, access to care, the less likely they're going to be coming back in. So getting the population that I mentioned with the very, very severe illness, we're going to take what we have right now. We are taking what we have right now and trying to optimize it to provide the best care for those individuals. And again, that's where we are. Where we're going to go from here, I'm looking forward to what we can put together. [LR34]

SENATOR PANSING BROOKS: Okay. Just one final question about segregation. Do you feel that segregating mentally ill and behaviorally ill individuals for extended periods is a good idea? [LR34]

MARTIN WETZEL: It's a very interesting question that a lot of people have asked and the only data that I've actually seen on this came out of a study from Colorado and it was a yearlong study and they looked at four different groups. They looked at the groups with major mental illness. They looked at groups with major behavioral problems. They looked at individuals who had no major mental illness and were in restricted housing for other reasons. The good news from that was that, at least the measures that they were doing in terms of mental health, showed no evidence of a major deterioration. The bad news is that I don't want people to interpret that that's what we should do with people, that it's okay to keep people in restricted housing. I think the key, as Dr. Jones mentioned, is we're always looking at the least restricted level of care. I think, well, I know there will always be a group of inmates who will probably never, ever get out of restricted housing for very many reasons, but we need to give every single inmate the opportunity to get out of restricted housing. If they can't get out of restricted housing, we need to give them all the opportunities to get as much time out as they possibly can. And that's exactly what we're doing now in secure mental health. We're putting in secure chairs so now we can

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escort inmates out in restraints and have them seated and restrained and involved in programming. We're getting more staff who are trained in mental health issues as well as security so that they can be out and have them have a meal together. So to me the key is, are we offering giving that individual the opportunity for the least restricted level of care? And that's the goal. [LR34]

SENATOR PANSING BROOKS: I just...I find that amazing because the studies I've read and the work that I've seen through criminal justice and the courts indicates that severe psychosis can develop from long, extended periods of being segregated and being isolated. And so to say that there's no major deterioration, that's not consistent with the information I'm getting from a legal standpoint across the board, from the bar associations, from the court administrators, from all the information that's coming out at summits at criminal justice institutes that I've been to. [LR34]

MARTIN WETZEL: Yeah, and again, I want to make sure that I'm couching this accurately. I think segregating anybody is not the thing to do. Trying to find the appropriate level of restriction for that individual on an individual basis I think is what we have to do. And so...but to me I guess I was as shocked with the data when I read it because it's completely counterintuitive. And the other fact is that we need more data. One of the most exciting things I think we're also doing is our relationship with UNMC and bringing in more academic interests with Corrections and the ability to hopefully start doing some studies and doing some research on some of these questions. Because, quite frankly, in terms of really good data and good long-term studies, they're greatly lacking in corrections and we need to be, as we've said here before, data-driven in what we do. It would be my preference that no one ever has to go to restricted housing. What we have now is what we have and so we have very tight guidelines in terms of, when anyone comes in to restricted housing, they're immediately monitored. We have very good guidelines in terms of monitoring them while they're in restricted housing. And as I mentioned before, we're diligent at always trying to make sure they're at the least restricted level of care at all times for every person in restricted housing. [LR34]

SENATOR PANSING BROOKS: So do you think that the restrictive housing used for Nikko Jenkins was appropriate and the way that we managed that? [LR34]

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MARTIN WETZEL: I couldn't really comment on that. That's not something that I've examined.  
[LR34]

SENATOR PANSING BROOKS: Okay. Were you there as director of psychiatry during...  
[LR34]

MARTIN WETZEL: No, I was not. I was working at the Lincoln Correctional Center at the  
Mental Health Unit and Mr. Jenkins was housed at the Tecumseh facility. [LR34]

SENATOR PANSING BROOKS: Okay. [LR34]

SENATOR SEILER: Senator Laura Ebke. [LR34]

SENATOR EBKE: Thank you. Thanks for being here, Dr. Wetzel. You have some fans out there.  
I received an e-mail from one of the mental health professionals at LCC today and he said,  
quote, be easy on Dr. Wetzel; he's the best thing that's happened to the mental health department  
in the last 20 years, unquote. Given that, let me throw you a softball. Everyone agrees that we  
have behavioral health issues both in and out of Corrections, and I think we all also realize that  
the ideal doesn't always match with reality and what we're actually able to do, but the ideal ought  
to give us something to move toward. Okay? That being the case, I'd be interested in hearing,  
you know, in an ideal world, if money were no object, and it is, but if it were no object, you  
know, what would you see, what would your vision be for behavioral health in and out of  
Corrections, transition in and out of Corrections, and so forth? [LR34]

MARTIN WETZEL: Uh-huh. [LR34]

SENATOR EBKE: Maybe that's not a softball. I don't know. (Laugh) [LR34]

MARTIN WETZEL: Well, it's a big question. I would have to say that, just based on my  
experience both in and out of Corrections, is the issue of access. And to me it doesn't matter. It  
doesn't matter if the individual sees a nurse practitioner who is specializing in psychiatry. They  
could see a primary care physician, a family medicine doctor, a pediatrician who's had some

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specialized training in psychiatry. But psychiatric skills are not that difficult to teach but they are a challenge to incorporate into many, many settings. There's financial barriers and there's training barriers and there are incentive barriers. But to me, in an ideal world, access would be the main issue. Again, in prison we're a contained environment so access is pretty quick and communication is pretty quick. Outside is where we really, really run into the challenges and it's a challenge. And I know Nebraska isn't alone in this but I know that the BHECN program is trying to address this issue. I know that the university is working on trying to improve primary care training in psychiatry and mental healthcare. So I do think progress is being made. But, to me, just like any other medical issue, if someone has a mental health question, a mental health concern, they should be able to find access to that without a great deal of cost and without a great deal of effort and actually, in an ideal world, without a great deal of stigma. Beyond access to me would be the, in an ideal world, people would recognize mental health issues as no different than any other medical problem. And I think once that happens, it will be an ideal world because we won't be talking about separating people because of mental illness or separating benefits because of mental illness. We'll be talking about how are we treating this person's health, and that includes their mental health. That would be ideal. [LR34]

SENATOR EBKE: Thank you. [LR34]

SENATOR SEILER: Senator Bolz. [LR34]

SENATOR BOLZ: Thank you. Just some brief questions, and brief answers are perfectly appropriate. Do you agree or disagree with the Gage report and Dr. Jones's assessment that we are underestimating the number of individuals or the percentage of individuals with severe mental illness within the Corrections System? [LR34]

MARTIN WETZEL: Could you give me some specifics as to what you're referring to there? [LR34]

SENATOR BOLZ: So the Gage report... [LR34]

MARTIN WETZEL: Yeah. Right. [LR34]

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SENATOR BOLZ: ...references that there are only 2 to 4 percent of individuals with severe mental illness within the Correctional System. We asked the question of Dr. Jones, both before and in previous testimony,... [LR34]

MARTIN WETZEL: Okay. [LR34]

SENATOR BOLZ: ...about whether or not she agreed that that was underestimating the number of individuals with severe mental illness. She concurred. Is that right, Dr. Jones? [LR34]

LISA JONES: Yes. [LR34]

SENATOR BOLZ: She concurred. [LR34]

LISA JONES: That was specific to NSP. (Inaudible). [LR34]

SENATOR BOLZ: Okay. Yeah, we can't hear you on the mike, but you...the answer to that question was affirmative. Do you agree or disagree? [LR34]

MARTIN WETZEL: I believe that the 2 to 3 percent is accurate for what I would consider major severe mental illness, and this would be diagnoses of schizophrenia, unstable bipolar disorder, schizoaffective disorder, those types of issues. It's again the next level up, and it depends on how you define mental illness again, and this is where we're trying to...talking too much. I think we have a fairly good handle on our numbers and I think Dr. Gage was basing it on his review of our system and the national numbers. I don't think we're way off in terms of the percentages. [LR34]

SENATOR BOLZ: Okay. And so you have a different perspective from the two other doctors who have provided us information about the scope of the problem in terms of individuals with severe mental illness. That's what I'm hearing you say. And I'm also hearing you say that you think additional work needs to be done in terms of our classification system. Is that correct? [LR34]

MARTIN WETZEL: That's correct. [LR34]



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SENATOR BOLZ: So I guess...this is a comment, not a question. My comment is that I'm having a hard time understanding your affirmative response to the question about whether or not we have appropriate access when we have difference of opinion about both the scope of the problem and the classification. And so I think from a systemic perspective, to me, the question of access remains unanswered. Thank you. [LR34]

SENATOR SEILER: Senator Morfeld. [LR34]

SENATOR MORFELD: Know we're running close, out of time here, and so I'll limit it just to one question. And one thing that piqued my interest that you stated earlier was some of the breakdown in systems and being able to have the availability of mental health services before patients even get to your institution that you serve. And that interests me a lot in the sense that I see in my community in northeast Lincoln, which is one of the more lower income communities with less resources. I was just out on a ride-along last night with a police officer, with somebody who was clearly experiencing some psychotic issues and then also, you know, covering that up with substance abuse, which is the issue that we ended up dealing with. What is the...where did we go wrong 10 or 15 years ago with providing community health mental services...mental health services, and what are...it seemed like you pinpointed one area with the hospital and the facility that you worked with that closed down and came up, you know, through Lasting Hope. What are a few different...I know this could be a very long answer so we can talk off mike, but what are a few different things that we can do to provide that level of coordination so you don't have to call 13 or 14 people? Because a lot of folks in my district, they wouldn't know who to call in the first place and they'd probably end up in your facility. [LR34]

MARTIN WETZEL: Yeah. Yeah, I think the short answer is coordination. And I would hope that one of the things that can happen as we're having these discussions is we can start to coordinate all this patchwork together, so we can coordinate correctional officers, police officers, with emergency rooms, with both the for-profit, the not-for-profit, the government-run emergency, urgent cares so that there's one-stop shopping for people. So there should be, in my opinion, basically, one number to call when it is primarily a mental health issue and someone can say, okay, give me the information and these are the resources that are available to you. What happens now is that patients can spend a great deal of time in an emergency room. They get

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assessed quickly and their needs are identified fairly quickly, but in terms of coordinating access to care, that becomes the big challenge. So...and this is a problem that's been I think growing and growing, and I think it's finally coming to a head. And this is the time to, hopefully, solve it. [LR34]

SENATOR MORFELD: Thank you. And I'll follow up with you after, probably. [LR34]

SENATOR SEILER: Senator Schumacher. [LR34]

SENATOR SCHUMACHER: A couple of...are you on the segregation work group under LB598? [LR34]

MARTIN WETZEL: Yes. [LR34]

SENATOR SCHUMACHER: Okay. Are...is there regulations being drafted? I mean is somebody sitting down at a keyboard writing things at this point? [LR34]

MARTIN WETZEL: I'm not aware of any specific things that are being...we have a report I know that's supposed to be...being drafted as part of the committee's work. [LR34]

SENATOR SCHUMACHER: Well, this is what's troubling, because this is what I'm hearing from several sources. We heard a lot a year ago about, you know, 200-300 people cooped up in little stripped-down cages with a dog run that they get out into it for a half hour/hour a day, way disproportional numbers and it seemed like it was being abused. So one of the things that the Legislature did is said, okay, no more restrictive housing, which is a euphemism for that condition, after July 1, 2016--we delayed it so there would be plenty of time to fix things--unless it's done in specific conformity with properly adopted rules and regulations. And as a path to such properly adopted rules and regulations, to make sure we have proper input, and this isn't just something that's just slopped together at the last minute, there's going to be this work group. And it's going to have a lot of smart people who are a lot smarter than we are in fashioning these things put these regulations together, research them, and then put them in the proper process in order for adoption and implementation by that time. The input I'm getting is that group is not

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doing that. And so to the extent what you just said is accurate, I'd encourage you to become very active in making sure that gets done. Otherwise we're going to have to throw a bill in the hopper and we probably won't do as good a job as you could do. And the other thing I strongly would encourage you to do is study that Nikko Jenkins case that when you mentioned some of these people are not going to get out forever, out of this condition, that guy...and he's a beautiful case study in creating a monster. He had ten years down there. Six years were spent in solitary confinement. But what was unusual, he went up to Omaha in the middle of that time and he got into some trouble when he was in Omaha, and so he was detained at the Douglas County correctional facility for about a year. And if my memory is correct, in that year he spent little or no time in restricted housing and somehow they managed him and he was a pain but, nevertheless, they managed him. There's a lesson somewhere in there because when he got back to Lincoln, immediately went back in the hole until they opened the door one day and said, there's the city of Omaha, have at it. So I would encourage you to look into that. [LR34]

SENATOR SEILER: Bob, Senator. [LR34]

SENATOR KRIST: Well, Senator Schumacher--thank you, Chair--Senator Schumacher set the stage. I told you personally, and I still believe that this is the case, that the person in charge needed to be a psychiatrist. And for the record, you are shaking your head and I'm glad at that. So tell me, in that case study that we were involved with over that long summer, we found in LR424 that indeed we had...the system had created a condition and a person. And the exact quote I think from someone sitting in the chair that you're in was, he was too dangerous to put in general population, so we let him go. He didn't say "so we let him go," but the reality is he was too dangerous to be put in GP so we kept him confined in solitary confinement, in whatever euphemism, again, you use, but we let him go. Tell me how the system now under your supervision has the power to make sure or the oversight to make sure...he's too dangerous to be in GP but we let him go. What's in between that, that didn't exist before? [LR34]

MARTIN WETZEL: I would say, for one thing, we have our discharge review team, so every case... [LR34]

SENATOR KRIST: And that's different under your supervision? [LR34]

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MARTIN WETZEL: That was started before I became under...on my position a couple months ago. But it's, as Dr. Jones outlined, all cases of any concern are being reviewed by the Discharge Review Committee, both that person's individual status at the time, where are we looking in terms of discharge, and discharge review. So that is an entirely new process and I think a very exciting and a very positive development and it wasn't in place at that time. [LR34]

SENATOR KRIST: Okay. And besides that, let me get to the professional interface. A psychologist or a physician's assistant can be overridden by you as a doctor of psychiatry. Is that true? [LR34]

MARTIN WETZEL: I would say overridden isn't really a clinical term. [LR34]

SENATOR KRIST: Well, use a clinical term (laugh). [LR34]

MARTIN WETZEL: Okay. In any case where there's questions or concerns, we can provide a consultation, we can discuss a case. These things are not black and white in medicine. Medicine, in general, psychiatry as well, issues of diagnosis, issues of treatment planning are best I think determined on a consensus level. Between what we know in terms of science and what we do every day in our practices, very often there's just a huge chasm. So this is why we call it the art of medicine, the practice of medicine. So one of the things that I really enjoy about this job is that I have so many resources available to me. I have psychologists. I have mental health practitioners. I have other psychiatrists and now I have the regional center actually as another potential resource to review cases and try to come to some consensus. [LR34]

SENATOR KRIST: So within the review process, within the consensus, is there now a safeguard in place that would keep that chain or that group from blocking the county attorney from knowing that this person should or may not ever want to get out or we may never want them to get out through the process. [LR34]

MARTIN WETZEL: I think, as I understand the DRT process, actually it's moved in the opposite direction. I suspect what we're going to probably be seeing more of is a lot of cases referred to county attorneys who are going to say, well, we appreciate that, they don't seem to meet criteria.

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But the DRT committee is casting a very, very, very wide net, and which I think is good thing.  
[LR34]

SENATOR KRIST: Yeah. And just for the record, again, what we tried to do was establish a record and look at that human being as a case study in how things absolutely went wrong. And that, you're telling me, we fixed that part of it and we have systems in place to make sure that it doesn't happen again and I think that's important to get on the record. Thank you. [LR34]

SENATOR SEILER: Senator Chambers. Okay. I think that will be it. I am not going to ask you any questions and I think you did a number, same as you did in Omaha. Thank you. [LR34]

MARTIN WETZEL: (Laugh) Thank you, Senator. Thank you. [LR34]

SENATOR SEILER: (Exhibit 2) You brought a lot of good information to us. I have a letter from Rhonda Mattingly from the Bridges to Hope that she asked...has written and asked us to make it part of the record. I'll have it copied and get back to you. We'll be in adjournment until 1:30.  
[LR34]

BREAK

SENATOR SEILER: (Recorder malfunction)...the bewitching hour. We'll open. Everybody, we will restart our hearing on LR34. And I invite Mike Rothwell, deputy director, to please come forward. [LR34]

MIKE ROTHWELL: Thank you. [LR34]

SENATOR SEILER: Thank you for your patience today sitting through this morning's hearing.  
[LR34]

MIKE ROTHWELL: Oh, no problem. I appreciate the opportunity. [LR34]

SENATOR SEILER: Please state your name, spell it, and then we'll...you can begin. [LR34]

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MIKE ROTHWELL: (Exhibits 3-5) Michael Rothwell, M-i-c-a-e-l R-o-t-h-w-e-l-l. I'm the deputy director for programs and community services with the Department of Corrections. Good afternoon, Senator Seiler and members of the LR34 Special Investigative Committee. I'd like to thank you for the opportunity to testify today and look forward to meeting, working, and engaging with policy makers to continue to improve the correctional system in Nebraska. In the invitation to appear today I was asked to address several items. I would like to begin with giving you a little bit of my background and general philosophy towards Corrections, after which I will address each of these issues, and then would be happy to answer any questions you have. I started my career in Corrections in June 1974 as a probation and parole officer in rural east Tennessee. I obtained my BA in human services and master's of science in criminal justice from the University of Tennessee. I've had the unique opportunity to work both in community corrections and institutions in several states throughout my career. I've served as an associated warden or higher since 1981. I assisted in the development of the first 500-bed prison totally dedicated to substance abuse treatment in Texas. This program was later designated a national model in the care and management of offenders. I was selected to be the warden of Sheridan Correctional Center, a 1,300-bed medium-security prison in Illinois that had been closed under one governor and opened under the next. The entire facility was dedicated to substance abuse treatment and was the largest facility of its kind in the United States. I've served as an adjunct faculty in criminal justice at several colleges. And most recently, I served 20 months in Afghanistan as the deputy chief of team supervising American and Afghan advisers working to make the prison system safer, more secure, and humane. My general philosophy is that a correctional system should be driven by assessed programming needs of the inmate population rather than the bed space or physical plant considerations. Another way of saying this is I want to focus on getting the inmates the programs they need and when they need them so as to most effectively mitigate criminogenic risks. This is a lofty goal which can be difficult to achieve in a department which has capacity issues like the ones we currently face. But that does not mean that it cannot be a goal and an objective which drives policy. And I'm confident this is something we can achieve over time. I'm currently examining the programming. I've only been here since mid-September, so I'm newer than Dr. Jones. I look forward to coming back before you once I have had more time to learn and review the programs I oversee within the department and get a more comprehensive assessment of our needs. I intend to work closely with Director Frakes to meet those needs throughout our strategic planning process. The first question: the adequacy of

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programs designed to rehabilitate inmates and your thoughts on the distinction between programs and treatment. I generally view programs as broader than treatment, if you would consider it sort of an overarching term. Within this particular program we have certain interventions. While treatment generally is referred to as a more clinical term by licensed professionals, a chemical dependency treatment program could have several elements. Depending on the assessed need, this program includes residential treatment led by licensed therapists, outpatient and aftercare programs for offenders in the community, and self-help groups led by nonclinical staff or peers. Research has indicated that well-trained nonclinicians can have a positive impact on the overall success of treatment by supporting and reinforcing the treatment provided by licensed professionals and holding offenders accountable. While clinical treatment is obviously necessary for a number of inmates, training nonclinical staff in techniques such as motivational interviewing and Moral Reconciliation Therapy make those clinical interventions more effective by helping offenders get to the point where they are ready to accept treatment and fully engage in their rehabilitation. The second question was, "The transition of inmates from incarceration to the community at large, particularly your previous experience in other states, and your initial impressions of the Nebraska system." My vision is for a system that has the ability to prepare inmates prior to release through appropriate programming based on assessed need and then have wraparound services in the community which can continue to assist the inmate in meeting those needs after release. My initial impression is that Vocational and Life Skills Program is a good model and the work the reentry staff and grant providers are doing with the inmates, former inmates, parolees, and probationers is a huge boon for the department and long-term public safety. I have experience overseeing similar programs in Texas, North Carolina, and Illinois, and feel that involving the community, stakeholders, faith-based groups, and nonprofits greatly enhances the reentry effort and I am confident we are on the right track. Number 3, "The transition of inmates from incarceration to the community at large--in particular, an update on the Vocational and Life Skills Program, and a summary of the program's reports." I have provided the committee with an overview of the reentry process for the department and the transition that is underway to integrate reentry as a philosophy into all that we do. I've also included a summary of the Vocational and Life Skills Programs and the grantees that are currently receiving funding and providing services in the community. Thanks to the work of the Legislature in LB907 two years ago today we have dedicated reentry staff working with all offenders prior to completion of their sentence. Inmates receive a reentry workbook on the first

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day they arrive at the Diagnostic and Evaluation Center which is part of the philosophy of having the inmate and staff together focus on what the inmate should be doing to prepare for release from day one. As inmates approach release or discharge, meetings with reentry specialists become more frequent and planning focuses on issues such as employment, housing, and aftercare planning. At 120 days out, individuals will work one on one with their social worker. They become involved in behavioral health, mental health needs. We start working with a multidisciplinary team to specifically focus on what they need to succeed when they're released into the community. The reentry division has also made significant progress on the development of a life plan, a comprehensive living document that will follow the individual into the community and on supervision. This life plan will encompass the personalized plan, the reentry plan, and any supervision information, and will provide an opportunity to coordinate all aspects of an inmate's reentry and help them plan about the decisions they make inside. I look forward to working with the director, the reentry staff, and the Legislature to improve outcomes for offenders transitioning back into the community. And I'd be happy to answer any questions that you have. [LR34]

SENATOR SEILER: Before we get to the questions I...your comment about you'd like to come back and visit with us. When you're ready, just call my staff and we'll set a hearing and invite you back. [LR34]

MIKE ROTHWELL: Absolutely, that would be fine. [LR34]

SENATOR SEILER: Okay. Senator Coash. [LR34]

SENATOR COASH: Thank you, Senator Seiler. Mr. Rothwell, thanks for being here today. In my opinion, the work that you're engaging in and leading is probably the most important work we have to get done because we can't keep everybody from getting out but eventually they'll be released and the work you do is vital to the success of that effort. [LR34]

MIKE ROTHWELL: Thank you. [LR34]



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SENATOR COASH: We're here to support you in any way that we can. And with appreciation that you've been here for a couple weeks, I guess I'm just going to tee up a question for when you come back. [LR34]

MIKE ROTHWELL: Sure. [LR34]

SENATOR COASH: And it's very similar to the question that I asked of Dr. Jones and the mental health professionals, which is this: Is the current programming available meeting the needs of the inmates who need it? And like I said, I don't...you can comment on it. I wouldn't expect a full answer today given your tenure, but that's the question that I'm going to ask you the first time you come back in front of the committee,... [LR34]

MIKE ROTHWELL: Sure. [LR34]

SENATOR COASH: ...which is, is the programming that's available meeting the needs of the inmates who need them? And I guess I would say that from where I sit I get feedback from a lot of different places on it. I mean I can go to the Ombudsman's Office. I can get their assessment of the programming and meeting the needs. We certainly hear from families. We hear from inmates themselves from time to time. And we personally hear from a lot of Corrections officers who will tell me what is...what they've been asked to do, what's available, what they can and can't do. But as this is your job, this is under your umbrella,... [LR34]

MIKE ROTHWELL: Yes. [LR34]

SENATOR COASH: ...that's the question I'm going to have for you because...and then I'm going to go around and verify it with everybody else because that seems to be something we have to do with Corrections right now, is listen and then go out and verify. So I'll let you respond if you've got any initial thoughts on that. [LR34]

MIKE ROTHWELL: I think what we're looking at is a system that has had a lot of programs, but a lot of programs that have been not directed at the right areas and the right criminogenic risk or needs. Some of them I think are service oriented that just sort of occupy time and keep it in...the

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inmate involved in some sort of programming, but it's not really tied to any specific scientific risk or needs assessment. And I think that's where we're moving toward is the ability to pinpoint what are the specific needs, taking a holistic approach, that this inmate has. Is it educational? Is it vocational? Is it mental health? Substance abuse? And we're going to develop a plan for you that's targeted to move you through the system at various stages where you will get evidence-based treatment or programming that will reduce the likelihood that you'll come back. And then that will carry on into the community and there will be further supervision and programming there for an extended period of time. And I think we're moving towards that system. I think there are some good programs in place. They have Moral Reconciliation Therapy. They've got good substance abuse programs. I think, using Senator Schumacher's business model, we need to streamline the production line. [LR34]

SENATOR COASH: Well, if you've got a good program that can...that meets the needs of 10 people but it doesn't have the capacity to meet the needs of the 80 people who also need it, we need to know that. [LR34]

MIKE ROTHWELL: And I think what we're looking at is there's a broad array of programs and through the Council of State Governments they're doing an evaluation of all the programs that are being offered. And we may have, say, 15 or 20 programs that we want to pare down to eight or seven core programs that we will move some inmates who are long-term inmates to facilities where you'll get anger management, learning how to cope with that environment. And then as you progress throughout the system, at certain intervals you'll get the treatment designed to work on and reduce that criminogenic risk and need. It's a behavioral continuum that they don't really have that's deliberative and moves the offender through the system at certain points in terms of their incarceration. [LR34]

SENATOR COASH: I believe you're correct and I think what you've seen this Legislature do in the past, previous to this administration, is do our best to fill holes where we think they ought to be filled by appropriating money. But we were frankly shooting in the dark because we weren't getting a lot of cooperation previous to this. So we say...we hear from dozens of people--mental health, mental health, so we appropriate mental health. We hear dozens of people--vocational, vocational, vocational, so we shove that in. But it's not a thoughtful process... [LR34]

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MIKE ROTHWELL: Right. [LR34]

SENATOR COASH: ...because we weren't getting anybody from Corrections, like yourself, saying, here's what we need. And I think you probably understood from the last...this morning and the last couple days of testimony is that there's not a lot of patience for "give me three years and I'll figure out what we need." And it does have to be a little bit quicker. The other thing I would encourage you to do...I don't know if you watched the hearing this committee had on Wednesday. [LR34]

MIKE ROTHWELL: I've watched some of it, yes. [LR34]

SENATOR COASH: Okay. We had the Auditor in and the Auditor said he found accounts, two in particular that had over \$1.5 million in them, that was identified for a type of programming. The source of funds was amazing to me. It was recycled aluminum cans. But it had \$1.5 million of funds, give or take, and it hadn't been touched in a handful of years, not just months but years, where there was resources there, identified for the purpose of programming, that was not being used. And it took the Auditor to find that out. So I don't expect you to comment on that. But there is programming-related issues peppered throughout the Auditor's report that I think would be helpful for you as you evaluate the needs and the resources with regard to programming. [LR34]

MIKE ROTHWELL: One of the things that we're going to do is establish a quality assurance team made up of some of the professionals in the department. As we look at expanding programs or putting new programs in, you know, they will look at, you know, is this an evidence-based program. We'll do the same thing with parole and in the communities. They'll look at, are we spending money for transitional housing correctly? Are we getting what we're saying we're paying for? And I think, you know, that's...you have to have that element to monitor how programs perform and also where the money is being spent and make sure that some guy just doesn't put ten cots in a flophouse and say I've got a sober living environment. You know, that's not acceptable. So, you know, we are going to tighten up on that. [LR34]

SENATOR COASH: Very good. Thank you for coming here today. [LR34]

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SENATOR SEILER: Senator Krist. [LR34]

SENATOR KRIST: To dovetail onto my colleague, Senator Coash, read the Auditor's report. It's concerning. [LR34]

MIKE ROTHWELL: Yeah. [LR34]

SENATOR KRIST: And there's many areas in there that you need to pay attention to, there's no question about it. Two concerns, both of them come from inmates, constituents of mine doing very well, very motivated, involved with Toastmasters club activity I think it's called. Gone. Why? Why would that be eliminated? Maybe there was a disciplinary reason or whatever, but that program didn't cost us probably very much at all but it was a demotivating factor for him at that particular time and I think that's important both in terms of quality of life, as such as it is, right? [LR34]

MIKE ROTHWELL: Um-hum. [LR34]

SENATOR KRIST: And also for a potential disciplinary, I mean, it...you know, I say all the time, if my wife is happy everybody at home is happy. So it seems to me like the same principle applies throughout many things. The last thing I would mention to you is I think is that we do have very little patience. And just coming from Afghanistan, I think you understand my analogy this morning. There's a strategic plan and that's kind of long range and that's what we're going to do. And then there's a tactical plan to keep people from shooting us right now. And tactically we need to make some positive changes, sounds like you're the guy to do it. [LR34]

MIKE ROTHWELL: Thank you. [LR34]

SENATOR KRIST: And the invitation that the Chair has given you to come back and talk to us anytime you want to, I would extend that and I think my colleagues would do the same thing. You can find me at 471-2718 anytime, or my cell phone is available to you if you want it, anytime you need anything. So don't hesitate to bring it to our attention because sometimes it's not a matter of--is there enough money out there? Sometimes...if our colleague, Senator Mello,

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was here he'd tell you sometimes it's a matter of reappropriating and shifting some things around. So good luck to you. [LR34]

MIKE ROTHWELL: Thank you. [LR34]

SENATOR SEILER: Senator Bolz. [LR34]

SENATOR BOLZ: Good afternoon. I also have a couple of comments related to what I have heard from constituents, and I want to read, if the committee will give me a little patience here, I just want to read two paragraphs of a letter that I have received from an individual who is particularly...he's in Community Corrections right now. While the Community Corrections Center inmates are transitioning back into the public, we are preparing to face those problems that we have avoided or created while being incarcerated. These problems include family, financial, legal, and other issues. Sometimes we just need someone to talk to and there is no one at the center that we are able to meet with. I want to make this last point very clear: There is no mental health staff available at CCCL. He goes on to talk about being asked to figure out his own mental health needs and concerns, having individuals denied participation in certain types of programming if it's not in their personalized plan even if they themselves think they would benefit from it. And then he continues, these are his words: There are two major hurdles that need to be addressed with the process of determining and seeking out our own mental health treatment. The first hurdle is financial strain. Any counseling services are at our own personal expense as it is not provided by the Department of Corrections. For many who are on work detail, we make an average of \$3 a day and in some cases as little as \$1 to \$2 a day. Private counseling becomes a huge expense. Financial concerns literally become a huge new stressor for all of us. The second hurdle that we face is that of transportation. All programming requires us to be transported by the Community Corrections staff in vans. So I share that with you mostly to share from the perspective of an individual participating in Community Corrections, the two challenges he's facing in taking care of his own mental health needs despite what he's experiencing at the Community Corrections. So I invite you either to address those challenges related to his access to counseling and transportation or to report back to us at another point in time. But I think those are points that need to be taken home. [LR34]

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MIKE ROTHWELL: Yes, ma'am. We have a new warden who will be starting the 30th at CCCL. We've had meetings talking about the programmatic activities, utilizing space more effectively, expanding programming into the evening hours. The problem is they're out working during the day and then they come back and there's little programming for them. So we're going to look at stretching out the day so that when they come home we've got some cognitive behavioral programs or substance abuse programs. And we're also going to look at...I'll look at the mental health aspect. I know we have providers there. So I will look into that. [LR34]

SENATOR BOLZ: Much appreciated. Thank you. [LR34]

SENATOR SEILER: Senator Pansing Brooks. [LR34]

SENATOR PANSING BROOKS: Thank you very much, Chairman Seiler. Thank you for being here today, Deputy Director. I just have a few things. [LR34]

SENATOR KRIST: Senator Brooks, could I interrupt you for just a second? Could you put your... [LR34]

SENATOR PANSING BROOKS: Oh, my...oh, sorry. [LR34]

SENATOR KRIST: Yeah, there you go. Thank you. [LR34]

SENATOR PANSING BROOKS: Yeah. [LR34]

SENATOR KRIST: We want to hear you on the transcript. [LR34]

SENATOR PANSING BROOKS: You do? Gosh. [LR34]

SENATOR KRIST: Yeah, absolutely. [LR34]

SENATOR PANSING BROOKS: Okay, thank you. Okay. What I'm wondering about is you are in charge of community-based programming. Is that correct? [LR34]

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MIKE ROTHWELL: The three...the two Community Corrections facilities and WEC, along with parole, reentry. [LR34]

SENATOR PANSING BROOKS: Okay. So you don't really handle programming with...so is...so community-based programming--and, again, I'm a new senator, so...community-based corrections are people that are about to be released. Is that correct? [LR34]

MIKE ROTHWELL: Yes, ma'am. They're on work release. They go out during the day and they come back in the evening, the afternoon. [LR34]

SENATOR PANSING BROOKS: Okay, so you don't really deal with any of the programming of people that are in there for a long time, just the people who are about to get out. [LR34]

MIKE ROTHWELL: Yes, ma'am. They're generally short-time people on the way out to parole. [LR34]

SENATOR PANSING BROOKS: Okay. Who deals with the programming of those that are within the prison system? [LR34]

MIKE ROTHWELL: I do. [LR34]

SENATOR PANSING BROOKS: You? So even though... [LR34]

MIKE ROTHWELL: I cover both. [LR34]

SENATOR PANSING BROOKS: Oh, you cover both. [LR34]

MIKE ROTHWELL: Yes, ma'am. [LR34]

SENATOR PANSING BROOKS: Okay. That's what I was wondering. Okay, good. Wow, that's a huge job. What I'm wondering is, then is there...we've been hearing some sort of discussions in the past year or so about the fact that some inmates will get to a point where they choose to jam

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out rather than taking the programs that they should take, that they won't even...it'll get to the point where they might be up for parole. And rather than...because their sentence is so short they decide, instead of going through the programming, they can just jam out and not be followed later. Can you speak to that? [LR34]

MIKE ROTHWELL: You know, this is probably one of the first systems where I've ever run into that phenomenon. And we're talking about ways that we could add incentives to participation. Maybe if they've lost good time or something we could work on a plan--if you go into the community and you take these programs, maybe we can restore this time--as an incentive. You know, we're just talking about a lot of ideas. And that is troubling. It's...I don't know how that has been allowed to happen. It's just a unique system. Most states you've phased through different facilities until you get to the point where you get to work release and you go out on parole. You just can't...I mean you don't...a few instances I've seen where people just said, I just don't want to do this, but not in the numbers that I've seen here. [LR34]

SENATOR PANSING BROOKS: Okay. Do you find that troubling that that's happening where people are refusing? [LR34]

MIKE ROTHWELL: I wouldn't characterize it as troubling. It's just kind of fascinating, I just...you know, the mind-set, you know. And as we talk about going to a program-driven system, maybe when they see...and again, under this new move we'll be directing them into programmatic activities. You know, they don't get to choose which ones they're going to participate in. We're going to look at using scientific instrument--you know, where are we going to address your deficiencies in a way that's going to make it less likely for you to reoffend? And then we'll develop that plan and they'll be directed into the appropriate programs. [LR34]

SENATOR PANSING BROOKS: Right away? [LR34]

MIKE ROTHWELL: Yes, ma'am, as soon as we can get them into the programming, we will. And, you know, we talk about resources. And if we pare down to core programs, some of the staff that have been teaching these other programs will then be available to work on the core programs. We'll still have some ancillary programs that support those--peer groups, the clubs that



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you're talking about, you know, groups coming in and work from the community and working with the offenders. And also we want to work with groups in the community in terms of help us transition these offenders back into your community. That's part of restorative justice, you know, and there's...the networks are there, but they're not all linked together in a cohesive fashion and that's one of the things that we're talking about looking into and how do we do that. In Illinois, I worked with the south side and west side of Chicago to set up community support advisory councils, and these were 15 agencies and groups--faith-based groups, exoffender groups--that would assist in transitioning inmates back into the community. If you needed transitional living you went here. If you needed a bus pass, these guys had the bus passes. If you needed tools for a job...so, you know, as we...you know, the lack of programming and the concerns that you have I think we will be addressing. [LR34]

SENATOR PANSING BROOKS: Well, I know that Senator Ebke and I have been tabbed by the Judiciary Committee to look at programming and we will be willing to work with you or facilitate anything that we can from our end at any time on this matter. [LR34]

MIKE ROTHWELL: Oh, absolutely. [LR34]

SENATOR PANSING BROOKS: It's...and I hope you'll reach out to us and see what we can do. It's something we care about sincerely. Last year a bill that I had was about the one-third rule, and it was to stop the determinate sentencing, the sentences that go from 18-20 years or 20-20 year, because that is what's causing people to jam out. That's what's causing people not to get the programming. And we used to have it. And if they come up for parole earlier, then they are forced by parole to say, no, you have not followed these specific requirements in programming. And so if that's not the way to do it, we have to have something that enforces programming and makes these inmates take that and creates safer inmates that we're releasing to the public. [LR34]

MIKE ROTHWELL: Texas did something very unique for offenders coming into...I had helped developed the first 500-bed, in-prison treatment facility: New Vision in Kyle, Texas. The parole board took the position that if you completed the program and you were in...your parole eligibility date came up, you wouldn't be paroled, but when you finished the program you'd be

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paroled. And then you'd be paroled to a 90-day aftercare plan where you would be with a provider in the community. And if it was a residential plan, the provider would pick them up. But what was unique about it: If you were kicked out of the program or you refused to participate, you got an additional year inside. And just for spite sometimes they'd add six months, you know, so that was a heavy price. And, you know, we would get people who were resistant coming in. I remember one guy coming up to me saying, Warden, I don't know about this, you know, I've done ten years and, you know, this is...I just...I can't make it. And I said, well, you understand what's going to happen? He goes, yeah. And I said, well, give it a couple weeks. If you still feel the same way, then let me know. And I forgot about him. It was about six weeks later I was...and at TC you had like a morning meeting and...where people kind of kicked the day off. And he was up leading a song. And I walked up to him afterward and I said, what's this, I thought you wanted out of here. And he goes, you know, the longer I was here, the more I thought about it, the more I realized this is where I need to be. And I think we need to establish that with our longer term guys and our guys that are looking to jam out is that if we can get to them when they come in and start the programming anyway and move them towards, you know, the thinking...get rid of the thinking errors, then I'm hoping you'll see less people jam out. And if you tie some incentives to that, and sanctions, you know...I mean, if you just want to do your time, there is a place for you; but, you know, if you want to change your life...and that's the message. I used to tell staff every encounter is an opportunity to teach. And so that if we get staff on board and being positive so that they're kind of thinking every encounter is an opportunity to teach and they're demonstrating prosocial, appropriate behaviors, then the inmate population starts picking up on that in their attitudes. And, you know, you're not going to get rid of what we used to call the "Jethro Bodines" of the prison system. If you all remember Jethro, he wanted to be the general or the bank president or, you know, the head of the corporation. You know, these guys still have those kinds of thoughts. You know, it's okay to start out at the ground and build your way up. So we've got to get that thinking process to prosocial activities that are going to reinforce the positive values that will help them succeed. [LR34]

SENATOR PANSING BROOKS: Holy moly, you are a breath of fresh air. That's wonderful. To do a lot of this it seems like we have to add programming. Do you agree? [LR34]

MIKE ROTHWELL: No. [LR34]

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SENATOR PANSING BROOKS: We don't have to add programming? [LR34]

MIKE ROTHWELL: We may have to change programming. We may have to go...for example. [LR34]

SENATOR PANSING BROOKS: Excuse me one second, but is programming being done right away when people come first into the prisons? [LR34]

MIKE ROTHWELL: At DEC they're getting some programming there, but it's not their main programming. [LR34]

SENATOR PANSING BROOKS: Well, okay. What's...it's not their main programming? [LR34]

MIKE ROTHWELL: No, because they're not there to build time or to do time. They're going through in processing. [LR34]

SENATOR PANSING BROOKS: Okay. [LR34]

MIKE ROTHWELL: And I'm still learning about that process. I know we're starting to do the life planning. We're starting to, you know, to work with them, thinking about moving to other facilities and trying to shorten the time that they're at the DEC. [LR34]

SENATOR PANSING BROOKS: Okay. But when we talked with people at the penitentiary, there are not that many classes available. So I don't know. There's a disconnect in this way between hearing that, no, we have enough programming, but there are people that are not able to get their programming. So I'm confused about that. [LR34]

MIKE ROTHWELL: It's a matter of targeting the right programming and not just having...wardens, we used to go out and we'd go to a conference and see something and think, oh, that's really cool, and drop it in and that's our program. But it may not be evidenced based. It may not really effect change, but it keeps the inmates busy. And I think we need to eliminate those kinds of programs to get to the targeted programs that look at the criminogenic risk and

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needs. And you may, you know, see a lot more movement of inmates as they transition through the system to get the programming they need. And then when they get to the community center, you know, we'll finish off the training. For example, vocational programs, states who implement vocational programs say a year before their actually release, tend to be able to place inmates in jobs faster than those that don't. You set up a scenario where, for example, in Illinois, we had job fairs, we had employers coming in. They actually started hiring offenders. So their programming was tied to their release date. So as you build a comprehensive system you look at these certain benchmarks where you're going to plug in these programming opportunities and then move the inmate to that location. [LR34]

SENATOR PANSING BROOKS: Okay. So do you believe every inmate should be in a program? [LR34]

MIKE ROTHWELL: No, no, not every inmate. [LR34]

SENATOR PANSING BROOKS: What percentage of inmates should be in programming? [LR34]

MIKE ROTHWELL: I'd like to see 90 percent, 80 percent have some kind of program. [LR34]

SENATOR PANSING BROOKS: And from what point? From the beginning through the entire time? [LR34]

MIKE ROTHWELL: As soon as we get them to their home facility, their initial placement, you know, there's some treatment readiness programs that we can do early on, but once they get to their assigned facility, that's where the first work starts. [LR34]

SENATOR PANSING BROOKS: Okay. And so that would...and then how long would that programming last? [LR34]

MIKE ROTHWELL: Depends on what the individual needed. [LR34]

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SENATOR PANSING BROOKS: So it could be a six-month program for a 20-year felon and after those six... [LR34]

MIKE ROTHWELL: But it could be a cognitive behavioral program that helps him adjust to long-term incarceration, to being more cooperative and understanding his treat...you know, what his requirements are in the system so that, hey, you know, you're not going to welding now, but when you get into five years or less maybe we've got a welding program for you. And so you're starting the process with the long-term guys. You can do some programming, some cognitive programming for them. You know, you can do some small groups, substance abuse, education kinds of groups, but wait until they're closer to release to really...to hit them with the most programming. Research has shown that if you take somebody who is high risk, high needs, and have intense programming, you're more likely to succeed than if you take somebody who is low risk, low needs, and give them the same dose of treatment. They're more likely to fail, which is crazy if you think about it, but that's what the science shows. [LR34]

SENATOR PANSING BROOKS: So, okay. That's it for right now. Thank you for your input. [LR34]

MIKE ROTHWELL: Okay. [LR34]

SENATOR PANSING BROOKS: And I may have another question but... [LR34]

SENATOR SEILER: Nobody else? I do. Let me help you maybe a little bit with your jam out phenomenon. [LR34]

MIKE ROTHWELL: Okay. [LR34]

SENATOR SEILER: When we did the LR424 investigative session, we got into that jam out versus being released early on probation. And part of it was because of the way some of the judges were sentencing people. They maybe only had six months left between the difference between being jammed out and being put out on parole. [LR34]

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MIKE ROTHWELL: Okay. [LR34]

SENATOR SEILER: You're going to jam out every time because you're free then. There's nobody got any people looking over your shoulder. And so the word spread, as you know how it can do in a prison, word spread overnight: If you've got that scenario, jam out. [LR34]

MIKE ROTHWELL: Okay. [LR34]

SENATOR SEILER: And we discovered that when we were going through the hearings that that was getting spread around that if some judge gives you a 20-20 you're not going to have much out on...and counting your good time and everything, you're not going to have much out on your parole, so don't go parole, go jam out. And that did spread. And by doing the supervised release now... [LR34]

MIKE ROTHWELL: Right. [LR34]

SENATOR SEILER: ...we're trying to eliminate that program of jamming out. [LR34]

MIKE ROTHWELL: And that's great. I mean that's a good move. [LR34]

SENATOR SEILER: So I think you're going to see a lot less "jam-outs." [LR34]

MIKE ROTHWELL: Yeah, it's been interesting. I mean it's...every day I learn something new. And I scratch my head a lot of times and I think, wow (laugh). [LR34]

SENATOR SEILER: The other thing that I was listening intently with senators' questions and I think maybe we're using some language...we're using "program" as a very broad-base, like reaction...what do they call it? Anger management, those type, are programs. But when you get to vocation that switches horses. [LR34]

MIKE ROTHWELL: Well, if you think of it as a vocational program...the titles are interchanged everywhere across the country. [LR34]

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SENATOR SEILER: Is that right? [LR34]

MIKE ROTHWELL: I had a chemical dependency treatment program in Texas... [LR34]

SENATOR SEILER: Right. [LR34]

MIKE ROTHWELL: ...and Illinois. But part of that program--and that's the overarching program--is at this point you get substance abuse treatment, at this point you get cognitive behavioral therapy. [LR34]

SENATOR SEILER: Right. [LR34]

MIKE ROTHWELL: So within this behavioral continuum, you start here and you end here. This is your program and you're going to do this at this point, this at this point, this at this point, and this at this point. So you move them along that behavioral continuum to release. And then when you go out into the community, this is your community program. You're going to go to mental health. You're going to go to outpatient or whatever. [LR34]

SENATOR SEILER: Well, let me ask you a question--since you haven't been here very long, but have you had a chance to examine that base that you're talking about that you had in Illinois? Do you have those programs here in Nebraska? And are they available to the people coming through? [LR34]

MIKE ROTHWELL: There are elements. I've met with Joan Modrell I think with the Department of Labor. [LR34]

SENATOR SEILER: Yeah. [LR34]

MIKE ROTHWELL: We've talked about engaging community colleges with vocational programming so that prior to release...you know, one of the problems we find with the guys in the Community Corrections is, do I go to vocational or do I get a job? Can I pay my rent? How can I pay my rent and pay for my family? So they're taking the jobs, so we've got to look at

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backing that up so that we can train them. And one of the things that we're going to work together on, and she hasn't gotten back to me, we're still talking, is looking at what are the demand occupations? What are the future jobs in Nebraska that are going to need workers. [LR34]

SENATOR SEILER: Well, you've got an ideal situation here. We've got a 2.7 unemployment rate. [LR34]

MIKE ROTHWELL: Yeah. [LR34]

SENATOR SEILER: You ought to...and you've got the manpower. [LR34]

MIKE ROTHWELL: That's right and that's... [LR34]

SENATOR SEILER: So what we need to do is train those people, get them back out. [LR34]

MIKE ROTHWELL: That's exactly...you're exactly right. And that's what we're looking at is where in this process do we want to put these programs. For example, in Illinois, the five surrounding states, they had a very...they didn't have a lot of machinists coming into the work force. The average age was 55. They didn't have good training programs. So we reached out to the Illinois Manufacturing Foundation and they came in and set up a computer numeric coiling program that took a guy from a basic lathe all the way up to operating the computers. These guys were leaving making \$25 an hour. We set up other vocational programs. We work with Safer Foundation to give us the information on the occupations. [LR34]

SENATOR SEILER: I think you'll find that the community colleges are now moving into that area and we'll have to have places for you to put your people. Do you still have the education programs with the university... [LR34]

MIKE ROTHWELL: We do at... [LR34]

SENATOR SEILER: ...where they could get a college degree? [LR34]



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MIKE ROTHWELL: They're doing correspondence courses, but, you know, I'm not sure about that answer. [LR34]

SENATOR SEILER: They're not coming on campus anymore? [LR34]

MIKE ROTHWELL: I don't know that. [LR34]

SENATOR SEILER: Okay. One of the most notorious people that ever came out of our prison system was Caril Fugate. And when she left prison...she was the cohort in a large number of murders. And when she left prison, she had a bachelor of arts and education and a master's degree and went out on parole, went to Wisconsin, became a very successful teacher. And she took her courses through the university. I wondered if you still had that program. [LR34]

MIKE ROTHWELL: I don't know that. [LR34]

SENATOR SEILER: See, I'm still suffering under the...when I first got into this business as a lawyer, the prison was almost self-sufficient, had its own dairy farm and gardens and the whole nine yards. In fact, one of my clients was...pled guilty to receiving stolen goods and begged the judge to send him back to prison for armed robbery because he didn't want to come in as a low-class citizen and asked the judge to specifically recommend he go back to the farm to work, because that's where he spent most of his life... [LR34]

MIKE ROTHWELL: Right. [LR34]

SENATOR SEILER: ...was working on the farm down there. And maybe some good things have passed away. But I thank you for your...oh, we've got a couple another couple questions. [LR34]

SENATOR KRIST: Just very quickly. Your program, one of the problems that we saw in Corrections reinvestment area in CSG was that we--and if Senator Mello were here, he would talk about the revolving door, which essentially means that you get someone who is convicted of driving while intoxicated, X number of offenses, and by the time they get to you they're going to have less than six months in their home, basically, before they're released, given good time and

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all the rest of the appeal process. That person is not going to benefit from a short-term program, potentially, but the key would be to get him in some kind of programming in that short period of time, and then community release would be the critical part for him or her. And I think that's...when...in my experience, the folks that we dealt with, particularly when we got into the depths of the Corrections reinvestment, that was that revolving door and those people represented at the time a large population that was time consuming. And then the people who could get programming were less time or less money to spend on them. And that's going to... [LR34]

MIKE ROTHWELL: We're...that's... [LR34]

SENATOR KRIST: ...that's...go ahead. I'm sorry. [LR34]

MIKE ROTHWELL: It's going to be difficult. There are some good short-term programs. There was a program that Hazelden had, was A New Direction. It was a six-month...either a three- or six-month program. It worked, very effective. You could take either the short or the long version. They have a new model out and I haven't seen that. We're looking at that. There's another program, the Matrix Model for Criminal Justice Populations (sic--Settings). It's an intensive outpatient program for 16 weeks, three nights a week for an hour and a half, that we could look at putting in the Community Corrections Centers or WEC or somewhere. So there are programs, and these are all evidence-based programs, that is part of this study that we're looking at that we might be able to put in for just those guys. [LR34]

SENATOR KRIST: So my point in mentioning this to you, and I just thought about it when Senator Seiler was saying this is amongst your other myriad of duties I would love for you to start keeping track of the differences and data as LB605 starts to take effect because what we should see is less population for you and nonviolent offenders like the recurrent drug offenses and DWI. Those people should be not coming to see you,... [LR34]

MIKE ROTHWELL: Correct. [LR34]

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SENATOR KRIST: ...to visit you. And you're, I think, the single...a point of contact that would be great to develop that database to show us whether it's working in that area or not. So, please, if you...in your spare time, of course (laugh). [LR34]

MIKE ROTHWELL: North Carolina had a...we had a community-based correctional facility that was 90 day. We worked with DUI, habitual DUI offenders, and I worked with the lieutenant governor to draft legislation so that when they went to prison they had to receive treatment. If they didn't receive treatment while they were in prison, they could only be paroled to this treatment facility. And the last report that I saw when it...before I left North Carolina, out of 2,000 inmates that went through that program, 143 went back to prison. I think it was about 4.75 percent went back. [LR34]

SENATOR KRIST: That's a nice recidivism rate right there. [LR34]

MIKE ROTHWELL: And so there are good short-term therapeutic community-type programs that are holistic in nature. And I think that's what we're looking here to establish... [LR34]

SENATOR KRIST: Right. [LR34]

MIKE ROTHWELL: ...is use multidisciplinary teams to work with an offender to develop a holistic program that is going to move them through the system and reduce the likelihood that they return. [LR34]

SENATOR KRIST: Thank you. [LR34]

SENATOR SEILER: Senator Morfeld and then... [LR34]

SENATOR MORFELD: Well, thank you for coming in today. And I'm sorry I missed your introduction. I was coming in late, in a meeting. So maybe you brought this up already, but I didn't see it in your remarks. Have you seen the proposal put together by the Nebraska College of Technical Agriculture? I had to read it off my screen because I always forget their (inaudible). [LR34]

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MIKE ROTHWELL: I have seen it. [LR34]

SENATOR MORFELD: Yeah. [LR34]

MIKE ROTHWELL: And we've talked about it. [LR34]

SENATOR MORFELD: Okay, good. And I know Director Frakes took the time to come down and meet with us on that, and I really appreciate that. [LR34]

MIKE ROTHWELL: Yeah, and that was... [LR34]

SENATOR MORFELD: What are your thoughts on that? [LR34]

MIKE ROTHWELL: Well,... [LR34]

SENATOR MORFELD: Because that would provide...just to give the committee and some folks out there, it would provide the ability to train and even house through the university system some of these folks and give them some skills. [LR34]

MIKE ROTHWELL: I've talked to Warden Morello about it. [LR34]

SENATOR MORFELD: Yeah. [LR34]

MIKE ROTHWELL: One of the issues is staff and transportation to...I can't remember the name of the town where they're... [LR34]

SENATOR SEILER: Curtis. [LR34]

SENATOR MELLO: Curtis. [LR34]

SENATOR MORFELD: Curtis? [LR34]

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MIKE ROTHWELL: Curtis. [LR34]

SENATOR SEILER: From McCook to Curtis. [LR34]

MIKE ROTHWELL: Yeah. [LR34]

SENATOR MORFELD: Well, I mean, the other thing is, is that they've offered...there's facilities where they've offered to bring their people there. [LR34]

MIKE ROTHWELL: Okay. [LR34]

SENATOR MORFELD: It doesn't just need to be in Curtis. [LR34]

MIKE ROTHWELL: Well, yeah, we're going to explore that... [LR34]

SENATOR MORFELD: Okay. [LR34]

MIKE ROTHWELL: ...and take a look at it. One of the problems when you start looking at specific areas like that, a small niche of employment is...her inmate population may be...we're going to have to look at where are they coming from. If they're coming from Omaha and Lincoln, are they going to stay and go through that kind of program? I don't want to establish a program when we can't get people to participate in it that aren't going to...so maybe we need to look at sort of a regional kind of population for WEC where there are guys coming out of the western part of the state who are going to stay and then move into those agricultural areas. [LR34]

SENATOR MORFELD: And I'll counter that by saying I think, number one, that's a legitimate concern to have. But then, number two, you know, maybe it's a new opportunity and a new life for some folks... [LR34]

MIKE ROTHWELL: Yeah. [LR34]

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SENATOR MORFELD: ...that will get them out of those urban areas where they're going back and getting into trouble. And I think that having that type of partnership where a lot of that tuition dollars and some of the other things would actually be paid... [LR34]

MIKE ROTHWELL: Absolutely, yeah. [LR34]

SENATOR MORFELD: ...through other sources, I think we need to take some risks and be bold and look at innovative solutions like that, particularly when we have a major institution that's willing to take the risk with us. [LR34]

MIKE ROTHWELL: And you're correct. One of the things that we found in Texas and Illinois and even North Carolina is it's not a bad thing to change people, places, and things. And we had guys we spent \$280,000 in federal funding to establish a state-of-the-art welding program. [LR34]

SENATOR MORFELD: Yeah. [LR34]

MIKE ROTHWELL: And when I had job fairs, originally it was so employers could come in and say, well, I like your resume--it's kind of like a Life Skills--but, no, I can't hire you but I know somebody who could. What happened was we took the employers down to the vocational trades areas, showed them all the machines and everything that we worked on, and they decided they wanted to start hiring these guys right away. So we had a group out of Peoria and Springfield said, I'll hire every welder you guys produce. [LR34]

SENATOR MORFELD: Yeah. [LR34]

MIKE ROTHWELL: And, you know, with the...we had guys from Chicago that would go down there and change jobs. [LR34]

SENATOR MORFELD: Well, and what I'm trying to get at is I know that this isn't going to solve...you know, this isn't going to solve, you know, a huge problem within the Department of Corrections, particularly if we're looking at housing, things like that. But it goes back to what

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Senator Krist was saying about having some tactical solutions along the way and also being able to fulfill some work force needs in western Nebraska while providing people with skills and giving them the new opportunities that get them out of these environments that are sometimes causing them to recidivate. So in any case, I'm glad you're seriously considering it. [LR34]

MIKE ROTHWELL: Yeah, well, I mean it's...you're true. [LR34]

SENATOR MORFELD: I'm going to continue to follow up with you on it, too, so. [LR34]

MIKE ROTHWELL: Oh, absolutely. I mean that's something we're definitely going to look at. I mean you're right. We had guys to...my facility was in a little village of 600 with a blinking light and a little, tiny grocery store and two bars and that was it. And, you know, these guys had never seen cornfields before, coming out of Chicago, you know, so. [LR34]

SENATOR MORFELD: Yeah, yeah. [LR34]

MIKE ROTHWELL: But they still would move and be willing to go to other places. [LR34]

SENATOR MORFELD: Great. Thank you. [LR34]

SENATOR SEILER: Senator Schumacher. [LR34]

SENATOR SCHUMACHER: Thank you, Senator Seiler. Two bars and one blinking light, that's doing pretty good (laugh). [LR34]

MIKE ROTHWELL: You must be from somewhere smaller. [LR34]

SENATOR SCHUMACHER: (Laugh) That's right. [LR34]

SENATOR KRIST: That's a county seat in Hall County (laughter) (inaudible)... [LR34]

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SENATOR SCHUMACHER: (Laugh) Metropolitan area. Just a couple of questions. Several years ago I think the state of Massachusetts had a program where they offered inmates basically a free college education. And I think I've been told there was zero recidivism once they came out of that program. Program was terminated because, well, politically, how can you justify not paying for a kid who never has been to the penitentiary's education and giving somebody...rewarding somebody for going to the penitentiary? Is there...do you have any thoughts as to how we could design a program to promote people perhaps getting a university or college degree and at the same time financing so after the fact they would contribute back toward that degree so that we would avoid the Massachusetts pitfall? [LR34]

MIKE ROTHWELL: I think there's some softening. The same thing happened to me in Tennessee. The governor called me and I had the only college program in the state. From Lincoln Memorial he called me because some farmer's son said, I work hard and I can't go to college, the criminals and rapists are going to college, and he said shut it down. I think we're softening. I think with Pell Grants and some of the federal funding coming back that that's something that we can pursue and continue to look at. [LR34]

SENATOR SCHUMACHER: Because there should be some way we can provide financing to undercut most of that argument. The second thing as far as for the more hands-on, the welders and the riveters and those folks that at least the businesses in my area are just crying and crying and crying about not having enough of. Is, as a source of partnership of education, besides maybe what the community colleges do...we had one hearing in Revenue Committee a year ago that really I thought a very impressive presentation, and I pass it onto you for the idea of maybe exploring it, and that is the educational abilities that are inherent in some of the unions. They seem to take care of their own. They do a good job of training and you don't hear much about a union shop crying about not having skilled labor. And so I would think that maybe there's some opportunity there even though this is Nebraska and unions are unions. [LR34]

MIKE ROTHWELL: We discussed that--apprenticeship programs--when I met with John from Labor. That's something we're going to look at is how we can have a trades program to support the unions. In Illinois we approached the unions, but they had members that couldn't find jobs. So they weren't interested in partnering to do apprenticeship programs. Their union halls were



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full of people looking for work. But I think part of our review of looking at demand occupations is going to be, where are we...where do we want to be in five years, ten years? Where is the market going to be for skilled laborers? And then it's our responsibility to kind of look at in the prison system where do we place those vocational programs so that we can meet the demand that's coming. [LR34]

SENATOR SCHUMACHER: The impression I got was folks like the AFL-CIO who have a full employment environment like this might be very amenable to at least talking about it. [LR34]

MIKE ROTHWELL: I think you're right. I think that's something that's very worthwhile to look at. [LR34]

SENATOR SCHUMACHER: Thank you. [LR34]

SENATOR SEILER: Senator Mello. [LR34]

SENATOR MELLO: Thank you, Chairman Seiler. And thank you, Mr. Rothwell. I apologize for not being here for your spoken testimony. [LR34]

MIKE ROTHWELL: No. [LR34]

SENATOR MELLO: I went through your written testimony. And I appreciate Senator Schumacher's questions and feedback regarding looking to try to see what can be done at the department level to expand its relationship in regards to seeking out apprenticeship programs, partnering with local unions and trade unions who focus on skilled labor. One area that was in your testimony briefly, or it was in a document you gave, and which I have an awful lot of interest in is Cornhusker State Industries, as I've been doing some research generally in regards to existing state law requires every political subdivision in the state--school districts, cities, counties--everyone is supposed to go through the Department of Corrections first in regards to trying to purchase equipment and services and goods if they are available and if CSI actually makes them, that they're supposed to approach you before anyone else when making purchases like that. And I've taken that as almost a real opportunity in regards to some preliminary

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conversations I've had with people in different political subdivisions. It's very small, I'd want to make sure for the record. It's not that I've contacted all of them. But very few really even realize they're suppose to be connecting to CSI in regards to seeking out, purchasing goods and services from the department. And this may be in Director Frakes's plan that we will hopefully talk about at our next public hearing. But I want to at least put it on your radar in the sense of seeing what can be done both within the current existing statutory requirements, but what opportunities...I think you just heard Senator Schumacher also discuss in regards to taking CSI or building maybe a new vision for Cornhusker State Industries, because it really is an "unkept" secret in regards to producing really quality products, providing inmates, obviously, skills and experience and prepare them to reengage and reenter society. And I kind of give you more of an open-ended question to discuss. I know you haven't been here very long. But CSI was mentioned in one of the documents in regards to being an opportunity hopefully for you as you consider programming needs and any kind of planning that's going to take place as it relates to job training or vocational and tech ed. [LR34]

MIKE ROTHWELL: And we have discussed CSI, the director and I. And, you know, that's an area we do intend to look at because if you have long-term inmates in CSI, you know, they're not getting out and getting into the job force. And maybe we need to look at using shorter-term inmates. And that's sort of the conversation theoretically that we've had on how best to fill the work force, not only for CSI, but in the community so that they have a job when they get out. So that is something definitely we're going to be discussing more. [LR34]

SENATOR MELLO: The second...the first point, could you give any...shed any light...has that been a conversation from the department's end in regards to connecting and building relationships, stronger relationships with cities, counties, school districts, community colleges, natural resource districts, in respects to them purchasing more goods through CSI so that it would provide you, the department, more ability to provide, whether it's more shifts...I mean I know to some extent you...CSI, you can only have so many inmates working at CSI when there's demand for the product, so to speak. And I guess that's part of the question I've got is, is there a way in your perspective, in your short time at the department, a way to boost, quote unquote, the market demands for CSI products? [LR34]

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MIKE ROTHWELL: Well, actually, John McGovern is over CSI and I know he's very passionate and has his sales guys out beating the bushes and they're really trying to develop a market for, you know, CSI products. And he's doing a great job doing that right now. [LR34]

SENATOR MELLO: The Vocational and Life Skills Program that was created in LB907, a great overview, we were talking a little bit yesterday in regards to some Q&A in the committee. Right now that program, there's \$5 million been appropriated and \$1.5 million goes to the department... [LR34]

MIKE ROTHWELL: Right. [LR34]

SENATOR MELLO: ...for staffing and operations; \$3.5 million goes to the department for direct community services. Are you seeing that \$3.5 million per year filling all of the department's needs for the vocational and life skills? Or is this something that we're going to need to consider in the near future, increasing that appropriation for that specific program? [LR34]

MIKE ROTHWELL: We're looking at that right now and looking at, you know, as we shift the model to a program-driven system and then have more guys going out, whether or not we're going to have to expand that or not. [LR34]

SENATOR MELLO: Do you think we'll see that? Was that something we will see I assume...can I assume that's something we'll see in the next biennium then? [LR34]

MIKE ROTHWELL: No. I'm not working, you know, on that aspect of it at this point. [LR34]

SENATOR MELLO: Okay, okay, okay, okay. Thank you. [LR34]

SENATOR SEILER: Any further questions? Thank you very much. [LR34]

MIKE ROTHWELL: Thank you for having me. I appreciate it. [LR34]

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SENATOR SEILER: We'll look forward to you calling and setting an appointment and saying, I'm ready to go. At this time I'd like to call back to the stand Scott Frakes, Director, and I'm wanting to limit his testimony to the testimony that Diane Sabatka-Rine would have given us regarding restrictive housing and overcrowding. I think those...the record as it stands now is pretty weak on those two issues and I'd like to see what the director's testimony is going to be on that. [LR34]

SCOTT FRAKES: Thank you, Senator Seiler, members of the committee. Would you like me to say and spell my name again? [LR34]

SENATOR SEILER: Yeah. Yes, for the transcribers. [LR34]

SCOTT FRAKES: I'm Scott Frakes, S-c-o-t-t F-r-a-k-e-s. And again, thank you for having me back today. I hope you will humor me for just a very brief moment. There's just a couple statements I'd like to make following up from yesterday. That starts with, Senator Seiler, apologizing to you. When you asked the question about LB999 and Hastings, my confusion wasn't about the project. It was that my moment...at that moment in time I was sure that we had done testimony in August about the department's position. So I was kind of confused of where you were going. But looking back, in hindsight I think I could have done a much better job of just speaking to your question. So when Jeff Beaty did testify in August, what we shared was that, as I said yesterday, certainly concerns about a facility far away from Lincoln and our need to increase community beds. And the last piece of that would be, as when the day comes that we sit down and we talk about the strategic plan, we'll talk more about my belief that our first focus for the department should be to improve the existing facilities, increase capacity within the existing facilities, that that's the best strategy, that's the most cost-effective strategy. And if the day comes that we need to build another prison, then we'll have that conversation. But I expect that day, if things work as well as I hope, that day to be a long day...time in the future. I should have known better than to speak off the top of my head about the procedural processes around the purchase of the death penalty drugs. That's why we use written protocols, because that's how I make sure to do my job right. When I said that we consulted DAS, that was not accurate. We have a promulgated protocol, Title 69. It is the execution protocol. It spells out all of the steps involved, including the purchase of the drugs, the process that I use to purchase those drugs, my

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legal rights that I use to follow the purchase of those drugs. So I apologize for saying that DAS was part of this because that was not accurate. And again, that's Title 69. I didn't have time to get copies of it (inaudible). [LR34]

SENATOR SEILER: Would you get copies and give... [LR34]

SCOTT FRAKES: Yes. [LR34]

SENATOR SEILER: ...and send them to our clerk and Ollie will make sure we all get them. [LR34]

SCOTT FRAKES: Yes. [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: I will do that. Thank you. [LR34]

SENATOR SEILER: Not a problem. [LR34]

SCOTT FRAKES: So plans to address overcrowding: We talked some yesterday about the master plan. And again, the strategic plan actually does get into it in more...it doesn't get into the detail that you might see because that document is a guiding document; it's not a workbook; it's not an action plan. It sets out the parameters, and then there are multiple layers that will be built underneath that. I spent a lot of time going through the master plan--I can't tell you the number of hours and the number of times that I've gone through it--as well as looking at the individual proposals that were within that plan, and that's how I used...that's how I shaped what I'm proposing at this point. First, meeting a need that I recognize that I'm very comfortable in supporting was the expansion of the Community Corrections beds at Lincoln. Net gain out of that: 148 beds. It's not very many beds. It is enough beds, I believe, to move us away from the jail bed program. I do believe that there is a need for additional behavioral health and/or...not...behavioral health, physical health, some other supporting program space at the Lincoln Correction Center and Diagnostic and Evaluation Center. Talked yesterday, again, about the idea

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of the RTC proposal which comes out of the master plan, but a much bigger proposal than that plan--many more beds, much more complexity. Not clear to me that that is what we need, so in the strategic plan we will request the funding for a program statement to come back in, working with my new behavioral health and chief of psychiatry, health services director, deputy director, as well as other stakeholders, to put together the right proposal and then come in, in the next biennium, to make the request. We have another list that's in that strategic plan that talks about different potential projects. Again, once we really establish the makeup of our population, once we know...today, if I look at my report that I get every morning, it says that 31 percent of the inmates are maximum custody. I know that's not right. A big chunk of that is people that are really not classified yet. They're sitting at DEC, not all of them, but some of them. And so they...until they get a proper classification, they classify them as max and treat them on the most restrictive level. So I still believe that that number for the maximum custody is going to be significantly lower. I think we need a clearly defined medium population and what that looks like. And then I know...well, I already know that the numbers for community custody are bigger than what we show today because we don't give people community custody classification until we have a bed to put them in. So while we might have 580 in our two facilities, any given day we've probably got 200 sitting and waiting. So creating community corrections beds: absolutely the best place to go right now without doing any further analysis. We do the risk needs, we do the validated classification, find out if our true minimum custody and community custody population is 30 percent, is it 40 percent, is it 25 percent? That will then guide the decisions that we make next year proposing what additional beds or what additional core program/core services expansion we do. I understand you want answers now. I get it, I really do. I have to stay true to what I told you when I came here and I'm going to stay true to that. When I come and tell you what I need, I want to be able to demonstrate the reasoning, the logic, the data that supports those needs. I don't want to make bad decisions, not just because you don't want that, not just because taxpayers in Nebraska don't want that. If I make bad decisions in this system at this point, it could collapse. So I'm doing my very best to make sure we keep the wheels on and we stay on track and make headway as we can within our existing resources. If you look at page 4 of the strategic plan, you'll see the tactical work that we're doing. Listened this morning, Senator Krist, and I fully appreciate you have to have a strategic plan, you have to have strategic thinking, and sometimes you've got to seize the opportunity. And there's a pretty good list of stuff that we've seized, despite the fact that we're running a prison system that's very busy and

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very packed, despite Tecumseh, despite the other challenges, despite pretty much building a brand-new leadership team, which hopefully, even though you're frustrated with me, I hope you like what you saw today in the choices that I made. I'm really excited about the people that have come in and I think we've got not just good people, but good chemistry. We've got the ability to move this agency. Lincoln Air Park correctional facility: So there was an in-house study done before I ever got here. It landed at somewhere between \$9 million and \$12 million, or even \$13 million, depending on who you talk to and depending on how it was sorted out. But you take the kitchen piece out, it brings down the cost. Fair amount of disagreement that that was an accurate assessment of what it would cost to restore and bring Air Park on-line. So we received direction to do another program study. That was due January 1, so that's part of the reason that I realize you just got it. But it wasn't actually due until January 1, so we were trying to use it and make use of it, make our (inaudible) decisions. If you had a chance to open up that book, you'll see now the numbers are more like \$18 million. This is an independent study. We paid someone to come do it. We didn't guide it. We didn't bias it. All we said was go in and look. I have some background. I was a contractor before I got in this business. I wasn't a very good one. That's why I went to work in corrections. But I've also built prisons. I've done a lot of prison construction. I did tour Air Park last spring. And the kind of things that I saw were the things that I somewhat expected to see. I opened electrical panels. I found outdated panels that were no longer in code. I went into the bathroom spaces, saw that there were not enough toilets, there were not enough showers. It's all slab on grate. I mean, cut it open, jackhammer it out, pull it all out. Are the feeding pipes, are the sewer pipes that lead into the building big enough to support? I realize they were...had a population in there before, but when that building was built it was a long time ago. And clearly from the study, there is just a huge list of things that would need to be addressed and fixed to be able to reinhabit that building and have it meet current code. Could probably be done a little quicker. I'll be optimistic and say that if we were to move forward with design today, maybe we could be in that space in less than 24 months. We don't own it. It's a lease. So on top of all of that, we put \$18 million into a building that belongs to somebody else and then pay a lease fee to have that space. And we still have to run it. It's still a prison and it still has all the same overhead and all the same cost. Proposal at Lincoln not only creates the same number of beds, it gives us the opportunity to do something that's...I haven't had a lot of experience in working with female populations, but I've had just enough experience to know it's a special part of Corrections, that what we do today with the coed settings is damaging, that many of the

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females need an opportunity to be separated from the people that victimize them in the community. That may not be their specific victimizers, but a lot of the men that are housed in there have the same traits, present the same issues. They need an opportunity to be together, just as our female prison is, housed safely, away from those influences. And then we can start to build a really gender-responsive approach to how we treat them, both in their treatment and in our programming. And then there's the whole issue of trauma-informed care. I'm not an expert in any way. I have just enough understanding to know that for the female population it's a very valuable approach. I also believe that the science is going to show us that for a good part of the men's population trauma-informed care is of value because they have been sexually abused, physically abused, mentally abused, and abuse themselves as well over the years. So this is an opportunity to start with a part of our population. It creates repurposing of the existing beds for male beds, creates a great way to approach managing our female population and preparing them to come back to the community. It's going to give us just huge opportunities. And then we redo the kitchen. We could provide some programming space. We do some other things for the overall infrastructure of CCCL. Twenty-six million dollar project, that's a pretty big project for a prerelease/work release. But when we're done, it'll be a 560-bed facility that's actually suited for 560 people. There will be adequate course support space, there will be programming space, and there will be that separation of the population. And then by next summer, we will have done the research and be able to talk about where do we go next. The....well, let's see. You said, Senator Seiler...this is my letter to me. Now wanted me to speak specifically to Diane Sabatka-Rine's? [LR34]

SENATOR SEILER: Yeah. I'd like to stop when you're done with the overcrowding and ask questions at that point, and then we'll go on to segregation or restrictive housing. [LR34]

SCOTT FRAKES: Okay. I think I could stop there. [LR34]

SENATOR SEILER: Okay. Senator Krist. [LR34]

SENATOR KRIST: My question is very specific. The facility at Air Park is managed right now by the Airport Authority. Is that true? [LR34]



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SCOTT FRAKES: I believe that's correct. [LR34]

SENATOR KRIST: Okay. And they would expect us to spend \$18 million and then pay rent? I'd love to have that contract. [LR34]

SCOTT FRAKES: That is how a lease works. It's not a lease/purchase. It's a... [LR34]

SENATOR KRIST: Well, I would argue that I've been involved with several hangar and building rents in my time and capital improvements to the facility are sometimes discounted in a triple net and you have an opportunity to go in and do some things. So I would suggest--and again, I've been told many times by the Governor he hired good people, we've got to stay out of your way and let you do things--but I would suggest that we get a real estate person and start putting the screws to the Airport Authority at Lincoln. This building is sitting there doing nothing and not generating any income. So let's start talking to somebody about simultaneously doing what you're doing and maybe looking forward to this one. And my proposal is let's get some things done tactically because I'm watching revenue streams and I'm looking at...and I think you heard my testimony this morning, the committee that I chair--and we'll sit down on the 18th of November--a projection from what our revenues are going to start looking like. And money is going to get tighter and tighter and tighter. This is a priority. This is a priority. And if we don't start putting some investment into it...and I'd be happy to start talking to the members that I know on the Lincoln Airport Authority or to have the local Lincoln representatives start talking to them because I just know enough about the real estate business to say I think you have a bit of an edge if these are the things that need to be done and they want long-term income for a building rather than letting it sit there and decay. There might be an option there, and so... [LR34]

SCOTT FRAKES: Yeah. Can I make time to come see you? [LR34]

SENATOR KRIST: Yeah, absolutely. And I'd invite several of the Lincoln folks to come in. And maybe we should just get an independent real estate guy who has knowledge of nets and triple nets and all those kind of things and start talking about some options. [LR34]

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SCOTT FRAKES: All right. [LR34]

SENATOR KRIST: Thank you. [LR34]

SCOTT FRAKES: Thank you. [LR34]

SENATOR SEILER: Senator Mello. [LR34]

SENATOR MELLO: Thank you, Chairman Seiler. And thank you, Director Frakes. And it's a little bit of a follow-up on Senator Krist. I was going to ask, what has your conversations been like with the Airport Authority in regards to talking about the potential use of the Air Park facility? [LR34]

SCOTT FRAKES: Other than to meet and have a tour of the facility, I haven't explored any further because it's... [LR34]

SENATOR MELLO: Okay. [LR34]

SCOTT FRAKES: ...wasn't the option at this point that I think we should pursue. I'll keep an open mind. I always do. [LR34]

SENATOR MELLO: And I guess that would be the...I mean, following up with Senator Krist, I mean, to give everyone more perspective, this Air Park facility was initially a recommendation as an option that came from former Department of Corrections Director Bob Houston, who thought this was an option for us to consider retrofitting this facility and working with the Airport Authority in regards to taking any long-term lease to ensure that it helps with overcrowding. That dollar amount went from \$4.2 million to then the \$11 million and now the report you gave us yesterday, the \$18 million. So I would kind of echo what Senator Krist just offered, but also encourage to some extent...I don't know if it's mostly a real estate individual right now. I think it's more a matter of talking with the Airport Authority to find out what options they would be available to and what they would be amenable to because I've never met anyone who owns property who to some extent don't/won't consider build-out costs in regards to doing any kind of

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lease project. And I think it goes...it cuts to a lot of what we've talked about in regards to the overall prison population in the sense of...the hope of not wanting to overbuild. Obviously, we don't want to overbuild any state facilities because the hope is with LB605 we will see a transition in regards to the population that you're serving in the next five to seven years. So that would be the first component. The second component I guess I'd raise a little bit was just so I understand the numbers. Twenty-six million dollars for 148 beds is kind of what you're going to be likely...what you're likely going to be requesting in the deficit request this year is that, generally...now my understanding though, it wasn't put out in the deficit request process but you're going to now...giving a new request to the Governor and the Legislature for that dollar amount? [LR34]

SCOTT FRAKES: Yeah, it's 160 new beds but it's a net gain of 148 beds. [LR34]

SENATOR MELLO: Okay, so a net of 148 beds for \$26 million. What's the staffing costs associated with the new facility components, because that's the just the capital? [LR34]

SCOTT FRAKES: Yeah, I'm sorry, I don't have that document with me today. [LR34]

SENATOR MELLO: Okay, okay. That's something that you can get back to us. My last point on anything related to the overcrowding...and I guess maybe it's because I'm in a good mood because it's Friday and I'm looking forward to spending time with my family this weekend. I've looked through your plan, your strategic plan, and I would make an argument to you and to your staff that any plan I've generally seen that comes from the Department of Corrections in my time in the Legislature involves an awful lot of numbers--an awful lot of numbers regarding prison populations, anticipated populations, programming needs, service needs, dollar amounts associated with those. And none of those figures were in your strategic plan. And so I'm still very apprehensive right now in regards to calling that a strategic plan. It may be a visioning document for you and for your team. But my hope is, before we spend some more quality time with each other to go over that plan, that you would consider maybe putting some more numbers and figures and data associated with that plan. That gives us an opportunity to really digest not just what you want to do but how we actually are going to measure your success, because that is the one caveat. Looking at some of the lingo and some of the language that was in your

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document, there was no real way for us to determine from looking at the document whether or not you're succeeding or failing in regards to any of the new strategic directions you're taking. And I've never been...in any plan I've ever been involved in or any plan I've had to measure or be measured on, there's always numbers associated in regards to whether or not you are successful or you're failing. And I think that would be the one request I give back to you. Hopefully, obviously the Chairman of the committee, when he decides to schedule another hearing to go over your plan, that maybe you go back, reconsider making changes to it, beefing it up a little bit, and providing us what you said, the additional layers that are a part of the action plan. Because we can spend a lot of time talking about strategic vision that I generally feel the department is starting to really take it to heart that you're going to have a new vision and trying to accomplish some things that previous directors have not been able to do, but we still have been talking extensively about programming, mental health services, vocational tech-ed programs, reentry services, number of actual prison beds we need to fill...to deal with the overcrowding. Those are all driven by numbers. And a document with no numbers is tough to really call it a plan because that's simply saying these are things we'd like to do, not things that you can actually judge us on in regards to whether or not we appropriate money, whether or not we decide to give you more money or allow for more staffing to occur, and whether or not we decide that we want to actually build more prison beds. So that would be my polite request to you, Director, in the sense of, before you come back to the committee, to really reconsider putting more metrics, real data-driven metrics in regards to your documents so we can have a real candid conversation about where we can go in the future and where we can hopefully do it together. [LR34]

SCOTT FRAKES: And the good news is that the presentation I'm ready to present has those pieces. [LR34]

SENATOR MELLO: Okay, good. [LR34]

SCOTT FRAKES: Think of that as the overarching document that... [LR34]

SENATOR MELLO: Okay. [LR34]

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SCOTT FRAKES: ...starts the work. [LR34]

SENATOR SEILER: Senator Morfeld. [LR34]

SENATOR MORFELD: Well, thank you, Chairman. I won't pound into the sand my thoughts on how we should be reengaging the Airport Authority on this. I know that personally from the chair of the board of the Airport Authority that they're willing to sit down and negotiate and look at some of these different plans, perhaps something that Senator Krist talked about. I think that one of my concerns with the plan, and maybe you have a different vision for what that facility would house, is that it seems like it's being envisioned in the review of it for being a medium security type of facility. But community...no? Okay. [LR34]

SCOTT FRAKES: No. [LR34]

SENATOR MORFELD: No. Okay. [LR34]

SCOTT FRAKES: No, no. [LR34]

SENATOR MORFELD: But it seems like with the things that you're pricing out and providing numbers for...and granted, I'm not an expert in which level of security the facility and how secure it needs to be. That's you. I understand that. It seems like there's a lot of costs in there that doesn't seem amenable to a community corrections facility--I mean the fencing, the...all of those different things. And so I would encourage you to sit down again with the Airport Authority and really start talking about some options there, because they have a facility that could be retrofitted. Eighteen million dollars? I don't know. I mean are all of the facilities that you currently have in Department of Corrections completely up to code on electrical? [LR34]

SCOTT FRAKES: No, they're code for the time they were built. And as long as you occupy and don't do significant remodeling then... [LR34]

SENATOR MORFELD: Obviously, in order to do remodels, you'd have to bring it up to code. I understand. [LR34]

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SCOTT FRAKES: Once you walk out and close the doors, it requires upgrading. [LR34]

SENATOR MORFELD: Okay. Well, I would certainly encourage you to do that and I think that we'd be willing to sit down with you, too, and have a discussion about that. Obviously, that also fits into where your strategic plan is headed and how that fits in systemwide. But I think that we need to start pursuing some things sooner than later. [LR34]

SCOTT FRAKES: All right. Thank you. [LR34]

SENATOR SEILER: Senator Schumacher. [LR34]

SENATOR SCHUMACHER: Thank you, Senator Seiler. Just kind of a simple math question to make sure that I've got these numbers straight in my head for the raw facility--no staffing, just the facility--for 148 beds, \$26 million. [LR34]

SCOTT FRAKES: One hundred sixty constructed beds, new dining hall, new program space, other remodeling to existing space to completely turn the facility into correctly sized core service for 560 people that are housed there. So it is more than just 160 beds. [LR34]

SENATOR SCHUMACHER: So it will house 560 people? [LR34]

SCOTT FRAKES: It's 400 now. It's 400 now without adequate core services to support the 400 that live there. It would go to 560 with adequate core services to support 560 people. [LR34]

SENATOR SCHUMACHER: So when I figure the cost per bed, what do I divide the \$26 million by? [LR34]

SCOTT FRAKES: There's a...well, we don't have a program statement yet because, of course, we need to go do a program statement. There's a...you could go specifically to the cost of the living unit space, which, I'm going to come off the top of my head again, it's \$7 (million) or \$8 million. So you could divide the 160 into \$7 (million) or \$8 million. You could choose to divide the 160 in the entire project, but again, I don't know that that's an...that's not an accurate way to

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determine the cost of the beds. There are other projects on the list of things to think about that don't include any bed space increase but do bring cost because either facilities need core support increases: new dining halls, new program space. [LR34]

SENATOR SCHUMACHER: Well, the cost per bed in either division, I mean in the one division, \$26 million by 148, roughly, come up with about \$175,000 each. [LR34]

SCOTT FRAKES: Right, but again that's... [LR34]

SENATOR SCHUMACHER: Or if you just... [LR34]

SCOTT FRAKES: ...I don't know that it's an accurate way to... [LR34]

SENATOR SCHUMACHER: ...if you just do it by \$7 million, which is about a quarter of that, you're still talking roughly \$40,000, \$50,000 a bed, when doing it...the math that way. [LR34]

SCOTT FRAKES: Prison beds are expensive, I agree. That's why I don't want to build...I don't want to waste any. [LR34]

SENATOR SCHUMACHER: Thank you. [LR34]

SENATOR SEILER: Go ahead, Senator Pansing Brooks. [LR34]

SENATOR PANSING BROOKS: Thank you, Chairman Seiler. Thank you, Director Frakes, for coming again. Can you explain to me because I'm just confused about the fact that the overview of the plan that I've seen talks about creating a new women's facility. Is that correct? [LR34]

SCOTT FRAKES: It's a separate living unit within CCC-L, Community Corrections Center-Lincoln. [LR34]

SENATOR PANSING BROOKS: Lincoln. [LR34]

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SCOTT FRAKES: Currently, they're coed housed. [LR34]

SENATOR PANSING BROOKS: Okay. So the plan would be to build that so that it would free up more beds for the men. Is that how this is working? [LR34]

SCOTT FRAKES: It does work out that way. [LR34]

SENATOR PANSING BROOKS: Okay. And so do you know what the transfer of numbers is on that? So how many beds do the men gain? And I think you just said there were going to be how many beds created, 500, was it? [LR34]

SCOTT FRAKES: We gain 112 male beds, and for the system 48 female beds. I think that's the correct... [LR34]

SENATOR PANSING BROOKS: One hundred twelve, plus forty-eight is the female side of it? [LR34]

SCOTT FRAKES: I'm sorry. [LR34]

SENATOR PANSING BROOKS: One hundred twelve plus forty-eight then, is that what you're...? [LR34]

SCOTT FRAKES: Let me find the right way to explain this. So today at Community Corrections in Omaha there are 88 male beds, 24 female beds. We would stop housing the female...if we build this new living unit, we would stop housing females in the Omaha center. We would convert 12 of the 24 beds used to house females into male beds. If I had documents in front of me this would probably go a little bit better. So, I think that's the correct math though. Yes. And the reason for that, of not just converting all the existing female beds into male beds, is because at this time CCC-O doesn't have the adequate support structure, core structure, for the number of inmates we house there. I'm pretty sure I've got one of those numbers wrong though. It's not 88 males. It's...I'm sorry I didn't come in with that set of documents to speak to it, so. Whatever the total current population is at CCC-O, I think it's 156, we take the females out. We will house 12



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less people in there. They will all be men. That will bring down that operating capacity a little bit, make a better balance between the core support services and the number of people housed there. We create a brand new living unit at CCC-L here in Lincoln. It's 160 beds only for females. It's in its own separate space separated from the male population. It will include programming space. It will include adequate day room space. We'll provide dining space and we'll move the food from the food service prep into that area. We'll do everything we can to keep those populations separated unless we identify a legitimate reason that we would want to mix those populations. Sooner or later they are going to mix and so there probably are opportunities and appropriate ways to do that. But we want to provide an opportunity to see if we can do something that allows us to focus on the needs of female offenders as they transition out to the community. I know we can. I believe we can. In addition to that piece of the project, the existing food service was built when the facility was built to feed 200 people. It's been feeding 400 people, not well. We need a new food service operations that can feed now a population that would be 560 people in total. We need more programming space within the male section because it wasn't built to have any real programming space. We need some other adjustments and improvements to make sure we get full use of that. Currently, there are 88 females at Community Corrections Center-Lincoln. Those would become male beds. And that would give us 400 community custody male beds in the Lincoln center, 160 female beds, total population 560, and I'm going to stop trying to remember the right math in Omaha. But it would be...the entire population would be male, and it would be 12 fewer beds than there are there today. That's why I say we build 160 new beds, but the net gain for the system is 148 beds. [LR34]

SENATOR PANSING BROOKS: Okay. Do you think somebody might send us those numbers at some point, since it was sort of hard to follow that a little bit? Okay. For all of us. Okay, so I guess...when I...then I'm going back to the information on Lincoln Air Park and this huge discrepancy between your predecessor's estimate and your estimate, or the people's you paid for estimate. And having been out there--I did go take a tour of it--I am really surprised about an \$18 million cost. Now, I don't know. I guess I don't know exactly what bringing these things up to speed are. But when I think of Senator Krist's comments about tactical actions, that place is in really good shape. It even has ground-coupled heat pumps, which I know is state-of-the-art right now as far as infrastructure in heating. So when I turned the corner and saw that, I was blown away. The electrical panels, I mean we're seeing some pretty hideous pictures here, but I could

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take some pictures out there that counteract this completely. So I don't know. I agree, there's cleanup and paint and maybe new bathrooms. But other than that, I don't know even why they're showing some of the stuff on the...because from what I was getting and from the people that were with me, both from the Ombudsman's Office and elsewhere, people were pretty much in agreement that the infrastructure was in pretty good shape. And whether it could be used for a temporary purpose, again, it's a tactical step rather than...you know, if some point we can build a significant facility. But it's even...it's two blocks from the bus line. There's all sorts of ways that we can get people working in the community. We can bring the trucking industry that's nearby out there in for training on fixing semis or learning to get your driver's license on semis--all sorts of opportunities for vocational rehabilitation out there. So I really have a hard time understanding all of sudden this jump, almost...well, it's certain a fourfold jump in cost in a difference in a year. So can you speak to some of that? [LR34]

SCOTT FRAKES: Again, when I first stepped in the door, I thought, hmm, this is interesting. A lot of...seems to be a lot of space, some potential for classroom space and some other programming space. Then I looked at the living space and I thought, hmm, this isn't a very good design but we could figure something out and see if we could make it work. Then I walked in the bathrooms and I said, hmm, this isn't good. This is...these will have to be redone from the...under the ground, up. I looked at electrical panels and said, hmm, I don't think those are going to meet code today, because you two buildings is really what you have. You have the original structure that was built sometime in the '50s and then you have another piece of the structure that was constructed I believe in the '90s. The side with the '90s has, not quite state-of-the-art anymore, but it still does have the ground geothermal HVAC system. If I remember correctly, in here, they thought that that system seemed to be in reasonably good shape. The system for the other side of the building they don't believe so. The roof leaks. That's another issue that has to be addressed. If we talk about doing anything around electrical, it's not Sheetrock on studs; it's block walls. So now we're tearing into concrete and tearing into block walls. So I think we could go back and forth about the kitchen. That's a piece that's in here and I don't remember exactly what number is attached to it. It's probably \$3 million. I still do not agree that there's a way to satellite feed that location and do it well. We have some past experience in contracting out with companies like Aramark. It didn't go too well either, not a fan of that. But that's a piece we could go back and forth on. But I'm at a loss to tell you that there's another way to yet come up with another set of

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numbers. If the fencing is still in here, that's a mistake. I was sure that I had gotten...pointed that out early in this process and said that doesn't belong in here. If it's in here, that's a number that we would pull out. But it's expensive to remodel. It's expensive to come in and add things like kitchen space. I do understand that. Until we actually did a program statement, which is also true for what I propose for CCC-L, we're not going to really have a good sense of what the bottom line is from a designer. And then we still have to put it out for bid, of course, find someone that will actually build it for what we think the designers say it will be built for. Those are the unknowns. But this is a reputable firm. And I believe they did a good job of making an assessment and gave us the feedback that they felt was accurate about the challenges, the things that were...looked good and the things that didn't look good. They put dollar costs to those and that's the numbers that they came up with. [LR34]

SENATOR PANSING BROOKS: Okay. I would agree that they're one of the best firms in town. And I guess part of the issue remains then, of course, what was the question asked? Was the question asked how to make it our primary and most perfect and exemplary community corrections place, or was it to tactically use the place until we can afford something brand new and perfect, as this is bringing it up to perfection it seems to me. So I guess, do you know what you know what you asked them to find, or just is it to make it habitable and useable even for a temporary purpose? Or did you ask what can we...what do we need to do to make this a perfect community corrections facility? [LR34]

SCOTT FRAKES: Well, we didn't use the word "perfect." We just asked to make an assessment of what it would take to turn it into a habitable, usable, effective space to house inmates, so. But you don't say to someone, what's the least you can do to scrape by the law, because we are talking about... [LR34]

SENATOR PANSING BROOKS: No, but you can say what...if we're going to lease this for a period of years, what can we do to make sure that it meets the requirements necessary. You don't have to ask for every single gilded edge to it. That's what I'm trying to figure out, which version do we have here because we have two distinctly different versions a year apart. [LR34]

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SCOTT FRAKES: I know. One done in-house and one done externally, so I'd like to think that you would believe this one is less biased than the one done by the department. [LR34]

SENATOR PANSING BROOKS: Okay. [LR34]

SCOTT FRAKES: I can tell you I didn't sit down with the architects and say, bring me the highest dollar that you can find. [LR34]

SENATOR PANSING BROOKS: Yeah. [LR34]

SCOTT FRAKES: Because if they had come back and said, man, you know, your folks missed the mark, these systems are sound, everything looks good, yeah, we need new toilets and a few other things, it would have certainly changed the conversation. But that's not what they brought back to me. [LR34]

SENATOR PANSING BROOKS: Okay. I have another question. [LR34]

SENATOR EBKE: Okay. [LR34]

SENATOR PANSING BROOKS: Just on housing, yesterday I'd talked to you about whether or not the...in repurposing Tecumseh. And you had talked about moving 100 people over to which unit was it? Number...you're moving 100 people over to one of your units. [LR34]

SCOTT FRAKES: They added 100 beds to SMU West... [LR34]

SENATOR PANSING BROOKS: Okay, and so... [LR34]

SCOTT FRAKES: ...which was the restrictive housing unit in total. [LR34]

SENATOR PANSING BROOKS: And so this is merging into restricted housing but it does have to do with overcrowding. So let me just finish this, that...I found the statistics that I had been looking for yesterday when I asking you and it said that the restricted housing unit's

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unencumbered square footage is 57.4 right now, and that the ACA standards are 35.5. So you add a second inmate in there and that doubles that 35.5 unencumbered. So I believe... [LR34]

SCOTT FRAKES: Does it? [LR34]

SENATOR PANSING BROOKS: ...that we're then out of compliance with the ACA. [LR34]

SCOTT FRAKES: Well, no, I don't know. Senator, I will go back and look again. But that was one of the questions that I asked and then it's a question I went back and asked again when it was raised 30 days ago, was, you know, confirm that... [LR34]

SENATOR PANSING BROOKS: Okay. I looked it up and then I reconfirmed it with some people and they said that is correct. So if we could just maybe...if you could check that out... [LR34]

SCOTT FRAKES: Yes, I will. [LR34]

SENATOR PANSING BROOKS: ...because I presume you don't want to be out of compliance with ACA standards. [LR34]

SCOTT FRAKES: Can't be. [LR34]

SENATOR PANSING BROOKS: Okay. And so that...so if it did by chance violate ACA standards, then what? [LR34]

SCOTT FRAKES: If I cannot house two people in those cells, I won't house two people in the cells. [LR34]

SENATOR PANSING BROOKS: Thank you. [LR34]

SCOTT FRAKES: Uh-huh. [LR34]

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SENATOR SEILER: Senator Ebke. [LR34]

SENATOR EBKE: Thank you, Chairman Seiler. I just wanted to make a few points here and kind of draw you out a little bit on the whole Air Park thing because, frankly, I'm agnostic on it. And you know, I come from a rural area where we have a lot of old buildings that get left behind for a while, that get deserted. People move out. It's not continual habitation. And then we find as they try to renew those buildings, that it costs an arm and a leg and then some in order to bring everything back up to code. And so I'm wondering what kinds of roadblocks were in the way-- talked about code. I have one example in my hometown actually where the theater was left behind (laugh), if you will. Some folks came in to try to open it back up. The first round of bureaucrats, if you will, the Fire Marshal who came in and said, well, you have to do this, this, and this. They got a \$500,000 estimate then on the project. And less than a year later, another Fire Marshal came in and gave them a whole new set of things that had to be done that made it almost a \$2 million project. So you know, I have no problem seeing a year's difference with different people estimating what needed to be done. But maybe talk a little bit about that. [LR34]

SCOTT FRAKES: Well, I appreciate what you said because that, I've unfortunately had that experience as well and watched a project go from \$20,000 to \$160,000 to build a bathroom in a prison. It's all of those factors and it's compounded then by our use. It's one thing to rehabilitate a home and meet the code required for a single-family dwelling. There's different standards for a multifamily dwelling. You get into a place where you bring large numbers of people together and there's another set of standards. You create a place where you house and people sleep in large numbers and now you're getting into pretty much the highest standards there are for life safety. So not only does the sprinkler system have to work correctly, the fire detection system has to tie to that sprinkler system and work correctly. Sometimes that can be challenging because of when that system is...and I'm not sure that there is a sprinkler system in the entire building. But let's say that there is. Replacing the fire system isn't as simple as just putting in some new detectors and plugging it in. They have to talk to each other. Nowadays, your HVAC system has to be tied to your fire suppression system. So vents have to close and intakes have to close. That can be extremely expensive to retrofit. If you've got an electrical panel that's no longer up to code and you've got to pull that panel and replace the wiring, in a home it's expensive. In a commercial

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structure with concrete walls and block walls, it's significantly more expensive. Again, it's one thing to need to add two or three toilets or more showers or whatever it would be to get to the correct number for ACA standards just to meet the basic standards you needs. But if the infrastructure underneath that concrete slab doesn't support the flow that comes from the those toilets and showers then you have to increase that piping. Hopefully, at some point it gets to the right diameter before you get to the street. But there are cases where, no, you have to actually go from the street to the building to the toilet to get what you need to make sure that everything flows correctly and meets current code. And that's...and those are just examples. These people ran some cameras down some pipes. They looked at systems. They made their best assessment of those things that they thought would meet code and then those things that would either have to be replaced or somehow retrofitted so that they would meet code. And I didn't sit down and have a conversation with them either. I accepted the report, took it for what it is. I believe if we did sit down and talk about it, they would acknowledge that with this...any of these projects, there's a certain amount of this: You can't know what's behind the wall. Did they find all the asbestos? Fortunately, they found only just a little bit, which is great. But until you tear open that wall and suddenly go, oh, we've got a bunch, those are the kind of things that happen in remodel projects and I think there's a long list of those stories. There's also stories of where people looked at it and thought, oh, it's going to cost a million dollars to do this and then through good fortune found out it cost half of that. So for me, I know there's this belief that we can run in there and just put this together and get into it much quicker than we could other projects. I don't think there's a significant difference because of the scope of what needs to be done. The other factor to consider is we go from 10 prisons to 11 prisons. We create an 11th prison with its own set of overhead. We don't do that by expanding CCC-L. That's just another thing to consider. But I really willingly will come back, talk to people. I don't...I want to do the right thing for the department, for the people I take care of, for all the people that have to make these decisions about how to spend the limited funds we have. [LR34]

SENATOR SEILER: Okay. Before you go on to the next topic, have you, on the overcrowding, have you seen any effect yet--and I know it's early--of LB605, of not getting as many minor offenders? [LR34]

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SCOTT FRAKES: We got our first official commit Monday, Monday or Tuesday. So, no, way too early. [LR34]

SENATOR SEILER: Way too early? [LR34]

SCOTT FRAKES: Yeah. [LR34]

SENATOR SEILER: Okay. Because,... [LR34]

SCOTT FRAKES: Because, of course, you had to have committed your crime... [LR34]

SENATOR SEILER: ...of course, your county jails or county officials are all howling if we're filling up their jails. But... (Laugh) [LR34]

SCOTT FRAKES: I don't think so. [LR34]

SENATOR SEILER: You ought to be emptying yours then. Okay. I just wanted to make sure on that. [LR34]

SCOTT FRAKES: No. But we have seen a stabilization over the summer of our population. People coming in and people leaving has been pretty flat for several months. I can't attribute it to any specific thing other than...(knocks on table)... [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: ...you know, that's a good thing. [LR34]

SENATOR SEILER: I'd like you to explain some...on that letter I sent you, some of those details that you hadn't had a chance to address if you would like to address those. [LR34]

SCOTT FRAKES: Okay, is there any particular ones or...? [LR34]



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SENATOR SEILER: Well, there was paragraph 6, 8, 9, 10, 11, and 14. I don't think you've been...oh, they're not numbered on the one you have. [LR34]

SCOTT FRAKES: No. [LR34]

SENATOR SEILER: Where's the... [LR34]

SCOTT FRAKES: So I have recommendation number 6 that speaks to...in reference to the LR424 committee recommendations. [LR34]

SENATOR SEILER: Okay. Let me see here. Second...are these numbers based on this? [LR34]

DIANE AMDOR: Yeah. [LR34]

SENATOR SEILER: Okay. Then page 2: The repurposing, consolidating project proposal, the second topic down on that page 2. [LR34]

SCOTT FRAKES: Got it and I was just going to check real quick to see if I actually had a specific tab to it, but I don't know that I do. No. So that is the project that I shared way back in March. [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: And that included...at that point, the plan was to reconvert half of the restricted housing beds at Tecumseh and we were going to use it for protective custody. I spoke a little yesterday after the.... [LR34]

SENATOR SEILER: And and that's the project... [LR34]

SCOTT FRAKES: Yes. [LR34]

SENATOR SEILER: ...Senator Pansing Brooks was talking about. [LR34]

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SCOTT FRAKES: Yeah. Yeah. So we did the work... [LR34]

SENATOR SEILER: Okay, next... [LR34]

SCOTT FRAKES: ...we did the work as described. We just have a different population. We... [LR34]

SENATOR SEILER: Okay, then drop down to Recommendation 10. [LR34]

SCOTT FRAKES: Okay, all right. [LR34]

SENATOR SEILER: The first one: Mental Health Systems Consultation. [LR34]

SCOTT FRAKES: Okay. Well, of course I'm biased. I've known Dr. Gage for a number of years and I think he's an amazing, incredible, talented psychiatrist and an educator and an assessor of things. And so to have him come out and this work for us, I knew it was going to be good, but it ended up even better than I hoped. I was very pleased that Dr. Wetzel, Dr. Jones, other mental health, behavioral health staff that have reviewed the report agreed that it was...really provided some good clarity on where we should go. And as you heard this morning in their testimony, we will use that report along with our own work to help us build an effective, meaningful mental health, behavioral health system. Do I have time lines for further action and what resources we would be required? So I've got Dr. Wetzel in place, got Dr. Jones in place two months ago. I'm giving them a little bit of latitude to go out and really take a look so that we can come at this from a systems approach. As they spoke about, I spoke about some yesterday, we are looking for those tactical decisions. So one of those was to increase the number of seriously mentally ill beds at LCC. Took that from 16...Dr. Jones said 34 but my numbers say 30, so we're somewhere in there. And there's at least a definite increase in the number of our...number of residential mental health beds for the most seriously mentally ill. Brought some additional staff in. We've created programming space that should be operational here in the next week or two. And we're headed the right direction within the resources we have. She talked about, I talked about as well, creating a continuum so that there is actually a treatment process and a...those that can be stabilized and put in less restrictive residential mental health can be moved and ultimately we get them to

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transitional beds. And if they're doing well, we find an appropriate general population bed. If they're struggling, it's very easy to get them right back to the resources. It's a model that works well in other systems and I'm excited about it. And then I also believe that when we come in next year in the biennium, we'll be talking about the additional needs that would really make that system work correctly. [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: And then it's a matter of them just assessing, much like Mike Rothwell talked about, in just our programming. What are we doing today? Are we making the best use of our resources? Do we have them staged so that they're connected to the offenders that need the resources? If not, what needs to change? And ultimately, and that would be by next biennium, what other programming needs do we have? What are the resources we need to do that? [LR34]

SENATOR SEILER: Okay. Would you take a look at paragraph, what I've labeled eight. It's the last bullet point on the page: Letters between Probation, Parole, and DCS. [LR34]

SCOTT FRAKES: Yes. [LR34]

SENATOR SEILER: Maybe did some of these problems have gone away since I did wrote this letter to you, but. [LR34]

SCOTT FRAKES: Well, that was a challenging situation to say the least. What I didn't understand coming in too new, trying to figure all this out, was that there was the potential that Probation's request wouldn't be funded and that by the time we found that out, there was no time to do anything differently. And so we found ourselves in May being told that they no longer had the funding to provide the services that they had provided, and we scrambled. Fortunately, I work well with Ellen. We were able to work through it. They provided some level of service to get us through the end of the last fiscal year. We looked at our resources internally. We do collect about \$240,000 a year in fees for electronic monitoring, fees from parolees. So that was a funding sources that we had already been using. There was a way though to do that a little differently.

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And then we had a cash fund buildup that had happened. It was...we have a number of those that we're working on figuring out what the right amount of money should be. [LR34]

SENATOR SEILER: A million here and million there,... [LR34]

SCOTT FRAKES: A million here. [LR34]

SENATOR SEILER: ...pretty soon you've got big numbers. [LR34]

SCOTT FRAKES: They're...tell me now it's only \$500,000 to \$1 million, but we're going to talk more about that Monday. So for this year, we had about \$450,000, \$500,000, about \$650,000, \$700,000 dollars to work with. So we stepped back. We said, okay, what are the most crucial core services. We sat down Ros Cotton as well and said, you know, what are the things the Parole Board is looking for? What are the needs that we need to make sure we address? And we've been doing that now. There was a gap, I would say June and July, maybe even part of August, where things weren't as good as they needed to be. I believe we're back on track. We don't have as...we're not doing as much short-term residential substance abuse as an intervention, but there's definitely conversation about whether or not that's a good use of funds, whether or not a 30-day intervention for people in that situation benefit truly from that, except for 30 days they're pulled out of the situation. What's interesting is at this point we spent probably \$1.3 million in the 11 months that we were fully funded with Probation. And since we pulled back and asked a lot of questions and challenged some of the things and we seem to be providing adequate programming resources, we're spending less money. So I think it was a great opportunity to actually look at the whole system. In the end, we've come in with a deficit request to address 2017. I know it's a conversation that we'll be going back and forth with and trying to decide, was the past system the correct system where Probation provided the services and we were really the service receivers? Or should we just take over that entire process? [LR34]

SENATOR SEILER: Okay. Paragraph...first bullet point on page 3, the interprofessional behavioral health training site, where are you at on that? [LR34]

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SCOTT FRAKES: Well, we didn't move as quick as I was hoping, but it's still alive, as well as some other proposals from UNMC. We've got two meetings set up this month between my team, Behavioral Health from HHS, and the staff from UNMC. The only piece I'm not sure about is isn't there...is Creighton in this one? Sometimes I mix these up, so. Well, that's sort of. So that's the only piece I can't tell you today that we've got back on that piece. Still alive as...and some other ideas that UNMC has put on the table, we're going to build some collaborations. This is...the timing could never be better. I think you heard that today from Sheri Dawson. We're talking. We're interested in not only what...the help that we need from HHS, but the opportunities that we can provide, this growing field of correctional medicine and correctional mental health, we're perfect. Maybe we could become a center of excellence connected to the right schools. [LR34]

SENATOR SEILER: Okay. Now I'd like you...I've got a couple more, but they skip right into what we're talking about on restrictive housing. So that was one of the bullet points that we were going to ask the lady that was going to testify. So if you'd just go ahead and jump into restrictive. [LR34]

SCOTT FRAKES: I will. Thank you. And that one, in particular, I have not put that on Diane's plate at this point. She's got way more to just take of... [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: ...and Tecumseh dominating much of her time. So I've kept... [LR34]

SENATOR SEILER: So that's still in your box. [LR34]

SCOTT FRAKES: It is very much in mine. [LR34]

SENATOR SEILER: Okay. [LR34]

SCOTT FRAKES: And it's a reflection of what I spent 3.5 years doing before I came here to Nebraska, my connections to Vera, my deep interest in this subject. I had the good fortune to go

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to Virginia a couple weeks ago and attend a two-day symposium on use of solitary confinement, as it was called, and research around the use of solitary confinement because it was hosted by scholars and advocates. But there was a few of us in the room that were practitioners. It was a great two days. Very interesting conversations around the whole issue of what does the research say about the long-term uses of solitary confinement? And again, it's not that there isn't some research, but there's still this issue of not enough good research around that topic. There were some heated discussions that day because some have some very strong opinions that the research is there is good research. Doesn't matter to me. What matters to me is we stopped doing what I was trained to do and what I bought into for 20 years or at least 15 years, I'd say 15 years, and we start thinking about that space as just another part of our prison where we take care of people. So where we're moving, now we had the...so LB598 went into effect. We got the first work group meeting scheduled for September 15. It was just an overview. It was just a conversation. In hindsight, I think there was greater expectations and if I could go back to August I would have started the conversation that we're going to have when we meet in December and that is, what are the outcomes that the group is looking for, because that's, to me, that's really a critical issue. This is a high-level work group with representatives from the community and just a nice variety of stakeholders. I don't see it as a group that's going to write the department policies on how you do...you know, how you actually operate restrictive housing. It is a group though that should inform, that should review, that should agree, and most importantly say, what's the endgame? Where do we want to be? So I know where I want to be. I want to have a short-term tool. Today I'll call it risk assessment. It's a real popular, catchy term. So if that's what we called short-term segregation was risk assessment, I'll suggest that's 30 days right now and then we'll work towards the goal that is in a lot of conversations of 15 days. But I got to have a...I got to start at a number that I know people can deliver on and then we'll reduce it. So in that period of time, say it's 30 days, that is the opportunity to do the investigations, to check out the issues that are raised if it's a protective custody concern, to run down whatever the problems might be, and decide where does that inmate need to be? Can they go back to general population because there really isn't an issue? Can they...do they need to go to a protective management unit where there's specific safety features. Do they need to just go to--I talked a little bit yesterday--the safe harbor concept or a mission specific housing? Could they go to that active seniors unit and do just fine and be just fine? Do they just need to go to another facility because the conflict is where they're at? That's what you use the first piece for. Tied to that though is initially we're going to...there's no...we

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have not yet found a good tool that you can use to say, okay, I've looked at these seven factors. Here's the score. That person needs to go into segregated housing. And, oh, they only got a five so they can stay out while we figure this out. Nobody has got...the Canadians have got some tools that they're using and I did talk to a lady, a researcher, from Canada. And it was interesting, but she said, you know, we have a different population; this would not be validated in America. But it was...there's some concepts. So we are going to follow up and maybe one of these day we'll actually have a risk tool to decide who should go into segregation and a risk tool that would help us determine when they're safe, if they're...present violence or other problems. Short-term assessment, short term is possible. Continue to work towards eliminating disciplinary segregation as a sanction. I've said it and I mean it. It doesn't work. It does nothing to change behavior. And it really just kind of creates confusion around the whole use of segregation. But I need to get the work group off the ground here in about two more months that will look at and completely revamp our inmate disciplinary process. I've got to give staff that do the disciplinary hearings tools to work with. Unfortunately right now they've got a small number of tools and segregation is about the biggest one they have. If I'm going to step away from the use of disciplinary segregation, then we have to have some effective tools that they can work with to change behavior. Think of that initial placement as all around risk. Does the inmate present a risk to others? Are they at risk? And if it's because of self-harm, then a quick assessment in deciding do they need to be in a mental health location or, you know, is it just a behavioral piece that can be addressed differently? Are they at risk from others? So what are the risk factors? Find the appropriate general population housing, in some cases the appropriate residential mental health housing. Or there's going to be that small group of people that seriously assault staff, the people that seriously assault other inmates, the people that attempt to escape from our facilities. Fortunately, that doesn't happen very often, but it does happen sometimes. Those people that present the highest risk to security and to others will have a long-term restrictive housing option. It isn't just going to be, there you go. We'll talk to you in six months. When we're done being mad at you, we'll put you back out. That's not how we're going to run restrictive housing. We will put people in, we will...first of all, it will be done under a multidisciplinary approach. So the facility will make the recommendation. The headquarter central office multidisciplinary team will approve whether or not somebody can be placed for long-term restrictive housing. And if they say no, then it's of course on that multidisciplinary team to work with the facility to find the appropriate placement in that 30-day assessment window. Multidisciplinary team says, yes, they

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need to restrict...long-term restrictive housing placement. Here's where they're going to go. Tecumseh will be probably the lead place because it has the modern, high-security, well-built structure best suited for that population. Hopefully that's enough beds. I'd like to think that it is because I'm not talking about a big group of people. There will be six-month reviews. They will have a behavioral management plan...actually behavioral programming plan. So here are the behaviors we expect. Here's the programming that we want you to complete. And we're going to talk to you again in six months and see where we're at. Well, we'll talk to you more than just in six months. We'll meet with you in six months specifically to talk about the progress. We'll make sure that there are adequate mental health resources that are assigned. If they have serious mental illness and a restrictive housing, traditional restrictive housing is not the correct placement, and that is certainly part of being...figuring that out in LB598, what is that cutoff, because we know we have a large population of people that have some level of mental illness, but a small subset of that population that have significantly high needs. We've got to find out who they are, make sure that we have those that have significant mental health needs and that need to be in restrictive or in secured mental health at the Lincoln Center are taken to those beds, not just placed in a regular restrictive housing bed. And then the last piece of it is if we're going to tell them they got to do programs, we've got to provide it. A little bit of challenge there, a challenge across America. Every...all the directors I talked to except the ones that have just built brand new restrictive housing units, nobody built them with programming space. In Washington, we were fortunate. We were able to repurpose space within the buildings that was created for one thing and didn't work out so we turned it into classrooms. As I talked about Lincoln, we put it in the middle of the day room because that's the only place we have but it's going to work and at least it's moving the right direction. At Tecumseh we think we have a big enough space that we can put in six of the programming chairs. Then we need to identify the cognitive behavioral interventions, get the staff trained, get the programming activity going. We have the funding for the violence reduction program. We have not yet got that off the ground. That's definitely where I'd like to take it unless it makes more sense to increase capacity at NSP. So that's one of the things that Dr. Jones is looking at. We were able to get the domestic violence programming going this year. It seems to me like that may be another aspect. But I'm going to depend on the professionals to help me, help tell us what is the right training to bring in this space--the whole purpose being not a whole lot different than the concepts we're using to get people through the system: reduce their risk to reoffend by addressing those criminal behavior needs. Let's look at



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their risk to offend within the prisons and see if we can impact those, make them less violent, make them less likely to engage in high-security violations, and get them back out to the population. Everybody that sits in a restrictive housing bed is only getting a fraction of what they really need prior to release. There's just no way we can deliver the services that you can give to people in general population. [LR34]

SENATOR SEILER: I have a question. I'd like to read this Department of Correctional Services report, but a little frustration down here where it says: facility three-year recidivism rate through fiscal year '11--a little outdated. (Laugh) [LR34]

SCOTT FRAKES: But that's how.... [LR34]

SENATOR SEILER: And then the recidivism rate I think is the year fiscal year '11 too. And I don't know if you've got any newer numbers, but I'd sure like you to change that on your report. [LR34]

SCOTT FRAKES: Okay. But the '12 numbers are out, but it is a three-year measurement. And that's just how that measurement is. And that's as close to standardized across America as we come because you can't...the research shows you can't gain a lot of insight from just looking at one year and two year. You need a three-year track record. Frustrates me, too, because then that's a really slow dial to move and that is one of my primary dashboard measurements is recidivism. So have to do a lot of educating across...but we are. There's more conversations about are there better ways that we could assess so that at one year we can make a better assessment because the other challenge of course is trying to measure programs to reduce recidivism but you're looking at a true measurement that's three years out. A lot of people are gone by the time you get back the data that tells you... [LR34]

SENATOR SEILER: No, they're back in for the second and third time. [LR34]

SCOTT FRAKES: I was thinking... [LR34]

SENATOR SEILER: Any other questions? Senator Pansing Brooks. [LR34]

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SENATOR PANSING BROOKS: Thank you. Thank you for your testimony. And that all sounds really good. I'm wondering about...I'd like to ask you the question about putting people with behavioral health and mental health needs into segregation. Do you believe that that's something we should be doing? [LR34]

SCOTT FRAKES: I think that there's, you know, a fair part of the population that has some level of mental health needs that can safely be housed in restrictive housing setting. [LR34]

SENATOR PANSING BROOKS: Okay. And do you have the same agreement with your...with the psychiatrist who spoke previously that there's...let me go back and quote what he said. But he basically said that there's no major deterioration by segregation for mentally...mental health, people with mental health needs. [LR34]

SCOTT FRAKES: That coming out of Colorado's study per chance? [LR34]

SENATOR PANSING BROOKS: I presume so, yeah. [LR34]

SCOTT FRAKES: I think I'd rather go to the new NIJ study that says the court is still out because the research is so difficult to do and it's hard to get good, valid, statistically valid research. I decided a few weeks ago that that doesn't matter. Let's figure out how we put as few people as possible into that setting and we keep them there for as short a time as possible. If they have an identified major mental illness, we have an alternative for them. We have mental health resources that are making regular contact. If people start to decompensate or just start to show issues, then we make sure that we're aware of that and we're looking, is there a need for an intervention and we manage it that way. But the real motivation, the real drive is can we get to the day where there's no such thing as long-term restrictive housing, because...yeah. [LR34]

SENATOR PANSING BROOKS: Well, I really appreciate that. And as a lawyer, I've got to get a couple things on the record, if you'll indulge me a little bit, just because I think it's so important that what he said is not...number one, the Colorado study talked about the fact that most of the cells had two inmates in them who are in administrative segregation. Or if they were in a single cell, they were housed next to other inmates on each side and would talk to them while...they

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were able to talk to them while in the cells and while at recreation. And then they also had supervisors, school teachers, nurses, and all sorts of other people going by. So...and then the other...I spent my lunch, I was so upset with his comments, I canceled my lunch and then went to research because I thought his statements were so incorrect. And so I looked up and Justice Kennedy, in an Opinion this June, in a concurring Opinion, described segregation, for somebody who spent 20 years in segregation in solitary, as the human toil of long isolation. Being locked up alone brings prisoners to the edge of madness, perhaps to madness itself, citing a summary of terrible...the terrible price that solitary exacts: anxiety, panic, withdrawal, hallucinations, self-mutilation, and suicidal thoughts and behaviors. And in states where the data is available such as Texas and California and New York, half or more of all prison suicides take place in the solitary confinement group. Also, CSG has a major report, as does the Vera report, the Vera Institute of Justice, which I understand is something that you are looking at,...I can't remember. I'm so sorry. [LR34]

SENATOR EBKE: Rothwell. [LR34]

SENATOR PANSING BROOKS: Yeah. Dr. Rothwell. Thank you. Anyway, the Vera report talks: According to one report, nearly every scientific inquiry into the effects of solitary confinement over the past 50 (sic--150) years has concluded that subjecting an individual to more than 10 days of involuntary segregation results in a distinct set of emotional, cognitive, social, and physical pathologies. So I just cannot let, as wonderful as the original, the psychiatry doctor, I can't remember his name either,... [LR34]

SENATOR EBKE: Dr. Wetzel. [LR34]

SENATOR PANSING BROOKS: ...Dr. Wetzel was and his information was helpful, I'm quite concerned about walking out of here thinking that solitary does not have any kind of ramifications, especially on people with behavioral and mental health needs. And I think that they're finding the same studies about children and the fact that people that are subject...I have to read one more thing. I'm sorry I've got to find it. [LR34]

SENATOR SEILER: Let me interrupt you just a second. [LR34]

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SENATOR PANSING BROOKS: Okay. [LR34]

SENATOR SEILER: That description by the U.S. Supreme Court judge,... [LR34]

SENATOR PANSING BROOKS: Yes? [LR34]

SENATOR SEILER: ...I thought that was true of all judges, the way the judges described solitary confinement. [LR34]

SENATOR PANSING BROOKS: Well,... [LR34]

SENATOR SEILER: I thought they were describing a judge on the Supreme Court. (Laughter)  
[LR34]

SENATOR PANSING BROOKS: They were not doing (inaudible). They were... [LR34]

SENATOR EBKE: Does Justice Kennedy have a psychiatry degree? [LR34]

SENATOR PANSING BROOKS: No, he does not. [LR34]

SENATOR EBKE: (Laugh) [LR34]

SENATOR PANSING BROOKS: He does not, but he gets to rule on cases like this. True.  
[LR34]

SENATOR EBKE: Sure. But that doesn't make...I think we asked...just...didn't we ask Dr. Wetzel about research that had been done? [LR34]

SENATOR PANSING BROOKS: We did. [LR34]

SENATOR EBKE: Right? [LR34]

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SENATOR PANSING BROOKS: And he brought one study, but there are numerous other studies. [LR34]

SENATOR EBKE: Well, but that was the study he was...that he was specifically responding to. But I didn't get the feeling that he was using that as gospel. That wasn't my perception. And how he said it, he kind of couched his comments and said, you know, this is the one study but that it was a difficult thing to (inaudible). [LR34]

SENATOR PANSING BROOKS: I asked him specifically... [LR34]

SENATOR SEILER: Read your last program. [LR34]

SENATOR PANSING BROOKS: Thank you. I asked him...I asked Dr. Wetzel specifically and he said there's no major deterioration through segregation. And that is what set me off. [LR34]

SENATOR EBKE: He said that's what the study said. [LR34]

SENATOR PANSING BROOKS: Yeah, he said that that study shows that, yeah, that...and there are all sorts of other studies that show differently. So anyway, I get to bring forward other studies. So anyway, CSG has similar reports and studies so I just...I'm glad that you're looking at that. And I appreciate that your perspective on this is quite healthy in trying to limit those days. And again, that has to do with safety for our communities and not having another situation where somebody is released directly from segregation to our communities. And I really appreciate your efforts on this. [LR34]

SCOTT FRAKES: Well, thank you. In my presentation that I will do one of these days, I've got a great slide that shows our releases from restrictive housing into the community down to, I think, one in August; none last month; not sure about October yet. So that's just one little piece of the work. One more thing on this: Public safety, very much connected to this whole topic. Have to always remember though I've got to balance against the safety of everyone that lives inside the prisons and that's... [LR34]

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SENATOR PANSING BROOKS: Yes, and the employees. [LR34]

SCOTT FRAKES: ...that's why you've got to have that immediate intervention whether it's you think someone is at risk or you think they present risk to others. And that's why I will always support some level of an immediate risk assessment. And if there's a mental health, behavioral health issue to be addressed, part of that is you make sure that there's mental health review of everyone that goes in within X days. And I'm not going to set the day number yet until I know what the resources are, but quickly. [LR34]

SENATOR PANSING BROOKS: Okay. Thank you. [LR34]

SENATOR SEILER: Senator Schumacher. [LR34]

SENATOR SCHUMACHER: Thank you, Senator Seiler. Just a couple more questions. How does the number of folks in restrictive housing today compare to those a year ago? [LR34]

SCOTT FRAKES: It's a lot less, but it's...but I'd say...tell you the numbers are skewed because we have pulled out protective custody from our restrictive housing numbers, although I think they may still show up in one of the data reports. But we are well down the road of turning what was...protective custody was operated pretty much as restrictive housing in our system until the changes we started making this summer. So the men now that are living in Unit 1 at Tecumseh have out-of-cell time of at least four hours a day. And that's just...that's the bare minimum. We're moving towards how we make sure that they have access to programming, to jobs, to recreation, to some dining hall experience because we have to keep them separated from the rest of the population. I have to figure out, you know, can we do at least breakfast or could we do dinner for that population outside of the living unit? Now they eat in the day rooms in the living units. So I'm going to say that we've done excellent work to pull that population out of the world that fits as restrictive housing and certainly fits as described in LB598. Overall, for the rest of our population, our numbers are probably a little bit up because of Tecumseh. But they are starting to come back down because enough time has gone by and the people that were...received disciplinary reports and received segregation time have served that time. And so now it's a question of where can we put them back out into general population safely. Everything I talk

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about is still a conversation, in general, except for the moves in protective management. By the time we bring the work group back together in December, we should have a very colorful--that isn't really the best word--a very thoughtful and meaningful conversation of around how should the use of restrictive housing looking in Nebraska. That's where I talk about, I need to hear what's their vision? Those people that come from the community, those that have done time in the system and actually experienced that, what do they think? What's that system look like? And then we'll come back together again in February. We'll actually be able to sit down and work through the details of the draft language so that we can be ready to go out for the public hearing process in, I'll say, March but it might be April. But I want to make sure that, you know, we have enough time to get everything done. [LR34]

SENATOR SCHUMACHER: You mentioned that it's way down, but you do still have some cases where folks are released from a restrictive housing environment direct into the population. [LR34]

SCOTT FRAKES: To community? Yeah. [LR34]

SENATOR SCHUMACHER: To the general...no, into the community, yes. [LR34]

SCOTT FRAKES: Yeah. We had one in August, none in September, I don't have October's numbers yet, and none in July. So I think it was zero, one, zero. Hoping it's still zero for October. So we went from, I think a year ago or whatever that measurement started, it could have been two years ago, average of six a month. We just...and that's one of the initiatives that I started pretty much walking in the door because it's not hard to do. I learned that in Washington. All you do is put a spotlight on it, gives people some direction and you bring the numbers down. I do want to qualify, at this point I'm talking about people that have done 60 or more days before they release. Soon we'll move that down to 30 or more days. Because one of the things you often face is, as people near release, they don't want to get in trouble and they will say: I need protective custody; I need to come out of the population because I've got a date and I don't want to get in trouble. So that's a subset of the population that you're...we've got to do the right thing and I don't know that I have a good answer for. You have those that near release and, for whatever unknown reason, attack others, attack staff. So there will always be a small population that

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spends a short amount of time before they release to the community. To me, that's a different population than those people that we were talking about that did years or even months in a restrictive housing setting. And then one day we said, come on, come get on the bus. [LR34]

SENATOR SEILER: Are the people you're talking about "jam-outs"? Or are you talking about people going out on parole? [LR34]

SCOTT FRAKES: It's more likely going to be parole. It's going to be "jam-outs" for the people that do violence or, you know, do something bad shortly before release. For the people that say, I don't want to get in trouble, they might be more...could be either direction. I guess, no, it would be more likely to be parole because, you know, if they're jamming out, they know they're going to get out. [LR34]

SENATOR SEILER: Okay. Sorry. [LR34]

SCOTT FRAKES: And that's not a large number of people. But it's a number of people and we'll begin to measure that as a subset of this whole, you know, moving towards that not releasing people from a restrictive housing setting to the community. [LR34]

SENATOR SEILER: Sorry. Go ahead. [LR34]

SENATOR SCHUMACHER: No, it's okay. The situation where you do have somebody who's been in there awhile, not just one these short-term things, and ends up being released into the general...into the community. I guess that's a better way to put it, released into the community. What type of protective notifications to law enforcement, what...any strings attached so to minimize the chance of somebody who is one day too dangerous to be in a general prison population, the next day walking the streets? [LR34]

SCOTT FRAKES: Absolutely. So there again, the DRT work was already in motion when I got here, which pleased me. And then even before Lisa took over, that was one area where the team was continuing to move forward. I'm really happy with where they're at now, and their role is to assess people like that as well as those that are referred. So we will...anyone that's coming



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up...and we need to do some more work because really I'd like to say at the six-month point, someone that's been in restrictive housing and we have questions about whether or not we're going to be able to get them out, that's where the multidisciplinary team conversation should start. Why not? What are the issues? Why do we not think that they could be released into some general population setting, especially now that we have maximum custody beds at Tecumseh that are high security? They're safe. They're the safest general population beds in Nebraska. And so then that's a pretty new development and that's a new opportunity that I think will help us. But the DRT will do that review. If in fact there's nothing else that can be done, the best minds say they're going to release from segregation to the community, then there will be notifications. If there is a mental health referral, a civil commitment piece, we'll do that. If there's a civil commitment piece, they're not going to be coming out of segregation at NSP. They would be coming out of the secure mental health unit at LCC. There should be no...first time I hear of anything different than that then we've got a problem because that's obviously someone that should have been in that secure mental health setting. But do they need...if it's just a law enforcement notification, we already had a structure in place. We're going to put...all of that's going to be captured into the policy when we get the policy finalized. And then we'll talk about whether or not that's a promulgated document, kind of leaning that way, though. I think it would just be the right thing to do. And I know there's conversation about, should we promulgate everything that the department does? Part of the challenge that my department has is it's a rule-driven organization and that's a stack about this high. And so we need to really think about what are those things that we need to lock down and do in a way that is as public as possible, and what are the things that really just help us run the prison from day to day. And so it's... [LR34]

SENATOR SCHUMACHER: Well, I think some of the legislation we passed last year had the intent that the basic structure is all by rule and properly adopted regulation, and after that, the graduated system of when it can be down to fiat. [LR34]

SCOTT FRAKES: Exactly. That's exactly what LB598 says. So the overarching rules and regulations for the use of restrictive housing will be promulgated. And then we'll have operational procedures and post orders, bring those little minutia to life at different places, but guided and managed underneath that promulgated rules and regulations. For DRT, I don't know, I'm sitting here and I'm trying not to make a decision sitting in front of the group. But it does

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seem like that may be another one that would just would be beneficial to promulgate. Then that way, in case there's some other piece that we haven't thought through in that process, it is such a critical role in our system. And it is a system that I...it's similar to the system that I left behind in terms of what do you do with those highest risk people before they release to make sure you've done the best hand-off possible and you've notified the people that need to be notified? And if there's any other thing that you can do to ensure public safety, you don't miss that mark. [LR34]

SENATOR SCHUMACHER: Thank you. [LR34]

SENATOR SEILER: Senator. [LR34]

SENATOR PANSING BROOKS: I have one more question. So thinking of those issues, we talked a little bit with, I think, Director Dawson or Dr. Jones about what...do you feel there could be...is there something missing? We have the Lincoln Regional Center and we have you guys with your high security. Is there a missing piece that's sort of in between? Do you feel that...and I'm not saying Corrections should do it. I don't know. I'm just wondering if there couldn't be...I think from the news reports, Corrections did not...was trying to have the Lincoln Regional Center take Nikko Jenkins. And then they didn't feel they had the security or ability or whatever to do it. So to me it seems like there might be some other intermediary steps or something. [LR34]

SCOTT FRAKES: That is a...it's difficult. There is this very small part of the population that is so sick, that is so psychotic--and I'm not a doctor so I'll use that term because that's what works for me--that they really do not know what they are doing, how they are doing it. They're completely delusional. They're dangerous, extremely dangerous. And so we have the tools in our prison system that we use to manage them. If they were citizens that were involuntarily committed, you wouldn't do all the same things. We wouldn't have all the same tools. That's certainly one of the challenges for forensic units across the country. And I don't know what the right answer for that is and I think I heard Sheri Dawson speak a little bit to that as well. That is a challenge for them. What we found in Washington was, when the union challenged us about staff assaults, the state mental hospital rate of staff assault was six times as high as the assault on staff in prisons because different set of rules, different standards, and just greater...being placed at greater harm. So I think there's a gap. I'm not sure if it's that there's a need for more forensic

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beds in our mental health hospital, or is there a need for the prison system to adopt a forensic bed approach? That's a great conversation that I need to be part of with Dr. Wetzel, with Dr. Jones, with Sheri Dawson and her team. We're going to continue to explore that. To me, though, I still think the biggest gap--and it's not just Nebraska; it's in America--it's the community resources that would help people before they get trapped in the criminal justice system. And then, you know, there's a question of, is there...are there adequate rules and procedures and safeguards so that people have an alternative to the criminal justice system if they...if their mental illness was such that they knew they weren't in complete control of their decision making. And I don't know enough about Nebraska law. It's a challenging area, whether it's guilty but insane or not guilty by reason of insanity, or really what I like is the mental health court approach which would operate like drug courts and veteran courts and all of these other resources, recognizing that most of the people still have some culpability, but there's other factors that weren't so easy to control.

[LR34]

SENATOR PANSING BROOKS: Thank you. [LR34]

SENATOR SEILER: Senator Bolz. [LR34]

SENATOR BOLZ: One brief comment: I'm going to seize the moment and say, as an individual who served on this committee last summer, sat through more than 40 hours of testimony in hearings, read hundreds and hundreds of pages of documentation, I think that the Discharge Review Team was one of the most important policies that this committee worked on. And I would urge formal codification. So for the record, that's my encouragement to you. [LR34]

SCOTT FRAKES: We'll do it. Let's just...let's just make it easy. I can make that decision. Okay? [LR34]

SENATOR SEILER: Senator Schumacher. [LR34]

SENATOR SCHUMACHER: I'm a little confused whether or not our questioning should be restricted just to those topics. There were some lingering questions I know that I had and that

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staff had regarding this particular sheet that was handed out yesterday. I don't know if that's in the scope of what we can do today or... [LR34]

SENATOR SEILER: Is that the... [LR34]

SENATOR SCHUMACHER: The Auditor's thing and the responses of the department. If we can do it, you know, next time or this time, kind of up to you. But if... [LR34]

SENATOR SEILER: Well, he's going to come back. [LR34]

SENATOR SCHUMACHER: Okay. I mean we can do it later then. [LR34]

SENATOR SEILER: Then we'll do it later. [LR34]

SENATOR SCHUMACHER: Okay. [LR34]

SENATOR SEILER: Okay, because I promised him we'd be just in these restricted areas. [LR34]

SENATOR SCHUMACHER: Good. All right. Thanks. [LR34]

SCOTT FRAKES: But if there are any of those in particular that you'd like to talk about, we could do that differently, or if you let me know, I can respond. [LR34]

SENATOR SCHUMACHER: I don't have strong feelings either way. [LR34]

SCOTT FRAKES: Okay. I didn't mean now. I meant outside of this. [LR34]

SENATOR SEILER: Or you could just talk to him, call him, give him a telephone call. [LR34]

SENATOR SCHUMACHER: I suppose we could do it that way, too,... [LR34]

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SENATOR SEILER: Sure. [LR34]

SENATOR SCHUMACHER: ...if that works for everyone else. [LR34]

SENATOR PANSING BROOKS: Can I hear what the responses are? [LR34]

SCOTT FRAKES: Then we'll save it, I guess. Oh, sorry, it's not mine. [LR34]

SENATOR SEILER: Any further questions on the subjects that we discussed? Thank you very much. Take care. [LR34]

SCOTT FRAKES: Thank you, Senator Seiler. Committee, thank you. [LR34]