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LR424 Department of Correctional Services Special Investigative Committee
September 18, 2014

[LR424]

The Department of Correctional Services Special Investigative Committee of the Legislature met at 9:00 a.m. on Thursday, September 18, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR424. Senators present: Steve Lathrop, Chairman; Les Seiler, Vice Chairman; Kate Bolz; Ernie Chambers; Bob Krist; Heath Mello; and Paul Schumacher. Senators absent: None.

SENATOR LATHROP: Good morning, everyone. My name is Steve Lathrop. I'm the state senator from District 12 and the Chairman of the LR424 Special Investigative Committee looking into...generally looking into Corrections and a number of issues related to problems the Legislature has identified over in Corrections. Today we're going to take testimony and it's going to be primarily from those who have been involved in or were involved in the assessment, care, and treatment of Nikko Jenkins while he was incarcerated and prior to his discharge from the Department of Corrections. We have or we will be calling witnesses in a particular order. Generally what we've done is I've asked questions to start out with and the other members of this panel, other state senators, have asked questions sort of in follow-up or additional questions. And that's the same procedure we're going to follow today. Witnesses are here under a subpoena today, not because I had an indication that they wouldn't show up voluntarily but because the committee wanted to make sure we weren't wasting our time getting here and then having people not show up. Witnesses before this committee testify under oath and that will not be an exception today. And we'll begin...before I call the first witness, we'll begin with Senator Bolz and have everyone introduce themselves on the panel. [LR424]

SENATOR BOLZ: Good morning. Senator Bolz. I represent south-central Lincoln, District 29. [LR424]

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SENATOR SCHUMACHER: Paul Schumacher. I represent District 22, which is Platte and parts of Stanton and Colfax County. [LR424]

SENATOR CHAMBERS: Jack the Ripper is who I am not. Ernie Chambers, Omaha, Nebraska. [LR424]

MOLLY BURTON: Molly Burton, legal counsel. [LR424]

SENATOR SEILER: Les Seiler, District 33, which is all of Adams and everything in Hall County except Grand Island. [LR424]

SENATOR KRIST: I am Bob Krist, District 10. That would be northwest Omaha, unincorporated parts of Douglas County, and the city of Bennington. [LR424]

DAN JENKINS: And I'm Dan Jenkins. I'm the committee clerk. [LR424]

SENATOR LATHROP: A couple of things. We did ask somebody who is in charge of the building, the guy who is...the guy is on vacation, Chuck, and so we've got somebody, hopefully, that's going to try to get the air moving in here and bring in a little air conditioning so that we're not turning this into a hotbox today. The other thing I'd ask you to do, and just so that you know, if you are testifying today there is a book, the red book that's sitting on the table. It has the same documents that each of the senators have and it is paginated. The page numbers are handwritten this week at the...(laugh) handwritten, as sometimes that happens, handwritten at the bottom. So if we ask you to turn to a particular page so that we can ask you a question about a medical note or an entry, we are referring to that book that will be on the table. We also have provided I think to each of the witnesses a medical authorization signed by Mr. Jenkins authorizing you to disclose medical information and provide answers or responsive answers to the questions that we give today. And the last thing I'll ask you or remind you is that we're trying to make a record here today and so a couple of things about that. We're going to

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ask you, if you're testifying or if you're asking questions, to make sure you're speaking into the mike so that we get a good, clean record. It's also important that if someone is asking a question you let them finish or if someone is answering a question we let you complete your answer so that we have a decent record. And then if you do a "uh-huh" or a "huh-uh" or you nod your head, I may ask you to clarify that so that the record reflects exactly what your answer is and we're not left to guess what uh-huh means by the time the transcribers get to it and try to interpret that. And so with that, I think that's all sort of the housekeeping things. We'll begin with Dr. Oliveto, if you'd come forward. Dr. Oliveto, before you have a seat, will you raise your right hand and be sworn in. Do you swear that the testimony you're about to give this legislative committee will be the truth, the whole, truth, and nothing but the truth? [LR424]

DR. EUGENE OLIVETO: I do. [LR424]

SENATOR LATHROP: Thank you. Sir, have a seat. Let me begin by thanking you for your appearance today. Can you start by giving us your name and spelling your first and last name? [LR424]

DR. EUGENE OLIVETO: My name is Eugene, E-u-g-e-n-e, Oliveto, O-l-i-v-e-t-o. [LR424]

SENATOR LATHROP: And, sir, can you tell us what your profession is? [LR424]

DR. EUGENE OLIVETO: My profession, I'm a medical doctor and physician, also a board-certified psychiatrist. [LR424]

SENATOR LATHROP: Could you give the panel here and the people in attendance some background on your education and training. [LR424]

DR. EUGENE OLIVETO: I graduated St. John's University in Queens, New York, and

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then I went into an internship, rotating internship, Rochester, New York. I went into the United States Air Force as a captain general...excuse me...general medical officer, 1969 to '71; and then I did my first year of residency at University of Washington in psychiatry, dropped out, went into general practice again for a year at Group Health of Puget Sound. And then I came here at NPI, which no longer exists, in my second/third year of psychiatry. I was board certified in '76. I've been in private practice 40 years and I've done consultation work in almost all the hospitals in the area. [LR424]

SENATOR LATHROP: And you're licensed to practice medicine in the state of Nebraska. [LR424]

DR. EUGENE OLIVETO: I am. [LR424]

SENATOR LATHROP: I'm going to ask the page to get the witness some water if you wouldn't mind. [LR424]

DR. EUGENE OLIVETO: Thank you. My allergies are just terrible. [LR424]

SENATOR LATHROP: That's fine. That's fine. And we want you to be comfortable during your testimony. So if you need anything, just let us know. [LR424]

DR. EUGENE OLIVETO: Yeah. Thanks a lot. Thank you. Yeah. [LR424]

SENATOR LATHROP: You had an opportunity during the course of your professional practice to see an inmate at Douglas County Corrections by the name of Nikko Jenkins. Is that true? [LR424]

DR. EUGENE OLIVETO: That's true. [LR424]

SENATOR LATHROP: And could you tell us what the nature of your...was it...were you

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employed by Douglas County or what was your relationship to Douglas County Corrections Center at the time? [LR424]

DR. EUGENE OLIVETO: Well, I was employed by the CCS, which is Correct Care Solutions, for about seven years. I worked for CMS. I took this job at the county jail in corrections psychiatry eight years ago, but CMS was running it then. And then they got underbid by CCS, and then the CEO Jerry Boyle came and hired me to continue in my job as a corrections psychiatrist, consulting psychiatrist at the jail for his company, CCS. And I worked for Jerry's company for seven years and I worked 14 hours a week, two 7-hour days because that's what the county contracted with CCS for. So CCS paid my salary. I technically worked for them in the county...at the county jail, and I provided psychiatric services for inmates. So I had to do...I got a list of people to see every day I was there, and then I had to see, evaluate, and treat all those people in a seven-hour period. And I did that for eight years. [LR424]

SENATOR LATHROP: Okay. So up in Douglas County Corrections they have a contractor and the contractor hired you. And you were at Douglas County Corrections Center and had been for eight years under a contract to provide psychiatric services. [LR424]

DR. EUGENE OLIVETO: That's true. [LR424]

SENATOR LATHROP: So in addition to the eight years you've spent providing evaluations and care and treatment of inmates or people who are housed at Douglas County Corrections, did you also have a private practice? [LR424]

DR. EUGENE OLIVETO: Yes, I did. [LR424]

SENATOR LATHROP: How many years have you been in practice altogether, Doctor? [LR424]

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DR. EUGENE OLIVETO: 35. [LR424]

SENATOR LATHROP: And you've spent 8 of those 35 years, either full time or part time, providing care and treatment to those either convicted or charged of criminal offenses... [LR424]

DR. EUGENE OLIVETO: That's true. [LR424]

SENATOR LATHROP: ...and providing the psychiatric services up at Douglas County Corrections. [LR424]

DR. EUGENE OLIVETO: That's true. [LR424]

SENATOR LATHROP: And tell me the difference or...and this may seem like a really basic question, but I think it may become important to us at some time during the course of the day. Tell us the difference between a psychiatrist and a psychologist. [LR424]

DR. EUGENE OLIVETO: Well, a psychiatrist is a medical doctor. I graduated from Creighton Medical School in 1967 with a degree in medicine. And then I did all the things I said I did before. And then I went into a psychiatric residency for three years and practiced psychiatry since then. So the difference is that a psychologist can have a degree in psychology from college and they get a Ph.D. if they do a dissertation after they get their master's degree, but they don't have a medical degree and the knowledge of medicine that I have, obviously, and they can't prescribe medications in most states. So there is a big difference. [LR424]

SENATOR LATHROP: At Douglas County Corrections Center, in terms of the hierarchy of mental health professionals, is the psychiatrist at the top of the order, if you will? [LR424]

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DR. EUGENE OLIVETO: Supposed to be. [LR424]

SENATOR LATHROP: Supposed to be. [LR424]

DR. EUGENE OLIVETO: Supposed to be. [LR424]

SENATOR LATHROP: You saw Mr. Jenkins on, the first time, March 3, 2010. And in that book, Doctor--I'm not going to make you try to remember everything you said or did--your note is on page 46 and page 47. If that helps during the course of your testimony, you're welcome to look at it and refresh your recollection. [LR424]

DR. EUGENE OLIVETO: Oh, yes, this is the...yes, um-hum. [LR424]

SENATOR LATHROP: You recognize that note? [LR424]

DR. EUGENE OLIVETO: Yes, I do. [LR424]

SENATOR LATHROP: And that's the note from your care and treatment of Mr. Jenkins or your evaluation of him on the first occasion. [LR424]

DR. EUGENE OLIVETO: Yes. This is...he was on my patient list so I had to go to Mod 20 to evaluate him on March 3, 2010. [LR424]

SENATOR LATHROP: Did you know anything about him before you were dispatched to see and treat Mr. Jenkins? [LR424]

DR. EUGENE OLIVETO: I had no information. He was just like anybody else on my list. [LR424]

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SENATOR LATHROP: Okay. And when you go in to meet a patient or someone you've been assigned to care and treat and assess at Douglas County Corrections, what's your routine? [LR424]

DR. EUGENE OLIVETO: Well, the problem with Mod 20 is all the people in Mod 20 are on AC or lockdown status, so in order to see them I can't go in the cell, especially if the guards tell me they're dangerous--and they told me that this inmate was very dangerous. So they said I had to go in a room and they sent...and wait until they brought him from his cell. And so I went into the room and they brought him in with shackles on and they had a chair about as far as you are from me, maybe a little closer, and then I sat down on the chair and....well, he started sitting down on the chair. He didn't last long. But...and then I asked him the standard questions that psychiatrists ask. I did a history. I took a history of mental illness and I...and his family history. [LR424]

SENATOR LATHROP: So the process is to take a family history because that's important to a psychiatrist? [LR424]

DR. EUGENE OLIVETO: Well,... [LR424]

SENATOR LATHROP: Before we talk about what you learned when you did those things, tell us what an assessment like this is. What are the things that you cover? And then we'll go through them. [LR424]

DR. EUGENE OLIVETO: Well, I'm covering chief complaint, and his chief complaint was all over the place. He was ranting and raving about the system and being persecuted and his mental health. And so I couldn't really get a clear-cut chief complaint. And then from the chief complaint you take a history of the chief complaint. So if you say you're depressed, I say, how long have you been depressed, what are your symptoms, how does it affect your functioning, have you ever been treated before, who treated you, what medications you need. I do these really quick and routinely because I've done

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probably 100,000 of them, so. And I tried to control the interview with him and have a...do it in a set way, but there was no way. [LR424]

SENATOR LATHROP: What's the goal in the end? [LR424]

DR. EUGENE OLIVETO: Well, the goal is to...you come with a psychiatric diagnosis and a treatment plan, and that's what I was attempting to do with him for...I spent an hour with him, by the way, so. [LR424]

SENATOR LATHROP: Okay. And tell us about what you learned. Walk us through this assessment and then we'll get to your diagnosis and conclusion. [LR424]

DR. EUGENE OLIVETO: Well, okay. I had never met Nikko before, but the guards had kind of told me that this guy is really out of control and you've got to be careful and he's dangerous. So I obviously got a little fearful, although when you work in corrections you've got to kind of make out you're fearless, and I'm good at that because I grew up on the streets of New York. But the point is, I couldn't get a clear-cut history for him because he wouldn't let me finish a sentence. So he was ranting and raving about the system and nobody treating him for psychiatric illness and how unfair the system was. And then he got into this diatribe of hearing a voice from an Egyptian god named Apophis and he was the great avenger of this god. And then he went through an analysis of who Apophis was because I didn't know Apophis from a hole in the ground. And he told me he is the god of evil and he's absolutely powerful and that he was the avenger for Apophis and he was deemed, when Apophis' voice told him, he was deemed to kill people--Christians, Jews, and all kinds of people--and he went through all of this. And he actually overwhelmed me with information because I couldn't control the interview. And so it was pretty obvious to me that this person was out of control and not able to regulate well or conform his behavior and regulate well his mood. So the information I got is in my report here. And I just right away knew he was...after telling me if they don't get him mental health and they let him out of jail he's going to kill

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people. So I absolutely knew he was mentally ill and dangerous. He was psychotic, delusional, and he told me he was going to kill people. And I believed him, okay?
[LR424]

SENATOR LATHROP: Okay. One of the questions that I had, and maybe it comes up because I saw somebody make a judgment about your notes later down at Corrections in mental health, but did you just accept what he's telling you? When he says, I'm hearing voices, how do you verify that that's actually happening with a patient or this particular patient? Did you believe him? [LR424]

DR. EUGENE OLIVETO: Well, it has to be congruent with his behavior. I mean he...and it has to be consistent. I mean this guy told me the same delusions and the same things over and over again. I saw him again in 2010 after he went back, and then I saw him in 2013. So, you know, if a person has consistent delusions, is as grandiose like he is and it continues, I mean, that's pretty consistent that that's a symptom that is well entrenched in his brain. And, you know, I think a first-year resident in psychiatry could diagnose Nikko Jenkins. I mean, I saw him for the first time but it took me five minutes to figure him out. [LR424]

SENATOR LATHROP: Okay. What was your diagnosis? [LR424]

DR. EUGENE OLIVETO: Oh, my diagnosis was he had a psychotic disorder. I thought he was schizoaffective, schizophrenic. He certainly is a sociopathic, antisocial personality. He's a sociopath. He has a long...he had a long history of criminal behavior. He told me he was in a gang and he did things to survive on the streets. So I'd diagnose as antisocial personality, sociopathic personality, psychotic disorder, schizoaffective, posttraumatic stress disorder. He had a terrible childhood. He was terribly abused and mistreated by an alcoholic psychopathic father, so...and his family history showed that. He also used...he also had used some street drugs when he was younger, and he was in trouble since age seven. So I knew he had a pretty classic history of antisocial

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behavior and being psychotic. He said he started hearing voices at seven, so that's a sign that the person is.... [LR424]

SENATOR LATHROP: Okay. Let me ask you, and maybe you can educate the committee because I think this is going to be important background for us as we go through the day, on the DSM-IV they have a distinction between Axis I and Axis II. Is that right? [LR424]

DR. EUGENE OLIVETO: That's right. [LR424]

SENATOR LATHROP: And now we're...we've moved on to DSM-V, which doesn't make that distinction. But while a lot of this is going on we were...the reference point was DSM-IV and it made a distinction between Axis I and Axis II diagnoses. [LR424]

DR. EUGENE OLIVETO: That's correct. [LR424]

SENATOR LATHROP: Okay. Tell us what the difference is. What belongs on Axis I and what belongs on Axis II? This is sort of categories of diagnoses. Am I right? [LR424]

DR. EUGENE OLIVETO: Yes. The Axis I diagnosis is the primary diagnosis, like schizophrenia, major depressive disorder--which is the most common psychiatric disorder treated, by the way--and bipolar disorder, manic depressive disorder. So it's the primary psychiatric diagnosis. And then Axis II is generally the personality type if you can diagnose a personality. The reason why they did away with Axis II, because it's so fuzzy, there's so many...you know, if somebody is obsessive compulsive, they also have other traits, like they might be dependent, they might be a schizoid, so...but the most clear-cut personality disorder ever diagnosed, which is probably close to 90 percent accurate, is definitely antisocial personality. I mean antisocial personality is solid Axis II and it's the only psychiatric diagnosis. Almost every intelligent, experienced psychiatrist would say this is solidly antisocial because it has characteristics for all antisocial

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personalities that are seen. So it has consistency predictability. [LR424]

SENATOR LATHROP: All right. Tell us again what your Axis I diagnosis was then. [LR424]

DR. EUGENE OLIVETO: My Axis I diagnosis, he was so psychotic and delusional it was really tough to tell. I didn't think he was bipolar, although he was grandiose, obviously, thinking that he was the avenger for Apophis. And he was delusional. I thought he was mostly schizophrenic because he told me he started hearing voices at age seven, so...and, you know, I did child psychiatry and adolescent psychiatry for ten years before we had a lot of child and adolescent psychiatrists when I worked at Immanuel. And I saw a lot of children and adolescents from his background. And he comes from a terribly impoverished, sick background. His family is beyond dysfunctional. Okay? In fact, his mother and sister are both in jail, too, so. And if you look at this history, it's solidly antisocial and he had a psychosis of childhood that evolved with his antisocial personality because he obviously did antisocial things even in his childhood and adolescence. He blossomed, which most antisocial personalities do when testosterone kicks in at 12 or 13. Then he became a dangerous antisocial personality, a street thug. He was in either the Crips or Bloods. He was feared by everybody, because I talked to people that knew him on the streets. This guy was considered dangerous by people that...on the streets. [LR424]

SENATOR LATHROP: But the antisocial is part of the Axis II. [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR LATHROP: That's just the personality that comes from the psychosis, right? [LR424]

DR. EUGENE OLIVETO: No. [LR424]

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SENATOR LATHROP: Okay. [LR424]

DR. EUGENE OLIVETO: You see, that's the problem. They're trying to differentiate and say you...this is why I had trouble at that competency hearing. They're trying to say...some people are trying to say that you can only be a sociopath and he's either one or the other. That's not true. You could be a psychotic sociopath; you could be a schizophrenic with...and a sociopath; you could be a sociopath with mental illness. Everybody splits hairs like this, but there's no pure person. This guy is a mixture of a lot of things. He also has posttraumatic stress disorder from a terrible childhood. That's Axis I also. So you're looking at a very complicated person here. I'll tell you right now, he's one of the most complicated and dangerous people I've ever evaluated, and I've evaluated over 100,000 people. [LR424]

SENATOR LATHROP: When you come up with a diagnosis of psychotic, what's that mean? [LR424]

DR. EUGENE OLIVETO: Psychotic means that he cannot differentiate between reality in his head versus reality out here. And so he can't integrate into...he can't integrate information coming from his environment in a normal way. And so he comes to conclusions and conceptual thinking that don't match reality. Now anybody could be psychotic. You could be psychotic if you don't sleep for five days and certainly you could be psychotic if you're on methamphetamine, crack cocaine, and PCP, which the jail is full of, by the way. But the...he had a hard time differentiating between his delusional thinking and what...that didn't match with reality versus thinking of normal people that does. So he actually lived in a delusional, hallucinatory, psychotic world--not all the time now. He had...you know, that's the problem. It's not all or none. I don't know why people think this way that aren't psychiatrists. Maybe they don't understand it. But the point is, he was not always psychotic. He could be lucid. And I never said he was stupid. This guy is brilliant in an evil, sinister way. But when you look at what he's exposed to in his

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childhood and his role model as a father, who was a psychopathic probably murderer and drug dealer, I mean you're looking at bad genes, bad upbringing, and bad environment. Okay. My three "bads" worked out for this guy perfectly: bad genes, bad environment, bad family, and bad environment and bad culture. I mean he's a product of all that, so he's a very complicated individual. [LR424]

SENATOR LATHROP: Okay. Having made that diagnosis you did on Axis I and Axis II, and your notes reflect that, you also came to some conclusions about whether he was dangerous or not. [LR424]

DR. EUGENE OLIVETO: Yeah. On the back page, and I never do this, but I added this. I said, this is a very dangerous young man who has experienced deep abuse, trauma in a mentally ill family. He became a dangerous gang member at age 11, psychotic, grandiose, paranoid, and institutionalized most of his life. He needs a forensic evaluation and adequate treatment for multiple psychiatric problems including PTSD and DID. And so that...I put that on the back page to emphasize how dangerous he was. [LR424]

SENATOR LATHROP: What's a forensic evaluation? [LR424]

DR. EUGENE OLIVETO: Oh, a forensic evaluation... [LR424]

SENATOR LATHROP: What are you suggesting this guy needed at that point in time? [LR424]

DR. EUGENE OLIVETO: Well, I suggested he be committed to...I wrote an order that he be committed to Lincoln Regional Center because I didn't think I could provide him with adequate psychiatric care with his history and as out of control he was. And they...so I recommended he be committed by the board of mental health to Lincoln Regional Center for a forensic evaluation. [LR424]

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SENATOR LATHROP: Did you do that on the occasion of the first time you saw him, or did you do that later on? You saw him three times in total, did you not? [LR424]

DR. EUGENE OLIVETO: No, I saw him way more than three times. But, no, I recommended that the first time I saw him. I told... [LR424]

SENATOR LATHROP: Okay. Who did you send that recommendation to? [LR424]

DR. EUGENE OLIVETO: Oh, I told Denise Gaines this guy needs to be...I can't handle this guy here, he's not going to cooperate with treatment, because I knew he wasn't going to cooperate with treatment because he called me some names and didn't treat me with great respect at first. And I said, he's not going to cooperate with treatments. [LR424]

SENATOR LATHROP: So you had a conversation with Ms. Gaines. But did you... [LR424]

DR. EUGENE OLIVETO: Yeah, and I said we need... [LR424]

SENATOR LATHROP: Did you write an order or did you send some document to somebody that said, boy, this guy needs to go down to Lincoln Regional Center or somebody needs to do a forensic evaluation on him? [LR424]

DR. EUGENE OLIVETO: Well, either/or. Denise automatically did this many times. I mean he's...this is not the only guy that's insane and out of control in the Douglas County Jail. I did this many times and I assumed she was going to do the paperwork and then I sign it. We send a copy of my evaluation to the board of mental health because I can't treat people involuntarily unless the board of mental health approves of it except under circumstances where they're really dangerous imminently, right now,

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and they're dangerous to themselves or the staff. Then I could treat them, and I do treat people like that, without approval. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. EUGENE OLIVETO: But I wanted him committed because I didn't think I can handle him in the jail. [LR424]

SENATOR LATHROP: Why is that? What was the Lincoln...in your thinking at the time you saw him the first time, why were you thinking that he needed to go down to the regional center and that you couldn't handle him? [LR424]

DR. EUGENE OLIVETO: Well, because the jail...Mod 20 is not a jail where you want to put psychotic people that are like him and dangerous. I mean he had a history of dangerousness that I know now from reading the Ombudsman's report. I mean this guy has always been dangerous, even in Tecumseh. I mean, he was in...I knew he was in isolation for at least two to three years and he certainly complained about that. So I knew that there's no way you're going to lock this guy in a cell on Mod 20 with people screaming and yelling. And a lot of people there from the streets knew this guy and from jail because they'd been in jail with him and even they were afraid of him, actually. But you let... [LR424]

SENATOR LATHROP: Did you have confidence that the Lincoln Regional Center had the capacity and the infrastructure to take this guy and treat him? [LR424]

DR. EUGENE OLIVETO: Well, I worked at the criminally insane unit there for three months and, yeah, they had people worse than him. They had a guy that killed his whole family, for Pete sakes. Yeah, I mean, I certainly assume a unit for criminally insane and dangerously mentally ill people, and there were some people there that were really scarier than Nikko when I worked there, could handle him. I mean we used

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to handle these people on psychiatric units in the '70s until they started sending them to the jail when they acted up. I mean we got people from inpatient psychiatry units, because they were acting up, making threats, and breaking windows or something, that we treated. Everybody gets dumped into jail now. I don't know why. It's crazy. [LR424]

SENATOR LATHROP: Tell us about the...your treatment plan then. Besides suggesting that he needed to be sent to the regional center for a forensic evaluation, did you develop some sort of a treatment plan or a... [LR424]

DR. EUGENE OLIVETO: Yes, I did, the same treatment plan I use for all people like him. I wanted to give him Haldol, 10 milligrams IM, with 2 milligrams of Ativan stat; Haldol Decanoate, 200 milligrams IM, the next day so that we could get rid of the psychoses. And I'm not sure if I...no, I couldn't order it because he obviously was litigious and talking about suing everybody. So I didn't want to forcibly inject him, okay? And I personally didn't want this guy against me, okay, because I knew he had some people on the outside. And I have a family and I'm real careful about psychotic, dangerous people. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. EUGENE OLIVETO: So I didn't want to get incorporated into his delusional system. So I wanted the board of mental health to commit him and say, Dr. Oliveto, you can involuntary treat this guy now. And then I would have taken charge and involuntary treated him. And I would guess that within 30 to 90 days he wouldn't be psychotic anymore because 95 percent of the people I treat that way--I mean, they're even worse than him, some of them--and they look real good in 30 to 90 days if I can treat them. [LR424]

SENATOR LATHROP: On the medication. [LR424]

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DR. EUGENE OLIVETO: Oh, absolutely. I could treat him any day of the week. [LR424]

SENATOR LATHROP: So you did prescribe some medication for him. [LR424]

DR. EUGENE OLIVETO: I did prescribe medication for him: risperidone, 1 milligram twice a day, and Depakote, 500 milligrams twice a day. But I knew he wouldn't take it. [LR424]

SENATOR LATHROP: Why? [LR424]

DR. EUGENE OLIVETO: Because he wouldn't cooperate. I mean he thought everybody was against him. And then at one point in time I gave him medication. He said he thought they were poison because they were different colors. Nikko changed his mind like that. I mean he's hard to treat. [LR424]

SENATOR LATHROP: So you dealt with the...even over at Douglas County Corrections you dealt with the "Nikko won't take his medication." So did you think it was paranoia or did you think it was a behavior issue? [LR424]

DR. EUGENE OLIVETO: You know, it's hard to differentiate. You know, he gave me a whole dissertation on how can I trust you. He didn't trust anybody and he's paranoid and, you know, so a paranoid person doesn't trust anybody. Then the nurse gave him a different color pill, he said, and he always researched everything that happened to him. I think this guy spent more time in the legal library than the attorneys did. But he searched the pills. He said, oh, this has side effects, I don't like it, it's going to affect my sex drive, and all this stuff, and even though he's in jail, in isolation. And so I said, well, they would...it would help you if you took these, I think you'd feel a lot better and all. And so I could never get him to take medications consistently, and that's why I really recommended involuntary treatment. [LR424]

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SENATOR LATHROP: The next time I have or the next occasion that I have notes for is April 23, 2010, and that's on page 49. Do you know if you saw him in between at all, or is that going to be your next visit? [LR424]

DR. EUGENE OLIVETO: No, all my...if the jail sent you the notes, they wouldn't give them to me, obviously, but if they sent you the notes, all the notes, and I don't know. You know, I don't recall how many times. You know what, I saw a lot of people in there, I mean, every day. [LR424]

SENATOR LATHROP: Sure, sure, sure. [LR424]

DR. EUGENE OLIVETO: I mean, you know, I was overwhelmed sometimes I had so many people to see. [LR424]

SENATOR LATHROP: And we're not here to make a judgment about the number of times. [LR424]

DR. EUGENE OLIVETO: Yeah, yeah, but the point is, I would have to say that this is probably my follow-up note because my first one...I couldn't see everybody every day because I only worked 14 hours a week and my schedule was full. So I'd generally see them a couple of weeks later... [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. EUGENE OLIVETO: ...two, three, sometimes four. [LR424]

SENATOR LATHROP: What did you find out or what did you learn when you met with him on April 23, 2010? [LR424]

DR. EUGENE OLIVETO: Well, you know, exactly what I said: refusing risperidone and

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Depakote because he wants to tough it out, is scheduled for a psychiatric evaluation in Lincoln Regional Center--at least I thought he was scheduled for a psychiatric evaluation. And then I said, he's better...for some reason he was in better control. Well, he was having counseling there too. Actually, he had pretty good mental healthcare at the jail. Even the Ombudsman said that's the best mental healthcare he ever got when he was in Douglas County. [LR424]

SENATOR LATHROP: And that would be Ms. Gaines, who was also providing treatment. [LR424]

DR. EUGENE OLIVETO: Yeah, she was counseling him at the time, and she had good rapport with him at first and he liked her. I think they knew people, similar people. But he was in better control because he always said, I need to talk to somebody about my problems and nobody will talk to me; they all judge me and persecute me. But Denise has a way...Denise had a good way of...obviously, working in corrections, you have to have good rapport with people that aren't always friendly. [LR424]

SENATOR LATHROP: Right. [LR424]

DR. EUGENE OLIVETO: And I put down he was schizoaffective, probably, or bipolar I, antisocial, impulsive, obsessive. He was very obsessive too. He'd get on a topic and just beat it to death, analyze it from A to Z, pick it apart. But he did that with medications, too, because you put him on a medication, he wanted to read everything about it, so. [LR424]

SENATOR LATHROP: Your diagnosis didn't change during that visit? [LR424]

DR. EUGENE OLIVETO: No, no, still schizophrenia and antisocial personality. [LR424]

SENATOR LATHROP: And you do make a note that you believe that he is scheduled

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for a psychiatric evaluation at the Lincoln Regional Center, and then down towards the bottom of the page you say he needs to be evaluated at Lincoln Regional Center.

[LR424]

DR. EUGENE OLIVETO: Oh, and I said that every time I saw him, right. [LR424]

SENATOR LATHROP: So what steps were taken? Did you just talk to Ms. Gaines or did you call somebody up? Did you check in with the regional center? What's happening?

[LR424]

DR. EUGENE OLIVETO: No. My job is to make recommendations. I don't...that's an administrative...that's administrative duties. Their responsibility is to, if they do it, is to follow the psychiatrist's orders, especially in a patient this difficult, dangerous, and psychotic. [LR424]

SENATOR LATHROP: What's your experience with getting people seen at the Lincoln Regional Center after you make a note like this? [LR424]

DR. EUGENE OLIVETO: Terrible: three, six months a year waiting. Some people went beyond their sentences when I had them committed, and they were in jail beyond their sentences because we couldn't get them in Lincoln Regional Center. I mean that was the problem. [LR424]

SENATOR LATHROP: Do you know what is behind that? Why? [LR424]

DR. EUGENE OLIVETO: I have... [LR424]

SENATOR LATHROP: Why, if you're saying this guy needs to go to the regional center for a forensic evaluation, you've put it in your notes twice now, he's sitting at Douglas County Corrections? What is it, if you know, at the Lincoln Regional Center that they do

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not follow up or they do not take these people that you suggest need a forensic evaluation down there and see them? Do you know why? [LR424]

DR. EUGENE OLIVETO: No. [LR424]

SENATOR LATHROP: But it is your experience that they don't. [LR424]

DR. EUGENE OLIVETO: Absolutely, and Denise Gaines will tell you the same thing. [LR424]

SENATOR LATHROP: Do you ever call? Have you ever called down to the regional center and say, I told you, I put an order in, I want this guy seen, how come? [LR424]

DR. EUGENE OLIVETO: Not my responsibility. It's administration. [LR424]

SENATOR LATHROP: Okay. What do you do for this guy other than, on this occasion, other than suggest that he needs or again indicate that he needs a forensic evaluation? [LR424]

DR. EUGENE OLIVETO: Say ten "Our Fathers" and ten "Hail Marys" for Nikko Jenkins. I'm sorry but, you know, this guy is really...this guy is...this guy really needed intensive psychiatric treatment, and anybody that doesn't agree with me better get a board certification and have 40 years' experience in psychiatry, because I'm rarely wrong because I'm really a good psychiatrist. And so that's what frustrates me. Why this guy didn't get the care that I recommended and they let this guy out and he kills four people...when he told me he was going to kill four people and I had to testify and look at her husband, Kruger's husband and her brother...her brother and I couldn't, and them little kids, it broke my heart. [LR424]

SENATOR LATHROP: Did he tell you during your time that you spent with him at

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Corrections that he was going to get out and kill? [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR LATHROP: And did he tell you while he was at Douglas County Corrections and under your care that he was listening to the Egyptian god of war? [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR LATHROP: And did you believe that that was his intention? [LR424]

DR. EUGENE OLIVETO: I believed he was going to kill people if he was ever let out. There was no doubt in my mind. And anybody that doesn't agree with that has to look at the facts and what happened. [LR424]

SENATOR LATHROP: The third, and what looks like to me, at least from what we received from Douglas County Corrections, time you saw him would have been September 22, 2010, and that's a note on page 55, Doctor. You want to turn to that. [LR424]

DR. EUGENE OLIVETO: Yes. [LR424]

SENATOR LATHROP: Do you see that note? [LR424]

DR. EUGENE OLIVETO: I do. [LR424]

SENATOR LATHROP: And do you remember that visit? [LR424]

DR. EUGENE OLIVETO: Yes, I do. [LR424]

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SENATOR LATHROP: Tell us again, does he show up on a list or is it...is there some tickler system that says, I need to follow up with this guy? [LR424]

DR. EUGENE OLIVETO: If I see somebody this sick, I generally see people every 30 to 90 days, okay, and most people...listen, most people cooperate with me because the inmates liked me. I got along well with them real well. And I explained everything I do. I just don't put people on medication. I say, you have bipolar disorder; if you take this medication you'll get better. I'm an educational psychiatrist. I don't force myself on anybody and I treat everybody as equal and I don't judge people for who they are. I might judge them for what they do if they intentionally harm people. I never judged Nikko for who he is, okay, because I knew his background and I don't know what I'd be like if I came from this guy's background, okay? [LR424]

SENATOR LATHROP: Right. [LR424]

DR. EUGENE OLIVETO: So I'm not judging him as a human being. But the point is, he's still psychotically obsessed with the plot to kill himself or people. He's talking about killing himself, too, okay, so...and others here and that he didn't like in Tecumseh. He is psychotic, delusional, but has refused medications, was frustrated by Lincoln Regional Center with the psychiatric...I think he saw...I think a psychiatrist came for 10-15 minutes. I think it was, oh, who...what's his name, the psychiatrist there? Well, I can't think of his name. I think he did and he was very frustrated because, he said, he didn't listen to me and he was only there 15-20 minutes. But... [LR424]

SENATOR LATHROP: If there was somebody from the regional center that saw him, and I'm going to just say... [LR424]

DR. EUGENE OLIVETO: Yep. [LR424]

SENATOR LATHROP: ...if you move down the page and you say, needs transfer to

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Lincoln Regional Center, I don't know why you'd write that if he'd been seen by somebody. But if he had been seen by somebody from the regional center, we don't have a note of it. [LR424]

DR. EUGENE OLIVETO: Now I'm not sure because, you know, the problem with the regional center, these guys would come in sometimes and do the evaluation and not give me any information. So when I...when we...when Denise asked for reports from Lincoln Regional Center, we never got them. Even when they went there and came back to the jail they wouldn't send us. And I have no idea because the communications between the jail, the judicial system, the judges, the attorneys is not good. So this is why people get lost in the system. You'd think they'd send me back information and tell me why, what their recommendations are based on, but I got a little discharge sheet once in a while. But I think he was seen by Y. Scott Moore. I think it was Y. Scott Moore. And he was very upset because he didn't think Y. Scott Moore really listened to him or believed him, and he still had that fixed delusional system. It was consistently with Apophis or whatever his name is, the Egypt... [LR424]

SENATOR LATHROP: Apophis. [LR424]

DR. EUGENE OLIVETO: Apophis. [LR424]

SENATOR LATHROP: You did not change your diagnosis through the entire time you treated him? [LR424]

DR. EUGENE OLIVETO: No, and I tried...and I ordered medications again because it's my job to order what I think he needs, okay? And these are perfect medications. I have a mood stabilizer and an antipsychotic--and he certainly had a mood disorder--and I said, needs transfer to Lincoln Regional Center. I don't care whether he saw him or not. He couldn't be treated at this jail adequately. He needed intensive, long-term psychiatric treatment. [LR424]

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SENATOR LATHROP: Tell us what would be the difference, because I'd like to know just as a matter of background. If you are sitting in a corrections or a jail and primarily housed there, kept away from the public for safety reasons, how is that different than what you're going to get by way of care if you're over at the Lincoln Regional Center? [LR424]

DR. EUGENE OLIVETO: Well, if you're in the Lincoln Regional Center, they have a mental health staff. We had no mental health unit. We couldn't control what happened to him after I saw him for 20 minutes or 30 minutes. And, you know, you've got some guards. I'm not blaming them, okay? They have a hard job on Mod 20, okay? You've got a place full of screaming, yelling people with no respect for anybody but the...including me. But the point is, how are you going to put a psychotic, delusional person, a dangerous person, how do you compare an environment where he's locked in a cell and he's been locked in isolation two years? They let him out for a half an hour. They have to absolutely chain him up because you can't trust him for one second because he'd turn on you in a minute. And the guards, some of those guards aren't nice to mentally ill people. I mean, when I walk in, you should see the names they call them before I see them. I say, I have to see this inmate, and they use very derogatory names. Okay? [LR424]

SENATOR LATHROP: Right. [LR424]

DR. EUGENE OLIVETO I think people in this world don't know what it's like on the front lines in corrections. I didn't know until I took the job. The environment is... [LR424]

SENATOR LATHROP: So that's what happens in corrections. [LR424]

DR. EUGENE OLIVETO: Yeah. [LR424]

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SENATOR LATHROP: What did you expect would happen if he'd gone to the regional center as you had ordered? [LR424]

DR. EUGENE OLIVETO: Well, hopefully, he'd be put on a high security unit. They'd have staff there that watch him. You'd have to have staff that would watch him, you know. I mean, you'd have to have some big guys that watched him and he'd have to be contained on that unit. And you'd have to have a mental health staff that knew his history, hopefully read my reports, and would treat him adequately for his psychoses. But he'd have to be forced to be treated because he wouldn't cooperate. So they could treat him as a committed patient in Lincoln Regional Center, high-security. I mean, the unit for the criminally insane had people that were insane and killed people. [LR424]

SENATOR LATHROP: But they're actually having contact with mental health people and work in a program all day, every day? Is that the... [LR424]

DR. EUGENE OLIVETO: Absolutely. They're in a therapeutic environment. There's nothing therapeutic about a jail environment. It's a punitive environment. They don't rehabilitate people in jail. Anybody thinks they...go to Mod 20 for a week or make rounds with me and tell me who they rehabilitate. The whole system is punitive. That's all it is. [LR424]

SENATOR LATHROP: This is the last note I have from your care and treatment of Jenkins. Your diagnosis never changes during the entire time he was under your care. Did you have any more involvement before he was released from Corrections and involved in these murders? Did you have any more involvement with him? [LR424]

DR. EUGENE OLIVETO: I don't think so. I didn't even know he was transferred and I assumed that he was going to be committed and go to Lincoln Regional Center, so. And obviously he wasn't, so. [LR424]

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SENATOR LATHROP: I think that is all the questions I have for you. We'll see if anybody else up here has questions for you. Oh, Senator Krist. [LR424]

SENATOR KRIST: Could you define for us what it means to be bipolar? [LR424]

DR. EUGENE OLIVETO: Bipolar, manic depressive illness, is two poles. There's the high pole where people get super hyperactive, their brains race, their thoughts race, their behavior is impulsive and poorly regulated and controlled. They do impulsive things like get...women get hypersexual and spend too much money, and men can get hypersexual but men can be very impulsive and dangerous when they're in an agitated manic state or hyper-manic state. They get grandiose in mania and delusional. They think they're Jesus Christ or some powerful figure. So bipolar disorder...and then the low side is catastrophically low. They don't want to get out of bed. That's the most...bipolar depression is the most difficult depression that I have ever treated because fully functional people fall into a bipolar mood swing and they don't function at all. They stay in bed; they get suicidal; they don't want to do anything; they lose drive and motivation; they get very self-critical; they think they're the worst person in the world. I had a guy come in, in the morning happy, and hung himself in the afternoon 25 years ago. And, you know, they're very unpredictable. So it's a very common disorder. It comes in mild, moderate, and severe. The "milds" aren't treated. We only treat 25 percent of manic depressives and 3 percent of the world population is manic depressive. So obviously, they're either not treated or they...men use alcohol and drugs to treat manic depressive illness. A lot of your alcoholics are bipolar/manic depressives, but they use alcohol, so you can't tell when they're drunk all the time. [LR424]

SENATOR KRIST: Mr. Jenkins, though, was not bipolar in your opinion? [LR424]

DR. EUGENE OLIVETO: I don't think so. You know, he was kind of...I said schizoaffective and I think Gutnik said the same thing, but he definitely had a schizophrenic thought disorder. And so when they couldn't figure out if you're bipolar or

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schizophrenic, they created a new term in DSM-III, schizoaffective, which means you're both manic depressive and schizophrenic, so. But schizophrenia is a much more disabling disease. You could function with schizoaffective disorder and bipolar disorder better. But the pure paranoid schizophrenic or the really organic schizophrenic, they're so disorganized they're all on disability and they don't do very well. Most bipolar patients work...actually, a lot of bipolar patients are very successful. The gene gives you the ability to integrate information much quicker than a normal human being's brain. And that comedian was bipolar that hung himself. It has a 15 percent suicide rate, the highest of all psychiatric disorders. [LR424]

SENATOR KRIST: You also told us that you worked for a long time in child psychology. [LR424]

DR. EUGENE OLIVETO: Psychiatry. [LR424]

SENATOR KRIST: Psychiatry, I'm sorry. When I look at his records and I go back here to the first real big offense, which is bringing a gun to school, and I look at the...and you don't have this so I apologize. [LR424]

DR. EUGENE OLIVETO: Um-hum. [LR424]

SENATOR KRIST: But if I told you that he brought a gun to school and he admitted that he needed the gun for his own safety, that he kept it under his mattress. And then, when he went through the evaluation process a few days later or a week later, he said the gun wasn't real, I didn't think it was real, it's a toy; and then later on tells somebody that it's his mother's gun and he doesn't know how it ended up underneath his mattress. He's a very intelligent kid at this point. He's getting good grades, although he's always truant. Does that tell you that potentially this child needs to see a psychiatrist, needs evaluation? [LR424]

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DR. EUGENE OLIVETO: Oh, he needs to see at least a counselor. I mean, he...if you look at his family, you'd need counseling too. But, you know, if he started doing things that were dangerous to himself or others and started threatening to kill people or was suicidal, because children are...I never saw it in my early years, but children are attempting suicide at 5, 6 years old now. I mean it's just amazing to me what's happened in this world. But I would have to say he certainly needs counseling. I would have sent this kid to Boys Town, personally. And I've sent kids like this to Boys Town because I think Boys Town does great with kids coming from families like this. Unfortunately, I don't know if anybody ever thought of sending him to Boys Town. But we're lucky we have Boys Town because certainly I've seen children like this and they...a lot of them do very well at Boys Town actually in that structure. [LR424]

SENATOR KRIST: So in 1986 there's a write-up about Nikko--cumulative disruption, noncompliance, physical and verbal threats towards other students and staff, frequent early and...frequently goes home early to avoid suspensions. That's demonstrating a characteristic that potentially is going to become more and more harmful to himself and to others? [LR424]

DR. EUGENE OLIVETO: Oh, absolutely. He was acting out his tremendous rage for his father who was an absolute horrible person, because I know. I took his...I saw his mother there, too, I mean, and his sister, by the way. So I had his background from his mother and she said, I had to give this guy up because his father was going to kill him. His father was vicious to him. You know, you can see why he couldn't...he couldn't come back at his father. You know, you've got a father that's threatening to kill you, you ain't going to come back at him, okay? And so he took his rage and anger out on other people, and that's classic for posttraumatic stress disorder in children. When you see a kid like this you've got to say, is this kid...what's going on in this kid's house? Is he being abused? He had all the red flags for severe abuse. And then he took his rage and incorporated it against society and he became antisocial, because he said, nobody helps me, nobody loves me, nobody cares about me, and I'm going take people out.

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And that's what he did. And this is classic of this type of background, by the way.
[LR424]

SENATOR KRIST: Thank you, Doctor. [LR424]

DR. EUGENE OLIVETO: Yep. [LR424]

SENATOR LATHROP: Senator Mello. [LR424]

SENATOR MELLO: Thank you, Chairman Lathrop. And thank you, Dr. Oliveto. I just wanted, I guess, maybe a point of clarification. And Senator Lathrop's questions that...in every one of your write-ups on Mr. Jenkins you had committed or had made the recommendation to commit him to the Lincoln Regional Center. Every time, for one reason or another, he was not committed there. Traditionally, when a doctor issues an order like that, is it traditionally just not followed or no real feedback loop to the doctor in regards to why that initial recommendation or order was submitted and not followed through on? [LR424]

DR. EUGENE OLIVETO: Well, Senator Mello, every time I did it before, it was followed, so I, you know, I don't know why it wasn't followed. [LR424]

SENATOR MELLO: So this was kind of a unique instance in that case then. [LR424]

DR. EUGENE OLIVETO: It was unique, yeah, because I just automatically thought it would be done. You can't blame me for that. It was always done before. I mean, I don't know what happened in this case. This case was totally different. The way he was treated was different. I mean, everybody listened to my orders because they respected me and I know what I'm doing. [LR424]

SENATOR MELLO: That was, I guess, my point more than anything else... [LR424]

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DR. EUGENE OLIVETO: Yeah, yeah. [LR424]

SENATOR MELLO: ...is if you've...if you issued orders before to send someone to Lincoln Regional Center... [LR424]

DR. EUGENE OLIVETO: Boom, done. [LR424]

SENATOR MELLO: ...and it gets carried out. Okay. [LR424]

DR. EUGENE OLIVETO: Done, bang. [LR424]

SENATOR MELLO: All right. Thank you. [LR424]

SENATOR LATHROP: Senator Bolz. [LR424]

SENATOR BOLZ: Good morning. [LR424]

DR. EUGENE OLIVETO: Hi. [LR424]

SENATOR BOLZ: In your opening remarks and exchange with Senator Lathrop, he was asking you about the hierarchy and you said something to the effect of that you're supposed to be the final say or the last word. What did you mean by saying "supposed to be"? Are there circumstances in which you weren't? [LR424]

DR. EUGENE OLIVETO: Okay, I'm in a system...I was hired to be a psychiatrist. I'm used to being on top in the hierarchy in a psychiatric hospital. When you're in a jail system, a corrections system, you have to follow the rules for security and all. And obviously I didn't have the power that I needed sometimes to do the things I thought people needed in that system because the system is not a therapeutic system. And

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there were a lot of changes that I thought needed to be made. For example, I asked both directors of this prison, I said, you know, we're getting a mental health...we're getting so many mentally ill people dumped here from the police that are doing...and they keep on coming back for disturbing the peace and all this crap and they're being charged with criminal charges; we need a mental health unit with at least five beds; we need a trained mental health staff; we need guards that treat these people humanely and don't treat them like they're some kind of sick animals and understand mental health; and we need a mental health court. Actually, what we really need like the (inaudible). We need a mental health court. We need a judge that knows what he's doing, if you could find one that knows anything about mental health. You need a judge that knows what he's doing and you need advisors for that judge, social workers, hopefully, that know what they're doing, and they could see these people and say these people need to be put in a therapeutic environment, not in a jail, which is not a therapeutic environment. And, you know, the director had power over me and so did Captain Earley. They could tell me what to do and what not to do and they could countermand my orders, I'll bet money they could, because someone countered my orders and I still don't know who did it. [LR424]

SENATOR BOLZ: Okay. Thank you. [LR424]

SENATOR LATHROP: Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Thank you for your testimony today. A couple different questions: In reading through this material I get the sense that it was a better situation at the Douglas County Jail, less problematic, than when he was at the penitentiary. Systemically, what do you think is going on that he seems to have gotten along better at the county jail? [LR424]

DR. EUGENE OLIVETO: Well, I think he was labeled at the county jail as a sociopath. And once the word spreads in a prison system and you get labeled, you can't get out of

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that label. And, you know, Nikko really aggravated a lot of people because Nikko could really...he knew how to push people's buttons and he could be pretty nasty and threatening. But Nikko was in a system that basically labeled him a psychopathic person who is dangerous, and they didn't really want to treat him or treat him well. They kept him in isolation. Nobody even wanted to be around this guy so obviously the isolation didn't help his psychotic state and his paranoia. He just got more paranoid. In the jail, I treated him like a human being. I showed an interest in him. He respected me because he told me he respected me. And if you read the Ombudsman's report, he said he got the best treatment he ever got in any system at Douglas County Jail because he had a rapport with a counselor. He had Denise and Marty (phonetic). Marty Fleming (phonetic) counseled him too. He saw me regularly. I...my goal was to understand him as a human being and help him, so. And I didn't judge him as a bad person, okay, although I didn't agree with what he did, obviously, and he knew that because I let him know that very strongly. When he was yelling and screaming about his rights, I said, how about the rights of the people you killed, that would be important too. So I wasn't afraid of Nikko and he respected it and he called me a street-smart Italian from New York, so. And he knew I was street smart because he couldn't put anything over me and most people he could cause a lot of fear in and they'd back off. Well, I don't back off on anybody once I get to know...once I think I could help them. But I wasn't antagonistic to Nikko. And I think Nikko does respect me, if you want to know, and I think that's why it was a better environment for him, because he really felt people cared about him. [LR424]

SENATOR SCHUMACHER: Again, the material seems to reflect that there's this discussion among the folks at the penitentiary whether or not he is psychotic or whether or not this is just behavior. And if they come to the conclusion that it's behavior, well, you just lock him up and...for 23 and a half hours a day and that takes care of the problem. If you've come to the conclusion it's psychiatric, that means spending money and another mechanism of some type of attempts at care. Is this distinction that so much time seems to have been spent on between psychotic and behavioral a real distinction, or is that more a semantic distinction that occurs among people who are not

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professionals, mental health professionals? [LR424]

DR. EUGENE OLIVETO: Well, it's semantic in the fact that, you know, we are never 100 percent right and we are never 100 percent objective. I come from a frame of reference of medicine with 40 years' experience in evaluating tons of people with schizophrenia, bipolar disorder and all, so I don't even have to really think about it anymore because I've done it so many times, like you do your job. You don't spend all your time trying to figure out what you have to do every day. But, you know, some people come in with a closed mind and they say, Nikko Jenkins is a psychopath, that's all he is, that's all he ever will be, he's faking it, and I heard that the minute I came, the minute...even before I saw him the guards told me, don't believe him, he's a liar, he never tells the truth. So, you know, they tried to set me up for that but nobody could set me up by telling me that because I have an open mind and I make judgments on my own. But they...a lot of people in that Ombudsman's report...and I just read it before I testified at that competency hearing. Took me six hours to go through that. That was a great report, by the way. That guy did a marvelous job. I would give him an Academy Award if I could. I never saw a guy write a report (inaudible). I wish I knew all that about Nikko before I saw him--it would have been nice--when he came back after he murdered those four people. But he was terrific and he was right on. Look at all the different opinions you see in that report. My god, it confused me: Oh, no, he's not; he's not this. And they have all these experts and, you know, you know, a psychiatrist trumps a psychologist in these types of evaluations because we diagnose and treat mental illness. They're trained to do testing and evaluate people. Now psychologists can do counseling, but they don't see the degree of illness we see and the dangerousness in the same way we do, and they can't treat these people. So my goal is to treat a person so they get better, okay, not...I'm not going to make a judgment on them as human beings. I'm going to make a diagnosis and say, okay, we've got to treat you and get you better, back to normal thinking again. You don't want people running around in society like Nikko Jenkins. And I don't care what you say he is. There's no way you let a person out that says he's going to kill people, it's going to be a bloodbath when I get out. You let him and he kills people.

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You know, this is irrational. How could anybody think, after I said that, how could anybody think any different? And why would you even take a chance of letting this guy? He never did a day of good time. I read the Ombudsman's report. God, even in Douglas County he'd assault people just like that. You...I don't understand how anybody in their right mind would let that guy out on good time. He never did a day of good time, I'll tell you right now he never did. I'd like to see the report that said he did good time. Up to the day they let him out he was doing bad time and nobody stepped in said, why don't you read Dr. Oliveto's report and commit this guy, send him to Lincoln, send him on. They didn't even want him in Lincoln Regional Center now, I find out, because he's too dangerous. That's incredible to me, incredible (inaudible)... [LR424]

SENATOR SCHUMACHER: A couple of final points: I think there's a theory in some psychiatric literature that in cases like this, underlying the...this behavior is a feeling that they are disrespected, that that is a motivating factor. Are you aware of any of that literature? [LR424]

DR. EUGENE OLIVETO: I'm not sure what you mean by disrespected. [LR424]

SENATOR SCHUMACHER: They feel, these folks feel that they're disrespected, feel that they are not treated fairly, feel that the deck is stacked against them and that by using such techniques as solitary confinement and some of the attitudes by the prison personnel, that that aggravates the situation. [LR424]

DR. EUGENE OLIVETO: I'm not sure how to answer that question. There's a code. I found out pretty quickly in corrections there is a code of honor, believe it or not, in this system that the inmates have of respect. If you respect them and don't disrespect them, they respect you; if you talk down to them, judge them, and treat them like they're less human than you are or not as good as you are, then they will not respect you at all. So as far as I know, I never heard of anybody that disrespected me in that system for the eight years I worked there. In fact, if anything, the feedback I got from guards in all this,

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that I was very respected and they appreciated the treatment I was giving them. We got people to tell me that all the time, so. But if you're saying putting a person in solitary confinement that's psychotic, thinks he's not being treated right, thinks he needs...demands mental health treatment or he's going to kill people if somebody doesn't help him, yeah, I'd have to say that he didn't feel respected and he didn't respect anybody there. He hated everybody in that system. I mean he had a name for everybody there. So that's how I would answer that question. [LR424]

SENATOR SCHUMACHER: One final question then: You said that the gene that gave...that bipolar people have gives them the ability to integrate information fast and... [LR424]

DR. EUGENE OLIVETO: No, I said that high...intelligent, bipolar people, and there's plenty of them around, some of the greatest people in history, artists, especially artists, their right-brain bipolar, so...because it's an emotional dysregulation. But a lot of them are very creative. Robin Williams, when he went on a manic tear, he was a great "ad-libber." Did you ever see him? I mean he'd pick up things like that. Their minds work quicker because they speed up their processing speed; it's like a high-speed computer when they go into that. So, yes, they integrate information. Actually, the IQ of most bipolar patients is much higher than normal patients. That's not true for schizophrenics because schizophrenics have a low IQ in general. [LR424]

SENATOR SCHUMACHER: So when you used the phrase "gene" it was not that there's some identifiable gene. [LR424]

DR. EUGENE OLIVETO: No. [LR424]

SENATOR SCHUMACHER: Okay. [LR424]

DR. EUGENE OLIVETO: But bipolar disorder really runs high in families and genetically

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high. So does schizophrenia, by the way. So there is a genetic...the gene probably bestows those people with higher intelligence and the ability to process information rapidly, yeah. [LR424]

SENATOR SCHUMACHER: Thank you. [LR424]

SENATOR SEILER: I have just one question, Senator. [LR424]

SENATOR LATHROP: Oh, okay, Senator Seiler. [LR424]

SENATOR SEILER: Step back from Nikko Jenkins' case now and say we're going to look at the future. If you could set up a system when you're at the correctional stage, could you...would you see if I can visualize a system where you would provide triage and say, this person needs to be EPCed, and your report would go straight to the county attorney? [LR424]

DR. EUGENE OLIVETO: I think that would be more efficient, you know. [LR424]

SENATOR SEILER: And then have the Lincoln Regional Center as the ultimate, real tough cases that are highly dangerous, and other treatment centers that would be allowed to treat lower, both mentally ill and drug abuse and alcohol abuse? [LR424]

DR. EUGENE OLIVETO: Senator Seiler, that would be ideal, but we don't have the facilities. Nobody can get into addictions. They have no insurance or anything, so we can't get anybody anywhere. [LR424]

SENATOR SEILER: I understand that. I understand that right now. [LR424]

DR. EUGENE OLIVETO: Yeah. [LR424]

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SENATOR SEILER: But I'm talking about the future. [LR424]

DR. EUGENE OLIVETO: You want the ideal system? [LR424]

SENATOR SEILER: Yes. [LR424]

DR. EUGENE OLIVETO: I'll give it to you. I've said it a thousand times. [LR424]

SENATOR SEILER: Tell me. [LR424]

DR. EUGENE OLIVETO: And I've said it to Foxall and I said it to all the directors. The ideal system would be to have a mental health court with a judge that evaluates people that come into the correctional system, especially if they have a history of chronic mental illness and they keep on committing these minor crimes and coming back a thousand times and costing us a fortune. The judge makes a decision with his staff that this person belongs in a treatment facility, whether it's an addiction or a mental illness. And the comorbidity in chronic mental illness with addiction is 75 percent, so you can't separate them out. Okay? So he needs to be in a treatment center if we had treatment centers and not in jail because the jail is not the place to put this person because they're not going to get the treatment they need. And that judge would make a decision, bang his hammer and say, go to this facility, not jail. And if the guy did a more serious crime he'd go to a facility that has both a treatment center and some type of high security because you can't put people...and they used to have it at Douglas County. We...when I started in med school here they had five jail cells in Douglas County Hospital with guards. So they...in those days, in the '70s, they did have mentally ill people in jail, but they were in a county hospital. And then the...I think...what's that organization for the mentally ill? They came in and said, you can't put mentally ill people in jail cells in a psychiatric hospital, which is kind of interesting because we do it now. But the...and then I'd have a mental health unit in jail, like they have at L.A. County and Cook County. L.A. County, the biggest psychiatric facility in L.A. County is L.A. jail. They closed all the

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mental health clinics down when they went broke. They put all these people in jail. And now they...the biggest system...and I had an accreditation lady from L.A. tell me--she does the jail there--she said, Dr. O., we wish we had this...as good of mental health as you have here. Our whole jail, half of the jail is mentally ill people, and we have to put the psychiatric facility in a jail. So you need five beds with trained staff, mental health nurses, and staff that would treat these people for their mental illness. And then you need a psychiatrist to see them, to put them on meds if they need them. Not all people need meds, but they certainly need a more productive healing environment than they do thrown in a cell. You know, the problem with these people is they come in and they're "gen pop" and they wind up in Mod 20 in lockdown for 24 hours because they cause trouble, because they're psychotic. They walk around and they talk to people and say crazy things, they threaten people. And then what do you want? When you're psychotic you're not normal and yet the people in jail expect them to conform to the rules of the jail. That's a real kicker. How is a psychotic person going to conform to the rules of a jail? [LR424]

SENATOR SEILER: Let me ask you this: Wouldn't it be better to have a centralized place? Because you're talking about Douglas County. We've got 92 other counties that have very similar problems and if they...if we had a statewide system that you just described for treatment... [LR424]

DR. EUGENE OLIVETO: Senator, you know as well as I do, we're one of the poorest funded states for mental health. And I don't know who runs the state, but we can't get funding. I think we're one above Mississippi for mental health funding and we're one of the richest states in the country. And I have no idea why mental health isn't a priority when you've got one out of every five people needing mental health and one out of every three families suffering from addictions and mental illness. My god, my daughter is a child/adolescent psychiatrist at Alegent. She can't even get a kid in, on a weekend, a bed. They've got to stack them in the emergency room they have so many psychotic adolescents, and she can't even get a bed. She comes home so depressed she's...you

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know, she wants to quit child psychiatry. If they lose Gina they're in trouble because she's the best. But she's overwhelmed. There's no beds. Nobody wants these...nobody wants to put in...they closed the mental health system. They closed the state hospitals. [LR424]

SENATOR SEILER: That's right. [LR424]

DR. EUGENE OLIVETO: They cost too much money. Hey, listen, you'd better put your money into mental health and prevention because, if you don't, we're going to have more Nikko Jenkins on the streets and there's going to be more people killed, I'll guarantee you that, because I saw people as bad as him in that jail and I got them better. And when they left, they were no longer dangerous, I'll tell you right now. [LR424]

SENATOR SEILER: I want to thank you for your contribution. [LR424]

DR. EUGENE OLIVETO: Yep. [LR424]

SENATOR SEILER: As a 15-year chairman of the mental health board, I know what you're talking about. [LR424]

DR. EUGENE OLIVETO: It's frustrating. [LR424]

SENATOR SEILER: Thank you. [LR424]

DR. EUGENE OLIVETO: Yeah, thank you. [LR424]

SENATOR LATHROP: Senator Chambers. [LR424]

SENATOR CHAMBERS: Dr. Oliveto, as you know, the Legislature sets the policy of the state and, as the Chairman pointed out, we want to compile a record here today. So if I

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ask you questions, which I probably will, that you may already have answered, it's not to challenge or play cat and mouse but to get a record, because we'll transcribe everything that happens here today. So I'm going to ask a series of questions now. One comment you made, first of all, caused me to think of what George Bernard Shaw had written in this play Pygmalion. He said: The difference between a lady and a flower girl is not so much in how she acts as in how she is treated. So a certain kind of treatment will elicit a certain type of response from a person. Would you agree generally with that? [LR424]

DR. EUGENE OLIVETO: I would agree generally with that. [LR424]

SENATOR CHAMBERS: So if Nikko Jenkins, as seems to have been the case from everything I've read in the various reports, e-mails, and so forth, he had been labeled and branded. And when you read some of these e-mails, these notes that are written by psychologists, they wind up all coming back to the same thing: He's faking; don't believe him; he's acting out to prove that he's mentally ill. With that kind of attitude, even if the people who show it really feel that way, with that kind of attitude, could they provide the type of treatment and care that he needs if they don't believe he needs it? [LR424]

DR. EUGENE OLIVETO: The answer to that question is obvious: They couldn't. [LR424]

SENATOR CHAMBERS: Now when he was saying, I'm going to kill people, and he listed categories, if somebody called the police and said those things now, they'd be called terroristic threats. It's a crime and people go to jail just for uttering those words. So if on the one hand, if those words are uttered and they constitute a crime, I feel, as you've concluded, if somebody who has mental problems, illness, or however the way they want to designate it, says these things and he's behaved in such a way that you can believe he means it, I don't know why they would let him out. But the day that he was released he walked out of solitary into my community, after having made clear what his intentions were. I say that by way of a little background so you have an idea of the direction I'm coming from because I'm not trying to be tricky. When there are different

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labels attached to different mental conditions, does that mean that new illnesses are developing or there is more nuance in labeling what this illness is, what it consists of, or what the components are? If the... [LR424]

DR. EUGENE OLIVETO: Both. [LR424]

SENATOR CHAMBERS: Okay. Now was there a time when certain labels could not be applied to a child who manifested symptoms which in an adult would carry a label but that label was not allowed to be attached to a child who manifested those symptoms? [LR424]

DR. EUGENE OLIVETO: Senator Chambers, I'm a little confused on that question. I'm...could you make it a little bit more explicit or...? [LR424]

SENATOR CHAMBERS: Okay, well, when I was at one of the hearings there was a person who indicated that, based on the symptoms that Nikko Jenkins was manifesting as a child, she would have labeled it a certain way. But this psychiatric organization didn't feel those labels should be placed on children. But now you can apply the label. The condition is not different; the symptoms are the same. But now they can label it what it is. And had that been the case when Nikko Jenkins was young, those are the types of labels that would have been attached to him, and it would have been clear that these are mental illnesses or mental illness that is being manifested. Had you been aware of anything like that? [LR424]

DR. EUGENE OLIVETO: I believe that's true, that you're right. Now my daughter is a child and adolescent psychiatrist. She sees a lot of little kids with schizophrenia and I agree. Schizophrenia is forever and you don't...there's no cure for it, so...and there's really no good treatment, if you want to know, except the medications. But, yeah, if he was labeled schizophrenic and he evolved with the schizophrenia into his environment where he became a sociopath because he hung around with sociopaths, obviously, and

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he was a good sociopath. He was a strong, powerful figure, and he had a lot of followers, actually. Yeah, he evolved into a schizophrenic sociopath, and that's exactly what I tried to say when I talked to reporters and all and they jumped on me that day, right. [LR424]

SENATOR CHAMBERS: Now the label does mean something and it does carry consequences in the realm of mental health. Is that correct? [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR CHAMBERS: And when they kept saying at the institution that his problems were behavioral, the easiest thing for a correctional facility to do to manage somebody, to control somebody, is to lock them up. So if his conduct is based on behavior, he's misbehaving so you can throw him in solitary. On the other hand, if it's a mental illness, then punishment is not the thing. There has to be treatment. Would it be easier, forgetting morality, anything else, would it be easier in an institution where people are put there, whether they should be or not, and they misbehave, would it be easier to give them treatment or easier to just lock them up? [LR424]

DR. EUGENE OLIVETO: Easier to lock them up. [LR424]

SENATOR CHAMBERS: And does that seem to be what's happening now? [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR CHAMBERS: And when Nikko Jenkins...you said he studied everything. Does the fact that a person would study a lot, the fact that a person would understand what he reads, the fact that a person could recite what he had read, would that indicate that he cannot be mentally ill? [LR424]

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DR. EUGENE OLIVETO: No. [LR424]

SENATOR CHAMBERS: So mental illness does not totally incapacitate a person so that his or her intellect no longer functions. [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR CHAMBERS: Could somebody be severely mentally ill but on certain occasions be so lucid that a person, unaware that he or she is mentally ill, would never suspect that mental illness is present? [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR CHAMBERS: So if I am hired by the state and my job is to save money for the state and I have to give diagnoses that go along with what the state wants, I could pick and choose actual anecdotal occurrences that involve this individual which, if we judge him strictly by this, he is not mentally ill. [LR424]

DR. EUGENE OLIVETO: That's correct. [LR424]

SENATOR CHAMBERS: And when I see all these different people coming up with the kind of conclusions they come up with and some of them even making jokes about it, e-mail jokes, laughing, mocking, you are a doctor, is it ethical for you to make fun of your patient to somebody else? [LR424]

DR. EUGENE OLIVETO: No, it's not. [LR424]

SENATOR CHAMBERS: Would it be ethical to laugh at this patient? [LR424]

DR. EUGENE OLIVETO: No, it wouldn't. [LR424]

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SENATOR CHAMBERS: And if a person mocked and laughed at a person who is mentally ill, would that person with that attitude be in a position to give adequate care and treatment to the person who is being mocked? [LR424]

DR. EUGENE OLIVETO: Absolutely not. [LR424]

SENATOR CHAMBERS: You mentioned the different factors bearing on Nikko Jenkins that helped produce the Nikko Jenkins that people are dealing with now. You mentioned the environment, the family, the bad genes. I use analogies sometimes. If you buy a Duncan Hines cake...well, let's take...people may not know who that is. But if you have a cake recipe and it says, you put in these ingredients in this measurement and mix them all together and put them into the oven, and a cake comes out when you open the oven, would a chef be surprised at that? [LR424]

DR. EUGENE OLIVETO: No. [LR424]

SENATOR CHAMBERS: Because when the ingredients are there, you know what the outcome or what you're going to produce. [LR424]

DR. EUGENE OLIVETO: Hopefully. [LR424]

SENATOR CHAMBERS: So if you have the psychiatric training that we would hope every competent psychiatrist has--and remember, some of this you've answered; I'm just eliciting it in response to a question--when you look at the background of Nikko Jenkins and you can trace it from the time at least when he was seven years old, would you expect, without treatment being accorded, that he will outgrow that and become a model citizen? [LR424]

DR. EUGENE OLIVETO: Absolutely not. [LR424]

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SENATOR CHAMBERS: And if it is not treated, would it be any surprise that he became what he now is? [LR424]

DR. EUGENE OLIVETO: No, it's no surprise. [LR424]

SENATOR CHAMBERS: Do you think, without blowing your own horn, that a competent psychiatrist who may not get a Nobel Prize or whatever but competent in a sense of understanding what needs to be provided by way of treatment, would a competent psychiatrist be able to understand Nikko Jenkins' situation and recommend treatment that would be indicated? [LR424]

DR. EUGENE OLIVETO: Yes, they would. [LR424]

SENATOR CHAMBERS: So then you didn't arrive at these conclusions because, not that you won't get it, but because you're a Nobel Prize-winning psychiatrist. These are things that a competent psychiatrist would be aware of. [LR424]

DR. EUGENE OLIVETO: Any competent psychiatrist would be aware of this. [LR424]

SENATOR CHAMBERS: Even if he worked for the state? We're talking about aware, not what he would say and what he'd have to do to keep his job. But if he's competent, where he works should not determine what he understands. [LR424]

DR. EUGENE OLIVETO: Okay, I see what you mean. Yeah, even if we worked for the state, right, yeah. [LR424]

SENATOR CHAMBERS: Okay. I went to a Jesuit university. And you know Jesuits were called the school men and that they liked to divide and subdivide and then further divide the divisions so that somebody said, sarcastically, they split a hair between the north

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and the northwest side. As we begin to see--and I'm going back to this idea now of the labels--different labelings or divisions, you were saying some of it is hairsplitting. Would these splitting of hairs result in a different type of treatment for each one of the new divisions that might be created, or would there still be a...let me put it like this: If there is an octopus, it has eight tentacles. Each one is separate but they all are a part of this one creature, this mollusk. Let's say that when psychiatry was in its early stages they didn't...they couldn't see it up close enough to realize that there are eight tentacles. And as they became aware of these other tentacles, it wasn't that a new creature was coming into existence, but there was just more understanding of it. Are there labels created because psychiatry is developing and actually discovering new illnesses they were not aware of before, or are they giving different labels to what has already been there? [LR424]

DR. EUGENE OLIVETO: Both. [LR424]

SENATOR CHAMBERS: Okay. My last question...oh, let me make sure. Oh, I want to ask this categorically. Mental illness does not necessarily eradicate intelligence. [LR424]

DR. EUGENE OLIVETO: It's true. [LR424]

SENATOR CHAMBERS: Now how many tentacles does an octopus have? [LR424]

DR. EUGENE OLIVETO: You said eight. [LR424]

SENATOR CHAMBERS: Right. And "octo" means eight. Okay. [LR424]

DR. EUGENE OLIVETO Correct. [LR424]

SENATOR CHAMBERS: If an octopus has eight, why are the suckers on it called...why are those arms called tentacles? If there are eight arms, why are they called tentacles

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instead of "octocles"? [LR424]

DR. EUGENE OLIVETO: I'm not sure. I have no expertise in that field. [LR424]

SENATOR CHAMBERS: Me either, but I just thought of that as we were talking. That's all that I have. (Laughter) [LR424]

DR. EUGENE OLIVETO: Yeah, yeah. I just don't have. [LR424]

SENATOR CHAMBERS: But that could indicate... [LR424]

DR. EUGENE OLIVETO: I'm no expert on octopuses, that's for sure. (Laugh) [LR424]

SENATOR CHAMBERS: Okay. That's all I have though. And I just want to say this: From the things that I've read, I appreciate what you and the mental health people at Douglas County did for this man. And I think there was a recognition of his humanity and that basic fundamental human dignity that we all have no matter what we may have done. And you distinguished very well between what a person is and what a person may have done. And I get a lot of mail from inmates and I know some of them are trying to mislead me. But I tell them, don't lie to me, you don't have to make me believe you're a good person. When you're locked up, your punishment is to be deprived of your freedom. If you're being mistreated, I just want you to tell me all of the facts about this situation because I don't judge you beyond that. I've sat with men who are on death row and even those who were executed, and I would let them know that my job is not to judge you but to be here as one man with another man. And if there was anybody in a situation and there ever was a situation where somebody needed another man to look out for his interests and make sure that he's not mistreated, then I'll do it. And I told those people at the institution that all you're going to do is take this man's life, you're not going to take his dignity, you're not going to mistreat him. And I'll give a concrete example, then I'll let it alone, because you mentioned how some guards antagonize

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these people. When John Joubert, who murdered and tortured some little boys, was on death row, there was a sheriff from Sarpy County who wanted to go out to the prison. And they have what they'd call observers. You're not a witness to the execution. And you can see how this person is treated and handled from day to day. And he wanted to come out there and he had made it clear that he was going to see that John Joubert got what he deserved and heard what he needed to hear. I got a call from the director of Corrections and he said, Ernie--because we were on a first-name basis--he said, now I can't stop this man from coming out here, but I cannot have him coming out here doing what he has made clear he intends to do to John Joubert; and I know you're against the death penalty, I wouldn't try to put you in a position where it seems like you support it; but would you agree in this situation to come out here as an observer and be a counterweight to what this sheriff said he's going to do? I said, you couldn't stop me from coming. And when the sheriff found out that I was coming, he canceled the request that he be an observer. The way I operate is that anybody who needs something in the way of proper treatment, I am my brother's keeper, I am my sister's keeper. And to use an example that some of my colleagues will get tired of hearing, if Martin Luther King needs an advocate, you couldn't find a room big enough to give all...get all the people. Mother Theresa wants an advocate, the same thing. Mahatma Gandhi, the same thing. But when it comes to how the law is going to treat people, somebody has to look out for Jack the Ripper, Mata Hari, and even Jesse James. And too often there is not the oversight of these facilities and people are thrown into them. And when it's an individual who is going to come back out here among us, as you pointed out, we need to put the money into the treatment because we're going to pay one way or the other, and we'll pay a lot later when we're facing the consequences. And I used you for a sounding board, but I don't want you to forget from all that I said how much appreciation I express not only for your coming here but for the way you treated not only Nikko Jenkins but all the people that you were dealing with. And this society won't realize it, but we all are the poorer because you no longer have that role that you were playing. [LR424]

DR. EUGENE OLIVETO: Thank you. [LR424]

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SENATOR LATHROP: Senator Krist, I think, has a follow-up question. [LR424]

SENATOR KRIST: Just a quick follow-up. I'm going back to my original question and follow up on Senator Chambers' line of questioning. I look at this young man from the time he's 7 until the time he's 11 or 12 years old, and I wonder why we didn't intervene at some point and do something more for the young man other than transferring him and putting him in one foster care parent or one foster home or another. So we basically handed the problem off to going here. We've done a lot as a legislative body for juvenile justice in the last few years. And my mantra has been: You can spend less money in the playpen to solve problems than you can in the state pen. [LR424]

DR. EUGENE OLIVETO: Yeah. [LR424]

SENATOR KRIST: Can you just put into your own words, I think you've said it but for the record, how did we fail Nikko Jenkins, knowing what you do now, and how can we document for individuals so that we have a record and we're able to treat them in their lifetime? [LR424]

DR. EUGENE OLIVETO: Because the mental health system is just as dysfunctional as the correctional system, and that's the bottom line. [LR424]

SENATOR KRIST: Okay, and you went through that analogy and your suggestions and I appreciate it. Thank you for your time. [LR424]

DR. EUGENE OLIVETO: Yep. [LR424]

SENATOR LATHROP: If I can, I do have a couple of follow-up questions. If we fast-forward through the time line--I'm going to give you an opportunity because you will testify and then probably leave here--but we will hear later on today that your diagnosis

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is discounted down at Corrections because it was based upon reported symptoms, like you believed everything you were told and didn't make an observation. And I want to give you an opportunity to talk about that because one of the things that I'm struggling with is why people didn't start with your diagnosis once Mr. Jenkins went back and they just discounted it and said, well, you believed everything he said, and that was the problem with Oliveto's diagnosis. [LR424]

DR. EUGENE OLIVETO: Well, because it became obvious to me after all this correctional stuff came out that I read in the paper. I was told I opened the can of worms. Okay? I told the truth and I was right and I got fired. And so when you look at this system, this system...this was a political case and obviously I got caught in the middle of a maelstrom here. I had no idea that a standard psychiatric evaluation recommendation would cause all these problems. But my wife tells me it's good, even though it's stressful, that I did it because my wife is never wrong. She's Irish. But the point is (laughter)...but the point is...she supports me most of the time. But, you know, they didn't want to believe me, obviously. I mean, you know, I mean... [LR424]

SENATOR LATHROP: But your diagnosis was not simply: I accept everything he tells me; when he tells me he's listening to Apophis, I believe him. You're making some judgment while you're meeting with him on these occasions at the Corrections Center. [LR424]

DR. EUGENE OLIVETO: But all diagnoses are based on this objective report from a patient. You take a history. I mean, and I look at nonverbal behavior. If you looked at his nonverbal behavior, I wish they would have videotaped it. Well, maybe they did videotape it when I first saw him. I mean, this guy was up off the chair, lunging at me, backed off, screaming, yelling. I mean, he was consistently insane and out of control. I mean, he didn't have to convince me he was dangerous and...he said dangerous and insane. So I got caught in that one because it's not a psychiatric DSM-IV...well, it's a street term we use. You ever heard of insane asylums and critically insane? Beadle got

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me on that one. And it's not in a DSM-IV. It's on the streets though. Everybody knows what insane and crazy is. What, you think you got to be a genius to figure that one out? [LR424]

SENATOR LATHROP: But your diagnosis that you told us, the Axis I diagnosis... [LR424]

DR. EUGENE OLIVETO: Yeah. [LR424]

SENATOR LATHROP: ...even the Axis II diagnosis, that was based not on an unfiltered belief by you in what he was telling you but based upon the kinds of things that a psychiatrist will observe and conclude after a meeting with a patient. [LR424]

DR. EUGENE OLIVETO: Absolutely. [LR424]

SENATOR LATHROP: Okay. Tell us a little bit, educate us a little bit, if you have an opinion on this and if you have the background, educate us a little bit on what happens to somebody who spend 23 hours a day in isolation for years at a time. [LR424]

DR. EUGENE OLIVETO: Well, you know, that's been well documented. I mean, you know, they've got all kinds of... [LR424]

SENATOR LATHROP: It may be well documented. I want you to educate this panel if you can. [LR424]

DR. EUGENE OLIVETO: Yeah, it's well documented. I mean, you know, if you're in isolation, what happens is your sensory perceptual system needs a certain amount of input to stay "on-line." I'll use a computer analysis. So if you're in a cell alone and you're already mentally ill and have a delusional system, then obviously it's going to increase your...you're going to become more interoceptive because you don't have the

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stimulation you need. So what happens is you get totally lost in your psychotic delusional system and you begin to get paranoid because of the way you're treated. And in isolation, it's easy to get paranoid because you're waiting for something to happen. And so he became very paranoid and delusional. He didn't trust the guards. He threatened to kill people, the guards, and that's why he was kept there. And, you know, he was kept there because they couldn't put him in general pop, population, obviously when he's talking about killing people and he's paranoid. And so you're looking at sensory deprivation. You're looking at...when you have sensory deprivation what happens is you create your own perceptive system. You turn it on internally. And his internal system was totally screwed up. (Laugh) I mean, look at his internal system. I mean, look at the programs he had. He had a critical, dangerous father who hated him and told him he hated, who brutally did things to him you wouldn't want to believe. He had relatives that treated him like an animal or worse than an animal. And so he got lost in his...it increased his psychotic delusional system and made him worse. [LR424]

SENATOR LATHROP: I appreciate your testimony with respect to Mr. Jenkins, but my question and what we try to do up here is learn enough to make some policy next year. [LR424]

DR. EUGENE OLIVETO: Yeah. Oh, okay. [LR424]

SENATOR LATHROP: And we are relying, it seems to me, on administrative segregation, intensive management unit, whatever you want to call this place where we lock people up for 23 hours a day and slide food under the door and somebody comes and says something to him about once a month. [LR424]

DR. EUGENE OLIVETO: Uh-huh. Yeah. [LR424]

SENATOR LATHROP: And what does that do to a human being that goes in there healthy? Talk to...tell us something about using...tell us what you know or what you can

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educate us on, on just the practice of using this form of isolation as a means of punishing an inmate. [LR424]

DR. EUGENE OLIVETO: Well, I could see it short term if somebody does something that's really catastrophic. But then you should work with them on the problem and try to correct it so they can get back in general pop. When you isolate a person that long, even a healthy person, they're going to get paranoid, they're going to get delusional, they're going to create their own interoceptive stimulation. They're going to get...well, whatever stimulation they create, they're going to do more. They're not going to trust anybody, obviously, and they're going to feel like they're being punished and treated unfairly. And I think most people would get pretty paranoid being isolated in that type of environment. So it's certainly not good for your mental health. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. EUGENE OLIVETO: And social deprivation is not good. We all need social stimulation. I mean, look at me. I'm Italian. I'm always talking. I'd hate to be in a situation where I couldn't talk. I'd be in deep trouble. Although my wife never listens to me, so it doesn't make any difference. I hope she's not watching this. Okay. [LR424]

SENATOR LATHROP: My guess is that she is and you can face that when you get home tonight. [LR424]

DR. EUGENE OLIVETO: Well, after 48 years with the same woman, married, what do you want? [LR424]

SENATOR LATHROP: All right. That was the questions I had in follow up. Senator Chambers. [LR424]

SENATOR CHAMBERS: This was one thing that I did want to be sure and get into the

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record while you were here. Nikko Jenkins got out in July of 2013. Now in March, that's very close to the time he's going to get out. There's no need in him pretending that he has a mental illness and saying, I want to go to the Lincoln Regional Center, because it's not going to take him out of a prison setting, because by wanting to go there he's going to be locked up in a different setting even longer. There was a segregation mental health status note dated March 7 of 2013. Nikko said he does not want to discharge because he will kill and cannibalize and drink blood. He mentions the Egyptian god and requests treatment. Now if everything he did was faked, now he's in the homestretch, he can drop all that pretense now because he's only got a matter of, I know if it's months but, days that he's got to be locked up. When a man says at that point in time I don't want to get out of here, I don't want you to let me go, yet what they said at the institution, we're not going to give him treatment because the treatment he says he wants is not what our information indicates he needs. So they had created this notion about him and they're not going to give him the treatment. They're not going to give him the care. The fact that he may have read, and at one point I think they said he used the term "psychotic" so that proved he wasn't because he used the word, just all kind of crazy stuff that indicates that the institution and those people who work for the institution are the ones who are wrong. There was a doctor, I was at one of the hearings, who when the information was put into the record about him having these problems, Nikko, from seven years old, and this doctor had talked about Nikko Jenkins faking these symptoms, having studied them he knew what they were, the question was put, well, was he faking these symptoms at seven years old and fooled the people who gave the diagnosis at that time they described his condition, although they couldn't put the word to it? Was he faking then? The idiot had put himself into a position where he had to say yes, at seven years old. And that is the kind of quack who's working for this state. Taxpayers are paying his salary. And it was some of the things that he said that enabled people at the department to keep saying what is wrong is Nikko Jenkins is bad behavior, and gave them the green light to treat him as somebody who's just misbehaving. And if he says he's ill, that proves he's not because he said he's ill, which would mean if I go to the doctor and I say, doctor, I've got a headache that's so bad I

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think it's a migraine, the doctor would say, he's faking because he said "migraine." I meant, there's a kind of unreality when you read all these things about Nikko Jenkins. So the question that I'm working up to is this. He was found to be not competent to go to a sentencing hearing, and he had to be placed somewhere. The regional center said they wouldn't take him. So he is locked up. I don't know if it's LCC or D&E or wherever, but at any rate it's a penal setting. And you pointed out and it was pointed out at that place, at that hearing, that they are going to go by the rules of the prison. And when this new psychiatrist, that's what they call him, who's here, he had been there a few months when he looked at Nikko's record and hadn't dealt with him, he was asked when it comes to a recommendation of how he should be treated, what he needs, will the regional center staff, who supposedly are the ones treating him even though he's housed in this other location, will what they say be the final word or will it be the prison rule? And this guy said, well, we're going to work that out, which means that it's going to be the prison rules. So if it was determined at that hearing that part of the reason that he was not mentally competent at that time, whereas earlier it was felt he was mentally competent even to defend himself, it was determined that being kept in isolation led to an increased deterioration of his mental condition to the point where he no longer was competent. Well, if he goes back a situation where he's going to be in that same type of isolation, what is the likelihood that he is going to regain competency if he's receiving the treatment that contributed to the incompetency in the first place? Is that question unclear because of the way I asked it? [LR424]

DR. EUGENE OLIVETO: Well, it was a little long-winded, but I would have to agree that he's not going to get the treatment he needs if he's in the same environment with the same people that think he's not mentally ill. And they're going to go treating him for what? If he's not mentally ill, what are they treating him for? And if he's incompetent, then he must have a reason for being incompetent, so he has to be mentally ill. So, yeah, it's...this is all circuitous. You know, it's so insane and irrational that I have a hard time with it. You know, maybe I'm too logical. They used to teach logic in college, by the way, and people had common sense. It doesn't seem that a lot of people have common

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sense, especially administrators, by the way. [LR424]

SENATOR CHAMBERS: Doctor, this is why I was so long-winded because I was trying to make clear what I wanted to...and I don't know if it was Einstein, but they said the definition of insanity is to continue repeating the same act and expect a different outcome. And that's what the institution is doing. That's what Corrections is doing. That's what LRC is doing. So I wanted some things in the record because I need some ammunition and I appreciate it. Now I really am through. [LR424]

SENATOR LATHROP: Okay. Senator Schumacher is not, however, so. [LR424]

SENATOR SCHUMACHER: One brief point of clarification, and this might be just my poor note taking. But at one point I think you said that the Jenkins case was somewhat unique because in other cases where the Lincoln Regional Center was recommended, they went every time. And at another point I've got a note that says, after a forensic evaluation was thought to be appropriate at the Lincoln Regional Center, it takes forever to get it done, sometimes beyond the end of the sentence. Could you kind of clarify, you know, when things happen as a result of a directive and people go to the regional center and when the regional center is not responsive and it takes forever? [LR424]

DR. EUGENE OLIVETO: Well, we put a...they don't have enough beds there and it's always full. So we had a waiting list on the board that Denise put on there, and some of those people were on there three to six months or longer. And they were board of mental health committed, so you couldn't let them go. So even if their sentence was over, the minute they left the door, they'd be picked up and brought and committed, they couldn't leave the jail without...if they were committed without going to a hospital. And, unfortunately, Douglas County never has any beds or if they do they don't want to put people in there for some reason, and obviously Lincoln Regional Center never has any beds because we have waiting lists where people are on it for months. And so eventually they get there, but I have to treat them while they're still very, very sick. And it

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gets rather frustrating when you're working 14 hours a week and trying to help all these people when they should be in a mental health environment or an environment that's at least therapeutic. So this is a very frustrating job. I loved it. I lost it because I told the truth and (laugh) I can't believe it but here I am. [LR424]

SENATOR SCHUMACHER: Thank you, Doctor. [LR424]

DR. EUGENE OLIVETO: Yeah. And I was right, by the way. Am I through? [LR424]

SENATOR LATHROP: Okay. Yeah, no, you're done testifying. [LR424]

DR. EUGENE OLIVETO: Oh, good. Thank you. [LR424]

SENATOR LATHROP: Hey, Doctor, thank you for your time. [LR424]

DR. EUGENE OLIVETO: I hope I didn't ad lib. [LR424]

SENATOR LATHROP: Thank you for...thank you for... [LR424]

DR. EUGENE OLIVETO: Can I give you guys a handout on this whole issue done by a great reporter in the World-Herald that's really fantastic? [LR424]

SENATOR LATHROP: We'd be happy to take it. [LR424]

DR. EUGENE OLIVETO: Let me give this to you. You know, I look for these things (inaudible)... [LR424]

SENATOR LATHROP: Wait a minute, you get away from the mike and you're not any longer making a record, so let's wait and you can... [LR424]

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DR. EUGENE OLIVETO: I want to give you this. This is "Prisons and the Mentally Ill," the greatest article by Nicholas D. Kristof in the World-Herald and it's absolutely worth reading. It says everything I said about L.A. County Jail, Cook County. It's an absolute crisis in corrections. And it also questions the privatization of... [LR424]

SENATOR CHAMBERS: One other thing, for the record, is the date on that article? [LR424]

DR. EUGENE OLIVETO: Let me see. My wife copied it. I don't see the date but you can certainly get it by going through the World-Herald records. [LR424]

SENATOR CHAMBERS: Right. [LR424]

SENATOR LATHROP: Is it a recent article or something that goes... [LR424]

DR. EUGENE OLIVETO: Yeah, it is. Yeah, it's absolutely excellent. Yeah, yeah. [LR424]

SENATOR LATHROP: Okay. Thank you very much... [LR424]

DR. EUGENE OLIVETO: Yeah, thank you. [LR424]

SENATOR LATHROP: ...for your testimony and your time. We appreciate your expertise in the area. Before we go to the next witness, we are going to take five minutes. At ten till we'll resume just to give the panel and everybody here enough chance to stretch their legs. [LR424]

BREAK

SENATOR LATHROP: Okay. We are back on I guess the air and the record and we

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are...after a short break let the record reflect that everyone is back. Senator Mello has not yet returned. Well, I guess he is in the back of the room. So all the members of the panel are present and we're going to call the next witness which will be Ms. Gaines. If you'd come forward, ma'am. And before you sit down we'll have you raise your right hand. Do you swear that the testimony you're about to give this special investigative committee will be the truth, the whole truth, and nothing but the truth? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Thank you. Please have a seat. Would you begin by reciting...by the way, if you need anything and you heard my...we may make reference to some of the pages in that red book, so they have what I believe to be all your records. So if you need a break, you need water, you need anything, let us know, we'll make you comfortable. [LR424]

DENISE GAINES: Maybe just a booster seat. (Laughter) I feel like a little kid. [LR424]

SENATOR LATHROP: A booster seat. Yeah, can't help you there. Give us your name and spell your name for us, please. [LR424]

DENISE GAINES: Denise, D-e-n-i-s-e, Gaines, G-a-i-n-e-s. [LR424]

SENATOR LATHROP: And you're from Omaha? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And I won't ask you any more than that regarding your address. Are you employed? [LR424]

DENISE GAINES: Yes. [LR424]

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SENATOR LATHROP: And where do you work? [LR424]

DENISE GAINES: I am currently at state Probation. [LR424]

SENATOR LATHROP: And how long have you been in state Probation? [LR424]

DENISE GAINES: Since September 2, actually. [LR424]

SENATOR LATHROP: And what do you do at state Probation? [LR424]

DENISE GAINES: As soon as I get through my eight-week training, I will be a probation officer. [LR424]

SENATOR LATHROP: What did you do before you were a probation officer? [LR424]

DENISE GAINES: I was the coordinator of mental health services at Douglas County Corrections. [LR424]

SENATOR LATHROP: And how long did you do that? [LR424]

DENISE GAINES: Seven years. [LR424]

SENATOR LATHROP: Could you tell us what your education is? [LR424]

DENISE GAINES: Yes. I have an undergraduate degree at the University of Nebraska at Omaha in psychology and my master's degree from the University of Nebraska at Omaha as well, a master's degree in community counseling. [LR424]

SENATOR LATHROP: Okay. And do you hold any certifications from the state or

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licenses from the state with respect to the care and treatment of those that suffer from mental illness? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And what's that? [LR424]

DENISE GAINES: I'm a licensed independent mental health practitioner as well as a licensed alcohol and drug counselor. [LR424]

SENATOR LATHROP: How long have you been so licensed? [LR424]

DENISE GAINES: Fully licensed 14 years. [LR424]

SENATOR LATHROP: Okay. Tell us what your work history has been? You're now in Probation. What's been your professional work history? [LR424]

DENISE GAINES: Sure. I started my profession working with adolescents in drug and alcohol treatment doing both in-home and in-office counseling, working in a day treatment program as well. From there I moved into an organization that again pretty much did the same thing, worked in home therapy with clientele, both mental health and substance abuse. I worked as a professional partner with Region 6 for a number of years. Continued to do in-home, working with families to help them with resources with children that have behavioral disorders. From there, worked with Campus for Hope in a...it's an inpatient drug rehabilitation center in Omaha. Did that for a couple of years as well. All the while I'm moving up in salary and gaining more experience. So these weren't just moves. I made strategic moves in my career. From there I actually went to Mutual of Omaha where I was a reviewer, a utilization reviewer. So I reviewed insurance claims, things like that, of folks that were in hospitals that received mental healthcare throughout the nation. At that point, I left Mutual and went into private

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practice for five years. In that, I had various and different positions, contracts that I had throughout the city. I taught at Vatterott College for a period of time under my private practice just as one of my contracts. And from that position I left my private practice and went to the Douglas County Corrections. [LR424]

SENATOR LATHROP: And you said you were there eight years? [LR424]

DENISE GAINES: Seven. [LR424]

SENATOR LATHROP: Seven. [LR424]

DENISE GAINES: From August 7th of 2007 until August 23rd of 2014. [LR424]

SENATOR LATHROP: You would have worked then with Dr. Oliveto who was here this morning? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And you heard him testify? You were here for that? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Okay. During the course of your...well, what were your duties at the department of...or Douglas County Correction Center? [LR424]

DENISE GAINES: I provided the administrative oversight to the mental health department. Dr. Oliveto was our staff psychiatrist and he provided the clinical oversight. With my degree, I was not able to provide that. So that's the distinction between administrative and clinical oversight. [LR424]

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SENATOR LATHROP: Okay. It also looked to me like you were not only providing some oversight, which suggests some administrative responsibilities with your contract, but also providing direct care to some of the inmates. [LR424]

DENISE GAINES: That's correct. [LR424]

SENATOR LATHROP: And what's your role in providing care or what was your role in providing care to the inmates during the time you were there? [LR424]

DENISE GAINES: Providing crisis intervention with inmates that were in mental health crisis, suicidal inmates, homicidal inmates, those that just requested mental health counseling or any type of mental health service. The inmates did that either through an inmate request form, referrals came from custody, through officers, administrative staff with custody. Our referrals came from different and various sources, not just the inmates but other folks that were in the jail. [LR424]

SENATOR LATHROP: And I hope you'll forgive me for this question because I ask it because I don't know the answer to it, which is, are you...given your licensure, are you able to make a diagnosis or do you necessarily have to accept the diagnosis of Dr. Oliveto as you provide care? [LR424]

DENISE GAINES: I am able to make a diagnosis, however, in that system we rely upon the authority, which is the psychiatrist, to make that determination. [LR424]

SENATOR LATHROP: Okay. And your role in relationship to the psychiatrist in providing care is what? Do you take the notes of Dr. Oliveto, the psychiatrist, and try to provide the face-to-face or the day-to-day therapy for the inmates? [LR424]

DENISE GAINES: Yes. [LR424]

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SENATOR LATHROP: Okay. Were you the only person doing that during the period of time that Nikko Jenkins was incarcerated at Douglas County? [LR424]

DENISE GAINES: No. [LR424]

SENATOR LATHROP: Who else was doing that? [LR424]

DENISE GAINES: Specifically with Nikko? [LR424]

SENATOR LATHROP: No, well,... [LR424]

DENISE GAINES: Just... [LR424]

SENATOR LATHROP: ...how many people did you have that provided counseling for inmates? [LR424]

DENISE GAINES: At that time our staffing has changed, it changed earlier in 2013, but at that time in 2009-2010 it was myself, a full-time licensed clinical social worker, and our discharge planner, which was...did both mental health part time and then did discharge planning the other part of the time. So 20 hours of mental health and then 20 hours of discharge planning. So basically two and a half or one and a half time. [LR424]

SENATOR LATHROP: Would you be the person that primarily provided counseling for Mr. Jenkins while he was at Douglas County? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Okay. And as I look through the notes that we've received, it looks like the first note I have is February 19, 2010, which is on page 45 in that book. Maybe we can start there, Ms. Gaines. Did you have a chance to look at this stuff

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before you came in today? [LR424]

DENISE GAINES: No, sir. [LR424]

SENATOR LATHROP: Okay. All right. Well, if you need to refresh your recollection, feel free to read what's in front of you... [LR424]

DENISE GAINES: Thank you. [LR424]

SENATOR LATHROP: ...and we'll wait if you need to so that you're in a position to answer our questions. [LR424]

DENISE GAINES: May I have just a minute to read this note? [LR424]

SENATOR LATHROP: Sure. [LR424]

DENISE GAINES: Thank you. I'm done. Thank you. [LR424]

SENATOR LATHROP: Okay. That would have been your first visit with him? [LR424]

DENISE GAINES: The 19th of February. [LR424]

SENATOR LATHROP: The 19th of February 2010? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: So what was your role to be? You're dispatched or he shows up on a list and you go meet with Mr. Jenkins? [LR424]

DENISE GAINES: What happens, and I'll break down kind of what happens with every

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inmate that comes... [LR424]

SENATOR LATHROP: Sure. [LR424]

DENISE GAINES: ...into the facility to kind of give you history as to how one would end up on the mental health list. A person comes into the jail. They receive the medical intake. There's other administrative things that happen with custody. They get booked in, get their fingerprints done, those sorts of things. Then medical actually does an evaluation, which typically that's a certified nurses assistant or a certified medication assistant or aide. And that individual does a medical, an initial medical evaluation. If it's deemed that that individual could benefit from mental health, a referral is made and generated and given to mental health at the time of their intake. Typically if that happens over a weekend, we get that referral on Monday morning when we come in, and depending on the nature of the referral, if it's an urgent referral they'll either be seen that day or the next day. If it's a routine referral, they're seen within two to three business days, which was the case with Mr. Jenkins. He indicated at his intake, if I recall correctly, that he had some mental health issues, and that generates a referral to mental health. So that's... [LR424]

SENATOR LATHROP: Would you have been the first person to see him? [LR424]

DENISE GAINES: Not typically, but in this case yes. [LR424]

SENATOR LATHROP: Okay. And so what would...do you have to do an assessment or what's your role during the course of the first visit? [LR424]

DENISE GAINES: Again, it depends on what the referral says. If there's suicidality associated with that referral, I'm going to assess to see if they're suicidal or what the concern is at that time. In that particular instance, I believe there was mention of mental health issues as well as medication. So we evaluate to see what medications are...what

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they were taking; if they are on those medications; why they're not on them now; what the, you know, the problems that they had as to why they're on those medications.

[LR424]

SENATOR LATHROP: So like a lot of health practitioners in almost every field you're going to try out what the complaints are, a little bit of background, and develop some kind of an assessment. [LR424]

DENISE GAINES: Exactly. [LR424]

SENATOR LATHROP: Did you do that in Mr. Jenkins case on the first visit? [LR424]

DENISE GAINES: Yes, yes. [LR424]

SENATOR LATHROP: And tell us what that process was like. [LR424]

DENISE GAINES: I visited with him. He told me that he was on medications. Talked a little bit about his history at that point. And I just let them talk just to give me some history. I just kind of, I'm a recorder. I listen and document what's being said to me just so that I can get an understanding of maybe the course of action I need to take with this individual. In his case, I did make a referral to the psychiatrist at that point. [LR424]

SENATOR LATHROP: Okay. Did you develop any impressions or an assessment of what your take was on this inmate at that point in time? [LR424]

DENISE GAINES: Not at that time, not at that first visit, no. I guess I would say my only impression was that, based on the information he was telling me at that time and my observation of him, I felt that medications would be appropriate or a referral to get back on his medication would be appropriate at that point. [LR424]

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SENATOR LATHROP: Okay. And that would involve the psychiatrist writing a prescription,... [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: ...in this case, Dr. Oliveto? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: The next note that I see is February 27, maybe a week later, and the note itself would suggest that you spent a little more time with him. [LR424]

DENISE GAINES: Uh-huh. Yes, that is correct. [LR424]

SENATOR LATHROP: Would that be your recollection? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Okay. Tell us what you were going to accomplish at that point? Was it counseling or you still trying to do an assessment and learn something about this inmate? [LR424]

DENISE GAINES: Still assessing. After a week, there's not a clear picture. Unlike the psychiatrist, I take a little bit more time. I don't have that type of training. So in my assessing, I want to see what other history he's going to present, and that will help me to determine, again, what course of action I'm going to take in my treatment of him. [LR424]

SENATOR LATHROP: In this particular visit, he begins or introduces into your dialogue between the two you the Apophis. [LR424]

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DENISE GAINES: Uh-huh. Yes, that's correct. [LR424]

SENATOR LATHROP: Right? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: How does that get introduced into your conversation? Does he just bring it up or are you asking him if he's hearing voices or how do we get to a place where the conversation is now talking about orders from Apophis? [LR424]

DENISE GAINES: Just reviewing my note and then just from my recollection, he starts to talk about some of the things that are troubling him and that was one of the issues that he brought up was that he hears voices. He brought that up in the first meeting but didn't bring up this Egyptian god at that point. It was at the visit on the 27th where he starts to talk about this voice that he hears and identifies this as this Apophis, the Egyptian god of war. [LR424]

SENATOR LATHROP: And what's Apophis telling him? [LR424]

DENISE GAINES: At this point I don't...horrible things. I think I wrote "horrific." [LR424]

SENATOR LATHROP: Yeah, you make note of the conversation about halfway through that February 27 note. And you write... [LR424]

DENISE GAINES: If I might read from the note. [LR424]

SENATOR LATHROP: You may, yes, please. [LR424]

DENISE GAINES: Patient also talked about the horrific acts that the Egyptian god

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Apophis wants him to inflict on Catholics, whites, and children. This Egyptian god also told him that it would be good to...that's bad, you can't read your own handwriting. [LR424]

SENATOR LATHROP: The pituitary gland? [LR424]

DENISE GAINES: Okay. Good to eat, I believe, the pituitary gland. He indicates, the patient stated he knows these things are wrong but the god Apophis tells him to do these things. I gave him some feedback about, he mentioned something about his sisters and how he felt guilty initially about introducing them to gangs. And we talked briefly about the Apophis and what that meant. With my experience, I know that this is not something that counseling would help to eradicate, that he needed to see the psychiatrist to get on some medication. [LR424]

SENATOR LATHROP: And generally the counseling is something that can be effective at least with behaviors but not necessarily so with mental illness. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Okay. And so your assessment or at least part of your plan would suggest that you thought he had a mental illness and that he's listening to the Egyptian god of war. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Did you feel that that was credible or that he was faking it and making something up at that point? [LR424]

DENISE GAINES: Honestly, at that point I was not sure... [LR424]

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SENATOR LATHROP: Okay. [LR424]

DENISE GAINES: ...what I was dealing with in terms of whether this was mental illness or if this was something else. At that point, I was not certain. [LR424]

SENATOR LATHROP: The next note I see is in August, which would be a fairly decent stretch without your involvement. Do you have other notes? [LR424]

DENISE GAINES: There should have been other notes. [LR424]

SENATOR LATHROP: Okay. I'm not sure that we got any others,... [LR424]

DENISE GAINES: Okay. [LR424]

SENATOR LATHROP: ...so maybe you can tell us what the course of care was or how things progressed as you provided care to him at the Douglas County Corrections Center. [LR424]

SENATOR SEILER: Steve, excuse me just a second, look on 89. There's a 2/16/10 and there's also... [LR424]

SENATOR LATHROP: You must have gone back to...well, anyway, go ahead and tell us how...what your involvement was after that February visit. [LR424]

DENISE GAINES: I met with him, and I do not recall if it was weekly at that point or...I know at some point in time I met with him more often just because his symptoms appeared to be a little bit more intense in nature with him, that it seemed that he was having difficulty trying to regulate his mood and his behavior. And at some juncture I know we met weekly, and our weekly sessions really focused around or my goal was to really try to get him to talk about what was behind Apophis and what was behind the

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anger. Because, again, in my clinical knowledge, I understood that he was probably angry and that's where this was coming from just based on some of the things that he talked about in his history. At this point, I had no knowledge about the depth of, you know, the issues that he had when he was younger. He talked about those things but I was not aware at that point as to the detail that was talked about here today. [LR424]

SENATOR LATHROP: I want to ask you a question given Dr. Oliveto's testimony today that in the notes that we saw, and I can tell you what they are but you probably remember them, he does in all three of his notations that we've received copies from suggest that he needs to be seen at the regional center, and he writes that on his notes. Is that something that would get to you after he's done? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: So if Dr. Oliveto sees Nikko Jenkins and writes, this guy needs to go to the regional center for a forensic evaluation, that note is going to land on your desk? [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Okay. Do you remember those notes coming to you or through your office? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Okay. And can you tell us when Dr. Oliveto would write a note, all three of them, that said this guy needs a forensic evaluation, he needs to go to the Lincoln Regional Center, can you tell us what you did with that? [LR424]

DENISE GAINES: Sure. If this was something that I could follow up on, I would.

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Typically what happens when orders like that are written, Nikko was just one of many notes that he wrote or many orders that he wrote in that vein, what I would do is contact that individual's attorney after getting a release of information from them if that was possible if they weren't psychotic. If they were psychotic, I couldn't because they weren't...legally they're not able to sign a document stating that they are aware that I'm going to contact their attorney. But in this case I would have contacted his attorney and made mention that the psychiatrist is wanting a forensic evaluation or is suggesting that a forensic evaluation be done. [LR424]

SENATOR LATHROP: In this case though the referral isn't so that we can determine in a court proceeding whether this guy is competent or doesn't know right from wrong at the time he committed an act. It's to get him care, right, which is a little bit different than... [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: ...having a forensic evaluation done for the purposes of a court hearing? [LR424]

DENISE GAINES: This is correct. [LR424]

SENATOR LATHROP: Okay. [LR424]

DENISE GAINES: And in our system, to my knowledge and my experience again, that was difficult because when someone is incarcerated for a crime, unless there is some actual physical damage done to their body, we can't get them hospitalized because they have an open court case. Hospitals will not...mental health facilities will not take in, in a county jail, I don't know how it is in the prison setting, but in a county jail they will not take an inmate from the county jail and hospitalize them in a hospital, in a mental health hospital, because we have to send our corrections officers with them. And in a mental

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health setting, that's not possible just due to confidentiality and the laws related to mental healthcare. [LR424]

SENATOR LATHROP: So when in the absence of a reason that's related to a legal proceeding, like competency or insanity, in the absence of one of those, a note like this doesn't get him moved out of Douglas County to the regional center. [LR424]

DENISE GAINES: No. [LR424]

SENATOR LATHROP: Would that necessarily mean, on the other hand, that someone from the regional center will come up to Douglas County and do their own judgment or assessment of this guy? [LR424]

DENISE GAINES: Not that I'm aware of. [LR424]

SENATOR LATHROP: Do you know if you...so what did you do with the order? If the doctors...and I'm not accusing you of anything, but because I think I can see where this hit a dead end. But if the doctor says I want this guy seen at the Lincoln Regional Center, do you remember calling Jenkins' lawyer and talking to him about it? [LR424]

DENISE GAINES: At some juncture I did, yes. The specific date and details of that I do not recall. However, again, typically that is...the order, when I get an order like that, that's typically what I do is contact the attorney. [LR424]

SENATOR LATHROP: But if no one from the regional center is going to come to Douglas County and you're not going to send him down to the regional center because he's incarcerated, why are we talking to a lawyer or anybody? Why don't we just talk to Dr. Oliveto and say, you know, he's not going anywhere and he's not getting an evaluation by those guys because he's still pending charges and sitting in jail? [LR424]

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DENISE GAINES: And Dr. Oliveto and I have had those conversations. But in his role, that's what he felt he needed to do was to make that recommendation so that he could get the care that he needed. However, my role, I understood that that wasn't going to be possible just dealing with the legal system and how things worked as far as, again, mental health and not being able to get them to the mental health facility. [LR424]

SENATOR LATHROP: So this order or these orders by Dr. Oliveto didn't hit somebody's desk who stuck it in a drawer or threw it away. It just ran into a practical barrier. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Okay. You continued to see Mr. Jenkins? [LR424]

DENISE GAINES: I did. [LR424]

SENATOR LATHROP: Treat him? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Talk to him about his issues and concerns? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And he comes back time and time again. And there are a lot of records here, we're not going to go through every one of them, but there are some things that I could pull from that which are he's talking about--and you seem to be pretty concerned about--his threats to get out and begin some horrific rampage. [LR424]

DENISE GAINES: Correct. [LR424]

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SENATOR LATHROP: Right? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And as you listen to him...and you've listened to a few of these guys talk to you about their mental health issues and what they're going to do when they get out. Right? When he's talking to you my take from your notes is you believe what he's saying. [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And you actually don't just believe it, you're developing a significant concern... [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: ...that when this guy gets out he's going to hurt somebody. He's talking about whites and Catholics and Jewish people and children and women. Right? [LR424]

DENISE GAINES: This is correct. [LR424]

SENATOR LATHROP: He also tells you that he's losing his grip and he thinks Apophis is taking over and wants him to destroy Catholics, Christians, women, children. Right? [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: You're hearing all that? [LR424]

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DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Why don't you turn to 52 if you can, and we're a little ways into your involvement in his care. This is, it looks like, September 14 of 2010. And in your form that we see on page 52, this is sort of a form that you fill out each time you see a patient or a client. [LR424]

DENISE GAINES: That's correct. [LR424]

SENATOR LATHROP: It called a mental health progress note. [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Am I right? And in this he says I have court on September 20 and he thinks he needs to be back on the meds. Apparently he gets more anxious as the court proceeding is closing in on him... [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: ...or getting nearer in time. And he says on account of that, that he can feel more and more that, quote, that the evil is overwhelming the good in him. That's what he told you on that occasion. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Okay. And then you do an assessment or the interventions, right? [LR424]

DENISE GAINES: That's correct. [LR424]

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SENATOR LATHROP: Which is he continues to express the desire to get proper mental healthcare before leaving, I think that's, to Nebraska Department of Correctional Services. [LR424]

DENISE GAINES: That is correct. [LR424]

SENATOR LATHROP: Okay. MHP, is that you in this context? [LR424]

DENISE GAINES: Yes, it is. [LR424]

SENATOR LATHROP: Okay. So Ms. Gaines is concerned that the client is going to act on the delusions of Apophis once released from prison. That was your conclusion after that visit. [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And would it be fair to say that you...and we haven't gone through all of these but you had dozens of visits with Mr. Jenkins? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And you had in those dozens of visits opportunities to judge his credibility and whether he was a malingerer or somebody who actually was listening to voices and expressing something that caused you concern. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: And what was your conclusion about his credibility as someone who is expressing audio hallucinations? [LR424]

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DENISE GAINES: At this point it had been well over seven, eight months that he'd been there and continued to express the same delusional pattern. And at this time I'm concerned because I'm not hearing anything different under treatment of medications, under counseling. Nothing is changing at this point with him having this fixed delusion about killing people. And so I'm concerned at this point and believing that he's going to do this because he's never...and I shouldn't use absolutes, but during this course of time I observed that he did not change that mantra that he was going to kill people when he got out. [LR424]

SENATOR LATHROP: You also wrote Esther Casmer on the Parole Board. Do you remember doing that? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: And that's a document, page 58. Do you see that? [LR424]

DENISE GAINES: Yes, sir. [LR424]

SENATOR LATHROP: And do you remember writing that? [LR424]

DENISE GAINES: Yes, I do. [LR424]

SENATOR LATHROP: Would such a...we'll talk about the substance of the letter in a minute, but the letter is to forewarn Ms. Casmer that if this guy is going to get parole, something needs to be done before he goes out. [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Dangerous guy. [LR424]

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DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: Would such a letter from you to Ms. Casmer be unusual?
[LR424]

DENISE GAINES: For me, yes. [LR424]

SENATOR LATHROP: Okay. [LR424]

DENISE GAINES: It's not something typical that I do. [LR424]

SENATOR LATHROP: All right. How often did that happen in your eight years that you would warn Ms. Casmer, the chairperson of the Board of Parole, about a particular inmate and put him on her on radar? [LR424]

DENISE GAINES: This was the first and only time. This letter that I wrote in December of 2010 was the only time that I've ever done that in my career at Douglas County Corrections. [LR424]

SENATOR LATHROP: Okay. So this is a unique inmate and a unique circumstance that led you to write to Ms. Casmer. [LR424]

DENISE GAINES: For me, yes, it was. [LR424]

SENATOR LATHROP: Okay. What did you tell her? [LR424]

DENISE GAINES: I won't read the letter in its totality, however, will extrapolate from this maybe some points that you would be interested in hearing. [LR424]

SENATOR LATHROP: Sure. That's fine. [LR424]

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DENISE GAINES: Initially I just wrote and I said: I'm writing this letter with regard to a client/inmate that I'm presently working with by the name of Nikko Jenkins. He came to Douglas County Department of Corrections from Tecumseh State Correctional Institution. He is at Douglas County Corrections awaiting a hearing trial for charges he obtained in 2009 in Douglas County. During the time that I have worked with Mr. Jenkins, he has been compliant and not acted out behaviorally since coming to Douglas County. He has been on and off psychotropic medications since being detained here, however, he refused to take them because of how he felt on the medication. The last paragraph I state that based on his history, current psychiatric state, and then the example I gave is fixation with Apophis, Egyptian god of war, and recommendations by Dr. Oliveto, it is requested that Mr. Jenkins continue to receive mental health treatment at a facility if possible and, if paroled, mental health treatment to be a condition of his parole. He has expressed this to this writer that he desires to get well and would like to get the treatment he needs in order to work through issues such as grief and getting rid of Apophis. [LR424]

SENATOR LATHROP: Did you think he was sincere when he met with you while you were providing him counseling at the department...at Douglas County? Did you think he was sincere in his effort to secure mental healthcare treatment? [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Your last note, at least that I have, is on page 59, it looks like this is the last time you see him on the time line that I have anyway, and that's March 25 of 2011. Does that sound right to you? [LR424]

DENISE GAINES: I believe he didn't leave Douglas County until July so I believe there maybe some notes missing but I believe there were at least two other occasions that I visited with Mr. Jenkins prior to him returning to the state. [LR424]

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SENATOR LATHROP: And the last one I have is this one, so... [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: And I don't have the benefit of the last two but maybe we'll talk about this one and you can tell me if the other two generally reflect the same thing. [LR424]

DENISE GAINES: Certainly. [LR424]

SENATOR LATHROP: He continues to talk about Apophis and taking over his mind and body, and how he feels, the struggle between what is good and evil. And then your assessment, which I want to talk about. Client continues to express thoughts about doing murderous acts on society, parenthesis, i.e., killing, torturing nuns... [LR424]

DENISE GAINES: Correct. [LR424]

SENATOR LATHROP: ...children, etcetera, end parentheses. He continues to struggle with thoughts and indicates that he doesn't want to do these things but feels the destructive acts at his hand are inevitable. Client was recently in a fight with another inmate and this MHP will continue therapy with the client. That's, again, you and you're writing the note. That was the way it was until the time he left. Would that be true? [LR424]

DENISE GAINES: Can you clarify what that? [LR424]

SENATOR LATHROP: That is a typical note during the time that you provided his care. It was about I'm going to get out and I'm going to hurt somebody--I'm toning it down a little bit--I'm going to kill somebody, and I want the mental healthcare. [LR424]

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DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: Did he ever express to you that he was afraid of going back to the Department of Corrections or that he wasn't getting care there? [LR424]

DENISE GAINES: He had expressed that, yes. [LR424]

SENATOR LATHROP: After Jenkins left, did you have any further involvement with him? [LR424]

DENISE GAINES: No. [LR424]

SENATOR LATHROP: So he is sentenced for the assault on the guard or the corrections officer that accompanied him to his grandmother's funeral and leaves and goes back down to the Department of Corrections, and that's your last involvement. [LR424]

DENISE GAINES: Yes. [LR424]

SENATOR LATHROP: You didn't have any further communication with him? [LR424]

DENISE GAINES: No. [LR424]

SENATOR LATHROP: Did you...you saw the diagnosis by Dr. Oliveto and I appreciate that in your relationship he's the guy that makes the diagnosis and you're the person that tries to carry out the treatment orders and provide the counseling. But did you have any reason to disagree with Dr. Oliveto? [LR424]

DENISE GAINES: No. [LR424]

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SENATOR LATHROP: In other words, Oliveto, given the dozens of meetings that you had with Jenkins, seemed to have an accurate diagnosis in your judgment. [LR424]

DENISE GAINES: In my judgment, yes. [LR424]

SENATOR LATHROP: Okay. I think that's all the questions I have and that doesn't mean you get to get away just yet. We'll see if anybody else has concerns, questions. Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. And thank you for your testimony. You describe a case where somebody is waiting in jail, a open court case, they've got all these problems, and you are really without a mechanism for plugging them in to any mental health facility in order to address those problems at a more intense level than the jail can. [LR424]

DENISE GAINES: That is correct to a certain extent. It depends on the case. If it's a simple case of if I have a mentally ill person that, for instance, is arrested for trespassing and in my clinical assessment deemed that they are psychotic and unable to...we're unable to treat them there at the jail or it's just not an appropriate place for them to be treated, I will file a board of mental health petition, get this person committed, and they're able to be transferred to the hospital. If there are no beds available, I use the emergency protective custody route. I was in contact with the board of mental health attorney almost daily at times to talk with her about getting some of these folks transferred to the appropriate facilities. However, in cases where it's involving district court, it was more difficult to get someone treated because of...typically because of the nature of the crime. If it was something of a violent nature and we weren't able to get the charges dropped, which is one thing I didn't mention. I need to back up, because at the county court level we would typically get those charges dismissed so that the individual could go to the hospital without having any charges

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pending. And the hospital then is free to treat them as they need to without having them be sent back to a facility or jail. [LR424]

SENATOR SCHUMACHER: So if it's a nonviolent, low-grade county court kind of thing, and you've determined that this person needs help, basically you can talk to the county attorney, the judge, and say, look, let's get him over there on a mental health commitment, out of the criminal system, and we don't have to worry about guards accompanying him and HIPAA violations or anything like that. We just get him out of the criminal system over to the mental health system. But in a serious crime where they're in district court, danger of heavy duty felony stuff, there's really no way that you can plug him into the mental health system efficiently under the present rules. [LR424]

DENISE GAINES: That is correct. [LR424]

SENATOR SCHUMACHER: Now if they had a coronary, they could be carted off to the hospital. What's the difference there? [LR424]

DENISE GAINES: I am on record so I have to be good, right? (Laughter) Well, I'm very passionate about mental health and I think it's a tragedy that when someone is in a mental health crisis that we can't...that it's not treated the same. But when someone has a coronary or when they've broken a leg or when some medical emergency has happened, they're accompanied by the corrections officers and they sit in the rooms with them and they sit in the ER with them and there aren't any issues. It's just with the mental health facilities. And I understand in part that it can be disruptive to other clients to have, you know, someone who to them may look threatening or menacing. It upsets the milieu of the treatment within the mental health system. However, to me that shouldn't negate the fact that this person still needs treatment. [LR424]

SENATOR SCHUMACHER: Thank you. [LR424]

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SENATOR LATHROP: Senator Chambers, you're recognized. [LR424]

SENATOR CHAMBERS: Ms. Gaines, thanks for coming and again for the work that you did for this man while he was there. Do the notes that you make or any of the papers that you fill out with reference to his condition follow him when he's transferred back to the state Department of Corrections? [LR424]

DENISE GAINES: They can. What we do is do a transfer sheet. [LR424]

SENATOR CHAMBERS: Does the paperwork, yeah, about the mental health treatment that he was receiving follow him when he's sent back down to Lincoln? [LR424]

DENISE GAINES: We don't forward that information unless that facility requests that information be sent. [LR424]

SENATOR CHAMBERS: Okay. I'm looking at how much time he spent in segregation. He was in segregation the whole time he was in Douglas County. Is that correct? [LR424]

DENISE GAINES: That is not correct. [LR424]

SENATOR CHAMBERS: Okay. For how long a period was he not in segregation roughly? Was it months, weeks, or days? [LR424]

DENISE GAINES: Was he not in segregation? [LR424]

SENATOR CHAMBERS: Um-hum. [LR424]

DENISE GAINES: Oh, months. [LR424]

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SENATOR CHAMBERS: Months. [LR424]

DENISE GAINES: In these notes that I wrote I believe such...I'll give you an example of the note on...the last note in March of 2011, I met with him in the medical clinic. He wasn't in segregation the entire time. I believe...if I recall correctly, I believe, he got there in February, so maybe by the middle or end of March of 2010 he was in general population. [LR424]

SENATOR CHAMBERS: So, okay. And what happened, if you can recall, while he was in general population that would have been considered inappropriate? I meant did...while he was in general population, did he do anything that required him to be returned to segregation that you can recall? [LR424]

DENISE GAINES: Not that I can recall. Because even when inmates, and I notate I think that he got into an altercation with another inmate, even that wouldn't require him to be returned to segregation. He would receive lockdown, which is the same as segregation but they're not moved to the segregation unit. They remain in general population housing but they're just locked down 23 out of 24 hours as day for a period of time. Segregation is until there's some behavior change. Lockdown is you have this infraction, you're going to be locked down for 7 days or 15 days or 10 days. And again I'm not sure how many days he received for that. [LR424]

SENATOR CHAMBERS: And that's strictly for, in a way, punishment; not because you're dangerous to somebody in the future, but that's because of what you did that that seven days or whatever it is. [LR424]

DENISE GAINES: Right, right. [LR424]

SENATOR CHAMBERS: Now he was transferred back to Tecumseh on July 19 of 2011. So at the time he was transferred from Douglas County, he was not in

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segregation status at that time as far as you know. [LR424]

DENISE GAINES: As far as I can recall, yes, sir. [LR424]

SENATOR CHAMBERS: And here's why I say it. When he was transferred from there, he was...when he got back to the state he was immediately placed in segregation on July 19. From July 19, 2011, to March 15, 2013, he was in continuous segregation at Tecumseh. On March 15, he was transferred to Lincoln, NSP, and he was immediately placed in segregation. So he didn't have time to do anything when he was transferred back to the state. That's just where he lived, as far as state officials were concerned. He was transferred to NSP on March 15. On that day, soon as he got there, he was immediately placed in segregation. He was kept in segregation until July 30, and that's the date he was released. So from the time he left Douglas County, and he was not in the status of segregation, and the state got him, he stayed in segregation continuously until the day he was released. And based on what Dr. Oliveto indicated, and there have been studies, in fact, the UN considers this type of extended isolation to be torture, there's nothing that could happen other than a deterioration in his condition staying in isolation. And something you wouldn't be aware of, I had looked at some of the documentation we have and he was continually asking for help. So from January 28 of '09, we can say the 1st of February in '09 until May 29 of 2014, he asked for help at least 38 times. Thirty-eight times he asked and they would always say it doesn't meet our requirements. And these 38 times were documented either in his inmate interview request, so that would be in writing; in formal grievances, which were in writing; and mental health status notes, which were in writing. There could have been more times than this, but I counted 38 times. So if a man is faking it for that long of period, at some point he'd get tired; he'd say, this is not going to work. Then six times he asked specifically for psychiatric hospitalization. Three times he asked for civil commitment. This is what he was asking them for. And the state, in every case, said, no, no, no. I think that is some of the most rotten, inhumane, criminal misconduct I've become aware of. And this is documented. I don't want you to think that everything you did while he

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was at Douglas County is in vain. I intend to try to pursue this further in another forum. But here we are collecting as much information as we as we can. We're like a fact-finding body. But we did have the opportunity and I couldn't read everything. We had the staff of this committee has done a "yeoperson"...I know the word is yeoman and that goes for male or female, but a "yeoperson" job in not only accumulating this information that was sent by various agencies but in going through it and culling out things that are relevant. And there's no way everything could be obtained in the short period of time that we have. And I'm saying that to indicate that with the amount that we had, and I could not even go through it thoroughly, I was never so outraged in my life. I was never so thoroughly disgusted in my life. And when I see people, who have titles that indicate they have some kind of education and maybe some kind of certification from the state, mocking and laughing at a mentally ill person and then saying, well, he's going to transfer from this institution up to NSP, what do you think about that? And this guy says, interesting, like that little guy Arte Johnson on Saturday...whatever it was, that was the week that was, very interesting. And then writing in their e-mails, make a comment about Nikko Jenkins and then write the word "ha ha." Wrote it. And then saying if he's going to transfer, is he going to take Apophis with him? And then one of them laughs and says, well, Apophis is the easy one. Now you are a mental health practitioner. I didn't give any names. If what I say is true and the ones who say it are supposedly mental health practitioners, should that be their attitude toward somebody who obviously needs some kind of mental health treatment? [LR424]

DENISE GAINES: No. [LR424]

SENATOR CHAMBERS: Can you envision anytime when a trained mental health professional would be justified in mocking and laughing at a patient? [LR424]

DENISE GAINES: I don't think there is a time. [LR424]

SENATOR CHAMBERS: That's all that I will say while you're at the table. But I

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especially appreciate the way you treated him, because I've read so much about these others that I definitely see a difference in the way a mentally ill person was viewed and perceived and treated in Douglas County as opposed to the way, the inhumaneness, the viciousness that characterized some of the mental health people, so-called, working for the state. And that's all that I have. Thank you for coming. [LR424]

SENATOR LATHROP: Senator Schumacher is going to have a question or two for you. [LR424]

DENISE GAINES: Okay. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Dr. Oliveto this morning described the setting that when he interviewed Nikko he would sit some distance away and Nikko would be restrained in some particular fashion. Was that the same type of setting? What was the environment like and the setting like when you interacted with him? [LR424]

DENISE GAINES: I had a different experience than Dr. Oliveto did. I believe mostly in part to his position versus mine, and probably the way Nikko viewed me as opposed to how he viewed Dr. Oliveto. When he was in segregation, I would...they would either shackle him up and we'd be in a room off the officer's podium where the officers actually could see us but not necessarily hear all parts of the conversation, or once he was off of segregation I'd either see him in the medical clinic or in the housing unit where he actually lived, in like the interview rooms or in their video visitation room. And the proximity from which I sat with him wasn't that far. It would be like a typical counseling session. At times where I felt that it was unsafe, that he wasn't stable enough to be seen in the housing unit, I'd bring him down to the medical clinic where we...there were officers in that clinic as well but where there was some space that we could have in case he became too unstable for me to handle at that point, if that makes sense or if it's clear. [LR424]

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SENATOR SCHUMACHER: Was he shackled at all those times or was... [LR424]

DENISE GAINES: When he was not in segregation, he was not, no. [LR424]

SENATOR SCHUMACHER: So you actually were sitting in a room with him and the discussion, I don't want to say reasonable but it wasn't where you were afraid. [LR424]

DENISE GAINES: No. And, again, there were times where I would assess his mental stability and if I felt that he was not capable at that point of making clear decisions, I wouldn't meet with him in one of those rooms. I'd bring him down to the medical clinic. And that allowed me to have a little bit more space with him but also...it gave him privacy but also had officers outside of the door if he were to get out of control. But I didn't stop meeting with him because of that. [LR424]

SENATOR SCHUMACHER: Did you get a sense, because you indicated that Dr. Oliveto was a different level of conflict and that what we're seeing is a battle of wills between Nikko and authority? [LR424]

DENISE GAINES: I would say yes. [LR424]

SENATOR SCHUMACHER: Thank you. [LR424]

SENATOR CHAMBERS: I had one question and you may have answered it. I'm going to ask it directly. While you were dealing with him, was there any point at which you felt he was faking and putting on an act? [LR424]

DENISE GAINES: As I indicated previously, initially I thought so because I didn't know him, I didn't have access to records when he was seven and eight and I didn't find out that information until much later. So initially, yes, and that's just based on...and

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unfortunately I think sometimes in corrections, and I say this in all honesty, I think when you work in a system like that, if you're not careful you can become very jaded. And everyone is suspect at a point if you're not careful. So in that, I think initially, yes. I thought my honest opinion was, you know, who's this guy? What's going on? Which is why I continued to meet with him. Because after the second session and he started to talk about some of the abuse and some of the other things that he experienced, I really took a step back and said, okay, I need to look at him without jaded vision and really take a look at him to make sure that I'm assessing him appropriately. Had I not felt that way I would never have continued to meet with him, had I felt that he was faking. It would have been a waste of my time and it really is not beneficial to that individual as well. [LR424]

SENATOR CHAMBERS: And in that recitation you answered my next question because I was going to say if it became a conviction with you that he was faking, you would not have continued providing the service that you were providing. [LR424]

DENISE GAINES: No, sir. No. [LR424]

SENATOR CHAMBERS: Okay. [LR424]

DENISE GAINES: There were a lot of needy people at that time and I would not have had time to meet with someone that didn't really require the treatment. [LR424]

SENATOR CHAMBERS: Thank you. That's all I have. [LR424]

DENISE GAINES: You're welcome. [LR424]

SENATOR LATHROP: Senator Seiler has got a question or two. [LR424]

DENISE GAINES: Yes, sir. [LR424]

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SENATOR SEILER: Just one question for the record. In the records, some of the time they use the term "malingering" and other times "faking." Is that used interchangeable in this mental health? [LR424]

DENISE GAINES: Malingering is the clinical term for faking. [LR424]

SENATOR SEILER: Well, thank you. [LR424]

SENATOR LATHROP: Nothing? [LR424]

SENATOR KRIST: Yeah, I have one. [LR424]

SENATOR LATHROP: Oh, Senator Bolz, I'm sorry. [LR424]

SENATOR BOLZ: Good morning. [LR424]

DENISE GAINES: Good morning. [LR424]

SENATOR BOLZ: During the time that you were working with Nikko Jenkins, were there periods of time where he was taking his medications and periods where he wasn't taking his medication or was he consistently on or off medication during the time that you were working with him? [LR424]

DENISE GAINES: No. It was not consistent. He was...it was on and off and it really depended on if he felt safe on the medication or not. There were times where he, as Dr. Oliveto indicated, when we change the dosage of the medication, the pill color changes. So if the dosage change and the pill color changed, he didn't trust the medication. So he got...he was paranoid about the fact that he thought we were poisoning him and several sessions we spent talking about the need for the medication and how helpful the

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medication is to dealing with some of the psychosis and some of the thoughts that he was having. [LR424]

SENATOR BOLZ: And during the periods where he was taking the medication, were you able to recognize a change? Did the medication help? [LR424]

DENISE GAINES: He seemed less intense and more calm. Again, with me he wasn't as, I'll use the word, "animated" as he was with Dr. Oliveto. But a little less anxious and more calm. I noticed that when he wasn't on his medications, very rapid speech. He seemed to be at times all over the place and I'd have to kind of redirect the conversation back to the topic at hand. And I did notice that when he wasn't on medication that that would happen. [LR424]

SENATOR BOLZ: Uh-huh. That's helpful. What I take from that is that there is an impact of the medication that you could recognize, maybe not an all-out change but an impact that was recognizable from a clinician's perspective. [LR424]

DENISE GAINES: Yes. Correct. [LR424]

SENATOR BOLZ: Okay. Thank you. [LR424]

SENATOR LATHROP: Senator Krist. [LR424]

SENATOR KRIST: Thank you, Senator Lathrop. And thanks for coming. I guess I'm a pretty down-to-earth person and what I'm hearing both in the doctor's testimony and in yours is that I've had several cars that have had better documentation at the dealership than Nikko had consistently throughout his life. Records were not transferred. Doctors and clinicians did not have information that they needed to treat him. Would you agree with that statement? [LR424]

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DENISE GAINES: I would agree with that statement, and could I add something?
[LR424]

SENATOR KRIST: Absolutely. [LR424]

DENISE GAINES: I think, and I'm going to try to stay within what we're talking about, but in looking at this case and many others, it is...and you've heard this time and time again, it is a systems failure. Unfortunately, Nikko was one of those kids that you see in the system, he's a systems kid is what I call them, where they're raised by institutions. And unfortunately what happens I think and my experience has been these kids get passed from one system to another and people are tired, they're disgruntled, they're overworked, they're stressed out. And unfortunately kids like him they get pegged as they're just...he's just another bad kid. And so what you see that happens is that these kids just keep getting passed through, much like in school. They just keep getting passed through until they graduate and then they can't read or write, they can't follow directions because they don't know. And in this case, in my estimation I see that's what happened. That clinicians did their job, they evaluated him, they treated him, but unfortunately the breakdown was again that, well, he's acting out and he can't be at this place so we got to move him to another place. And then he gets labeled as a kid that is untreatable. And so he just keeps getting passed to these institutions. If you keep acting like that, you're going to end up in prison. Well, that's where he ends up. But then it continues, he keeps getting passed. And so I see this time and time again. And, again, I always caution people like myself that work in corrections, you can become so jaded and so disgruntled with the system and with how things go that then you begin to just...things become rote and they become routine. And if you're not careful, people like Nikko become routine. He's just another antisocial personality that becomes...and, unfortunately, that's what we see with people like that. So I hope that I answered your question in that. [LR424]

SENATOR KRIST: You did in a great manner. And I will say that, remind my

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colleagues, we have discussions all the time about "queryable" databases where we can track people throughout the system and get them the services that they need, and that costs money and we need to be serious about doing that because in this case I think we built him from the beginning. Not to condone or to excuse anything,... [LR424]

DENISE GAINES: Understood. [LR424]

SENATOR KRIST: ...but that's what it's...and Probation is getting a wonderful new employee. Good luck. [LR424]

DENISE GAINES: Thank you. [LR424]

SENATOR LATHROP: I think that's it. Again, from the committee and me personally, thank you for your time, coming down here, and sharing what you know and helping us learn something about what needs to change. [LR424]

DENISE GAINES: Thank you. [LR424]

SENATOR LATHROP: Yeah. Thanks. [LR424]

SENATOR CHAMBERS: Can I say one more thing? [LR424]

SENATOR LATHROP: You may certainly. [LR424]

SENATOR CHAMBERS: I respect...I've dealt with a lot of people. I've been in public life more than half my life and I'm 77 years old now, and I've seen...I've dealt with people who lie, who don't do their job, who do all kind of things, and you can become very cynical and not feel anything for people. That hasn't happened to me, and people think that I'm overboard and trying to coddle criminals, say nobody should be punished. Because I'm not for the death penalty, they think I'm saying let a murderer go. I'm not.

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But here's what I will say to you. If all of these red flags that were clear to all objective mental health people and the proper thing had been done, there are four people who would still be walking on this earth. It was people at the Department of Corrections who told the Johnson County Attorney, who was considering whether civil commitment was needed, Nikko wrote him a letter asking for it, his mother wrote a letter asking for it, and an assistant Attorney General contacted those rats, I apologize to the rats, those people who had been dealing with Nikko, who had labeled him, who said no commitment is necessary; we got everything under control. Had there been the processing and the giving of information to the Johnson County Attorney, which he was asking for, he said to seek...and I'm paraphrasing, to seek a civil commitment we need some indication that the person is dangerous to himself or herself or others, then we can do something. He didn't get responses. And that was in Tecumseh. And that's when the joking started among them that, well, he's going to be sent to Lincoln. And nothing was done about a civil commitment, and Nikko himself raised that point. And as I said to the doctor, he said and it was noted, he did not want to be discharged because he knew what he would do. And those people in corrections said we're not going to give him, we're not going to turn him over to social whatever the call it because he's not suitable for that. We're not going to put him in a Violence Reduction Program because there's not enough time to finish it. In other words, they had an excuse for denying every and anything that might have mitigated, and they kept him in solitary until the day he got out. And one of those hardhearted people with a sense of humor said, well, I guess tomorrow is his big day, because tomorrow was the day they were going to turn him loose on the community straight from solitary. And he came to my community but he killed one of theirs. And when he killed one of theirs, the Governor jumped in it and said there should be a death penalty. That politicized it. The only way a death penalty could be put in place if he was found competent to stand trial. So the quacks who worked for the state had their marching orders. The only way the Governor would have a chance to get his wish of the death penalty is for the quacks to say that Nikko Jenkins is competent mentally for all these processes, and that's what the quacks said. But fortunately they were recognized as quacks and what they were doing was quackery.

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And the judge who had been going along with all of this quackery had been made to look like a fool himself by saying this mentally ill man could represent himself in court. Finally was at the brink of the abyss and looked over and saw that Nikko couldn't fall into it without drawing him because it was the hearing to determine the punishment and the judge drew back and he said he's not competent for that. Yes, I said he was competent to stand trial. Yes, I said he was competent to defend himself. Yes, I said that I couldn't accept a plea of no contest, but I changed my mind and I accepted it and found him guilty. But I can't go so far as to let him...because I don't think that panel would have done what the judge did, but the quacks from the state went to court and I think they lied through their teeth, I think they committed malpractice, and they were unprofessional because they were insistent that having gone this far to help carry out what the Governor wanted they had to go the next mile and keep saying, yes, he's competent. Well, when they were asked, what about these records that go back to when he was seven years old? Well, he was faking then. He was fooling everybody. So he fooled everybody when he was in school, seven years old, fooled everybody when he was at the Douglas County Youth Center, fooled everybody if he went to Kearney or someplace, fooled everybody, but not the quacks because the quacks saw through it and they told the judge he has no mental illness. And that's what we have seen happen and it's why I express the disgust that I do. I don't want you to think that I've lost my marbles, but I want some people who are connected with this state to know that I'm not through with those in the Department of Corrections yet and I'm certainly not through with those so-called medical and psychological people who were a part of this fiasco. But you are like a shining light, the city set up on a hill that cannot be hid and you're shedding light, along with Dr. Oliveto, on all this corruption that has gone on. And now it's up to me, the garbage man, to pick up the mess that others have laid down. You did all you could do, my child. And if I had...and if there was a heaven and if I had anything to do with it, I'd say you can go to heaven without dying. But they need you on this earth. That's all that I have. [LR424]

SENATOR LATHROP: I think we're out of questions. Again, thank you for your

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appearance here today. It is...yeah, thank you very much. [LR424]

DENISE GAINES: Okay. Thank you. [LR424]

SENATOR LATHROP: You're excused with our appreciation. It is a little bit after noon, so we're going to take a break until 1:30. And I'll ask my colleagues to be back here promptly at 1:30 so we can move on. And I expect to take up Dr. Baker next as our first witness of the afternoon. Thank you. [LR424]

BREAK

SENATOR LATHROP: We're back on the record. It's just a little bit after 1:30 and we're through our lunch hour. This afternoon...Senator Bolz, I think, serves on two of these special investigative committees; we do have two of them going on yet this interim. And I think she's elected to go over to the ACCESSNebraska Special Investigative Committee and do some work over there this afternoon. And I am confident we'll be joined by Senator Mello shortly. But in the meantime, we will call Dr. Baker and have her come forward and begin our afternoon with her testimony. And before you sit down, Doctor, could we have you raise your right hand? Do you swear the testimony you're about to give to this Special Legislative Investigative Committee will be the truth, the whole truth, and nothing but the truth? [LR424]

DR. NATALIE BAKER: Yes, I do. [LR424]

SENATOR LATHROP: All right, thank you. And have a seat. Good afternoon. Could you recite your name and spell your last name for us? [LR424]

DR. NATALIE BAKER: Natalie Baker, B-a-k-e-r. [LR424]

SENATOR LATHROP: And at some point during your employment with the Department

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of Corrections--I'm getting ahead of myself a little bit--but were you known by a different last name? [LR424]

DR. NATALIE BAKER: My maiden name is Natalie Baker. My married name is Natalie Heser. [LR424]

SENATOR LATHROP: Heser. [LR424]

DR. NATALIE BAKER: H-e-s-e-r. [LR424]

SENATOR LATHROP: Okay. And the reason I ask is not to...the reason I ask is that some of the e-mails I think are under one name and the other one. We just want to make sure it's one in the same person. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Okay. What is your profession, Dr. Baker? [LR424]

DR. NATALIE BAKER: I'm a psychiatrist. [LR424]

SENATOR LATHROP: And how long have you been a psychiatrist? [LR424]

DR. NATALIE BAKER: I graduated from medical school from the University of Nebraska Medical Center in 1996. And I graduated from the psychiatry residency program, a combined program, through UNMC and Creighton in 2000. And I became board certified and have maintained certification since 2003. [LR424]

SENATOR LATHROP: And since you have been board certified in psychiatry, can you tell us what has been your employment history? [LR424]

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DR. NATALIE BAKER: I started in Corrections actually as a resident at Douglas County Corrections in 1999. And I was there probably seven, eight years. I was also a faculty at UNMC when I first graduated from residency. And then they built Tecumseh in 2001 and I have been there since they opened, as a psychiatric provider. I'm employed at Tecumseh through Correct Care Solutions. I have also done correctional, and continue to do correctional work, through the Department of Corrections for the State of Nebraska. I cover the Nebraska Correctional Center for Women in York; I work at Omaha Correctional Center; and the Nebraska Correctional Youth Facility for the adolescent males. [LR424]

SENATOR LATHROP: Okay. So you said Correct Care Solutions is your employer? [LR424]

DR. NATALIE BAKER: At Tecumseh, yes. [LR424]

SENATOR LATHROP: At Tecumseh? And so you're a contract worker there through Correct Care Solutions. [LR424]

DR. NATALIE BAKER: I'm a contract worker through Correct Care Solutions as well as the Nebraska Department of Corrections. [LR424]

SENATOR LATHROP: Okay. But when you're at Tecumseh, it's Correct Care Solutions. [LR424]

DR. NATALIE BAKER: At Tecumseh, it's... [LR424]

SENATOR LATHROP: ...and at other facilities, you are hired directly by the Department of Corrections. [LR424]

DR. NATALIE BAKER: Correct. [LR424]

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SENATOR LATHROP: And that's been true and you have been working at Tecumseh since 2001. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Do you have a private practice in addition to your work with Corrections or these various correction facilities? [LR424]

DR. NATALIE BAKER: I was in private practice part time from 2010 till 2013, and it became too much to balance Corrections. And so this for the past year is the first time I have been solely doing correctional work. I also worked in the Student Health Center at Creighton University seeing undergraduate and graduate students from 2010 until about 2013 as well. And then I went over to strictly Corrections. [LR424]

SENATOR LATHROP: Okay. This sounds really fundamental and maybe by 1:30 in the afternoon I shouldn't have to ask this question, but tell us what the speciality...explain the specialty of psychiatry. [LR424]

DR. NATALIE BAKER: My job in the correctional setting is to provide psychiatric evaluations and medication management for patients at the different facilities. [LR424]

SENATOR LATHROP: And when you say psychiatric evaluations, is that an assessment that ultimately leads to a diagnosis? [LR424]

DR. NATALIE BAKER: Hopefully, it does. Sometimes you have a provisional or working diagnosis. But what you hope is through your diagnoses and the symptoms, to come up with a good medication treatment plan for an individual. [LR424]

SENATOR LATHROP: Okay. And that makes it sound like it's not an exact science but

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a little bit of art and a little bit of...and a lot of judgment. [LR424]

DR. NATALIE BAKER: Psychiatry has typically been known as somewhat of an art, because there is no, as you would say, treatment trees for a schizophrenic or things. And a lot of it is upon the clinical judgment of the provider. [LR424]

SENATOR LATHROP: So you may start out with one sort of a working diagnosis, and that may evolve over time? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: You have been involved...you know, before I do that, let me ask this. If you're a contractor at the department or at Tecumseh...so you don't work for the state, as a lot of the other mental health staff do, right? [LR424]

DR. NATALIE BAKER: The entire mental health staff is employed through the state except for myself. [LR424]

SENATOR LATHROP: Okay. Does that cause any difficulty with, if you develop a treatment plan, getting people who work for the state of Nebraska--not the same employer--to follow your orders? [LR424]

DR. NATALIE BAKER: The only thing I can be assured that will be followed through is medications that I order that medical will provide those medications. [LR424]

SENATOR LATHROP: That's an interesting thing for you to say. Why is that you can't count on the staff--the other mental health staff that are employed by the state of Nebraska--to follow through with your orders other than a medication order? [LR424]

DR. NATALIE BAKER: I can only make a recommendation or a request, say for

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psychiatric testing, recommendations for treatment at a different facility. I cannot order or make those things happen. [LR424]

SENATOR LATHROP: Why? How come if a psychiatrist is going to be involved in the care and treatment of an inmate at Tecumseh can you not write an order and expect that if you want somebody evaluated that it's going to happen? [LR424]

DR. NATALIE BAKER: I don't know if I can answer that. I know if I feel something is not happening, that I request again and try and see what I can do. Ultimately that is not my decision or within my ability as my position in the department. [LR424]

SENATOR LATHROP: Is that unique to the Department of Corrections or the corrections environment? [LR424]

DR. NATALIE BAKER: It's just that it's a different environment because of safety and security of the institution. [LR424]

SENATOR LATHROP: Okay, I get that safety and security of the institution is going to be important and at some times it may be a consideration that your orders need to be modified. I am struggling with why. If you were at Immanuel Hospital working on their psych ward and you gave an order to anybody who works there, they'd follow it, would they not? [LR424]

DR. NATALIE BAKER: If I gave an order because I was concerned about somebody needing maybe a different type of care or level for their safety, yes, that would be followed through. [LR424]

SENATOR LATHROP: So in that sense Corrections or that environment, at least at Tecumseh, in that environment, the only order you can count on mental health staff--and by that, I mean psychologists down to social workers--the only order you can

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count on is the one for meds. [LR424]

DR. NATALIE BAKER: For medication. [LR424]

SENATOR LATHROP: You were involved with and did assessments and provided treatment for Nikko Jenkins for a period of time? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: Okay. And this was all happening at Tecumseh...the Tecumseh facility? [LR424]

DR. NATALIE BAKER: Well, Mr. Jenkins was at Tecumseh. There were periods of time where he would be transferred to Douglas County Corrections during that time. I wasn't necessarily privy exactly when those times were. But he may be there for a period of time and then would return back to Tecumseh. So he wasn't exactly at Tecumseh the entire time. [LR424]

SENATOR LATHROP: Exactly. And you didn't have his care while he was at Douglas County Corrections Center. But you did before he left and you did when he came back to Tecumseh. [LR424]

DR. NATALIE BAKER: Whenever he was physically at Tecumseh, he would be under my care. [LR424]

SENATOR LATHROP: Okay. And your first opportunity, from the records I've seen...and believe me, we have tens of thousands of pages of stuff that we've gotten from Corrections and we have done our best to distill it. So if you have a different start date with your assessment, that could be true. But the first one I have is July 30 of 2009, and that's on page 17 in the book, if we can kind of start there. [LR424]

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DR. NATALIE BAKER: That does appear to be my initial assessment of Mr. Jenkins.
[LR424]

SENATOR LATHROP: Okay. So how do you get that assignment? How do you end up at Mr. Jenkins' cell or how do you end up meeting with him? Do you get some assignment from somebody at Corrections? [LR424]

DR. NATALIE BAKER: For this particular assessment, it appears that Mr. Jenkins had requested to be seen. We can receive referrals from custody staff; from mental health staff; patients, of course, can request to be seen; medical staff; from some of the special programs; the substance abuse staff; so a lot of different ways that people can be referred. [LR424]

SENATOR LATHROP: And in this case it was the inmate himself, Jenkins? [LR424]

DR. NATALIE BAKER: That's what I have documented, yes. [LR424]

SENATOR LATHROP: Okay. What was to be your...what was the purpose of seeing him? [LR424]

DR. NATALIE BAKER: It would be to assess him and his symptoms to do a mental status exam and see if there are medications that maybe would help him. [LR424]

SENATOR LATHROP: Okay. And did you do an assessment? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: And what's an assessment consist of in Mr. Jenkins' case on this first occasion? [LR424]

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DR. NATALIE BAKER: When I initially see a patient, I do a full assessment, which would consist of a chief complaint of something that they're having the most problem with; and then a history of present illness, kind of the events that have been occurring most recently; a past psychiatric history; a past medical history; any medications they are taking, both mental healthwise as well as medically; any allergies they may have; a family history; social history, including any substance use history. And then you kind of put that together to make an assessment and a treatment plan. [LR424]

SENATOR LATHROP: And ultimately as part of the assessment you make a diagnosis if it's in order? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: Okay. Tell us what you did in his case, if you could walk us through the assessment you did. [LR424]

DR. NATALIE BAKER: So I met with him on this day and he was cooperative and provided me with the information that you see here. Would you like me to go through each section or...? [LR424]

SENATOR LATHROP: Sure. You don't have to read it, but you can kind of tell us what...you know, highlight it for us so that we get a sense of the assessment. [LR424]

DR. NATALIE BAKER: So under his history of present illness he had complained of being more stressed and complaining of auditory hallucinations, which he had described "the Egyptian death god." He said they've been going on for some time now, a couple of years. He was resistant to medications but felt that he was having a harder time coping with things. He had talked about a significant history of physical and sexual abuse from very young age, from ages three to ten. He had talked about witnessing a lot of

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violence, things from being part of a gang as early as age 11 to 16. And then I talked to him about past psychiatric history. He did admit to me at that time the first time he had seen somebody for mental health reasons was at age seven because of taking a gun to school and for anger issues. He reported he had only been in-patient on one occasion, at Richard Young, which was at age eight. And that was related to him bringing a gun to school. He had a history of treatment with Ritalin. He was a healthy young male, didn't really relate any medical issues to me. He did report a family history. He told me that "his father suffered from bipolar and schizophrenia," alcohol abuse in his father and three sisters, a brother, so he had some mental health issues that he indicated in his family history. Social history, he told me he was from Omaha and single and no children. He had told me he received his GED while he was in prison. He had been...he had told me he wanted to be a professional boxer when he was released and that he had been in and out of prison since a pretty young age of 11. He reported a history of heavy alcohol use where he would drink a half to a pint a day of cognac. He would use marijuana and wet, which indicated that a lot of times marijuana dipped in formaldehyde or something like that that they would use...that he would use. And that the longest period of time he really was clean and sober was during the time he was incarcerated. And so then I did a mental status exam and he had...you know, he was somewhat striking because of the multiple tattoos on his face and neck and arms. He had indicated to me he liked the pain of tattoos. He also indicated to me that he did get the tattoos on his face because he didn't want to look like his father. Again, he was cooperative. He could get agitated kind of quickly. He talked about being angry, having problems with that; feeling paranoid; hearing voices again about the Egyptian death god. He was somewhat paranoid, feeling that if he took medicine that staff would try and poison him. And that was something that he did indicate on a few occasions while he was at Tecumseh. [LR424]

SENATOR LATHROP: Did you make a...that does seem to be a theme running through his time that he spent at Tecumseh. Did you make some kind of a judgment at some point during your care, that that was a belief that he held or that it was a manipulation?

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[LR424]

DR. NATALIE BAKER: I did feel he was paranoid. And he does have a history of--and I think we've heard from the prior testimony as well--of medication noncompliance. That he would take things for a short period of time. I do know that some of the things he struggled with, with taking psychotropics was that he felt they kind of slowed him or dulled him. And I think that concerned him as well. [LR424]

SENATOR LATHROP: Is that true? The medications that we'll talk about here or that we've heard Dr. Oliveto talk about, do they...is that an accurate statement by a patient if they report it? [LR424]

DR. NATALIE BAKER: I think Ms. Gaines, when she kind of stated when he took medications, at times he would appear less intense. I don't know if that is necessarily a slowing down. I mean, the hope is that it makes better organization of your thoughts and maybe so they're not racing. But he may have felt...you know, it's hard to say if he felt that it made him vulnerable in some sense when he took medication. [LR424]

SENATOR LATHROP: But he seemed to express an authentic reason for not taking it, at least in his own perception? [LR424]

DR. NATALIE BAKER: That he...for not taking it? [LR424]

SENATOR LATHROP: Right. [LR424]

DR. NATALIE BAKER: At times he did. [LR424]

SENATOR LATHROP: Okay. Anything else with respect to the mental status exam? [LR424]

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DR. NATALIE BAKER: You know, at that time again I did feel that he was delusional, very grandiose, had magical thinking about some of his abilities and things at that time. He was alert and oriented, his memory and comprehension appeared adequate. I had documented that he had fair reality testing, that at times it appeared okay, sometimes not as good. And that his insight and judgment had been limited. [LR424]

SENATOR LATHROP: Okay. Did you in the end develop a diagnosis? [LR424]

DR. NATALIE BAKER: I did. [LR424]

SENATOR LATHROP: And you have--because I'm looking at your notes that you're reviewing--you have something called Axis I and Axis II and Axis...looks like V. [LR424]

DR. NATALIE BAKER: Three. [LR424]

SENATOR LATHROP: Three? [LR424]

DR. NATALIE BAKER: Three, four, and five. [LR424]

SENATOR LATHROP: Three, four, and five? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Okay. I might have a hole punched through the II. [LR424]

DR. NATALIE BAKER: I think so. [LR424]

SENATOR LATHROP: Okay, so the Axis I would suggest a mental illness, am I right? [LR424]

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DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: That's a diagnosis of an honest to goodness mental illness. And you had a diagnosis. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: What was it? [LR424]

DR. NATALIE BAKER: I documented psychosis NOS which stands for "not otherwise specified." [LR424]

SENATOR LATHROP: Tell us what that means. With a patient that has psychosis NOS, what's that...what have you found to be true or believe to be true about the patient to make that diagnosis? [LR424]

DR. NATALIE BAKER: At that time, he had expressed psychotic symptoms such as hearing things, feeling paranoid. He also exhibited significant mood symptoms. He was somewhat labile, was kind of up and down. He exhibited some of this magical thinking. And so at that time a psychosis not otherwise specified is just more of a generalized...that there's something going on, that he does appear to have some significant issues, psychotic symptoms, mood symptoms. And is this a schizophrenic spectrum versus a bipolar spectrum? It was unclear upon my initial visit. And, you know, sometimes it's very difficult to have collaborating previous information too. And so when I initially see someone, I try and keep it broad. And then if you can kind of narrow down the diagnosis as time goes on sometimes that can help, you know, just in time of seeing someone. [LR424]

SENATOR LATHROP: Okay. That was not the only diagnosis you made on Axis I. [LR424]

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DR. NATALIE BAKER: That's correct. [LR424]

SENATOR LATHROP: What else did you find or conclude after your initial assessment?
[LR424]

DR. NATALIE BAKER: I also wrote "possible schizoaffective disorder, bipolar type."
[LR424]

SENATOR LATHROP: And tell us what that means. What are the characteristics of that
diagnosis? [LR424]

DR. NATALIE BAKER: And again, Dr. Oliveto alluded to that diagnosis earlier. And
that's when an individual is exhibiting symptoms of psychosis as well as significant
mood symptoms. And it's very difficult to tell, are they having the psychosis without any
mood symptoms for a certain period of time or is it all together all the time. And so that
to me was also a possibility because of the significance of his symptoms and his
difficulty functioning in the environment. I also wrote "probable PTSD" because of his
history of abuse and trauma and violence when he was very young. [LR424]

SENATOR LATHROP: And that history of abuse and trauma and violence--and we
heard a little bit about it this morning, and you did as well during your assessment--you
have to have some symptoms in order to make that probable posttraumatic stress
disorder, right? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: So in addition to telling you about circumstances that might lead
any one of us to have those sorts of symptoms, he's also telling you he's experiencing
those. [LR424]

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DR. NATALIE BAKER: Yes, that is correct. [LR424]

SENATOR LATHROP: And that's a mental illness diagnosis? [LR424]

DR. NATALIE BAKER: Yes, it is. [LR424]

SENATOR LATHROP: Your next one was "polysubstance dependence?" [LR424]

DR. NATALIE BAKER: Yes. And then I listed the substances that he used... [LR424]

SENATOR LATHROP: Which is... [LR424]

DR. NATALIE BAKER: ...including the marijuana, the wets, and the alcohol. I also diagnosed "adjustment disorder." And when I say "with mixed features" that means depressive and anxiety features which again is very common in the correctional setting in general because it's such a big change for individuals to come into the system. And then I also wrote to rule out bipolar affective disorder with psychotic features versus a chronic paranoid schizophrenia because he's also--when I evaluated him--was 22 years old, which is sometimes an age that you do see the more serious schizophrenia and symptoms like that emerging as well. [LR424]

SENATOR LATHROP: Okay. With that diagnosis did you then...well, you also had an Axis II. [LR424]

DR. NATALIE BAKER: Axis II, which is personality, if they have any developmental disabilities or things like that. And I wrote "strong Cluster B traits." [LR424]

SENATOR LATHROP: What does strong Cluster B traits mean? [LR424]

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DR. NATALIE BAKER: Well, it's kind of a grouping that includes kind of maybe antisocial traits, histrionic traits, narcissistic traits. He did exhibit some of these traits. It's also...you have to be careful in young individuals to sometimes diagnose an outright personality disorder. They have to be at least 18 and sometimes you have to know their history from when they're young. And so it's not an uncommon diagnosis in corrections, particularly. But just to kind of give an idea of things that you kind of observe and will continue to observe. [LR424]

SENATOR LATHROP: Okay. Do you develop a treatment plan after you come up with a...you do your assessment, you come up with a conclusion or your diagnosis, do you do a treatment plan? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: So you're now going to be involved in his care? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: And what is the care going to look like or what do hope for besides prescribing some medication? [LR424]

DR. NATALIE BAKER: Well, what I first hope for with the individual is to educate them about their mental illness because I think that's very important that they understand. Some people have insight into their mental illness, some do not, and that makes it more difficult. You want to have them involved in the treatment plan and hopefully the medications that you recommend because it is going into their bodies. And if they don't believe in it or understand it, they're less likely to take it. And so we talk about that. And particularly with Mr. Jenkins, he indicated he wanted some help. I know he indicated he had been on some medications and so we talked about that. He did admit to me--I had documented in my note--that Dr. Williams, who was one of the medical providers

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there--he wasn't a mental health provider--had ordered a mood stabilizer which is Depakote. And Mr. Jenkins admitted to me he never took it. But when I had seen him at this time, he was agreeable to a trial of Risperdal. And I think he had indicated he took that as well at Douglas County Corrections and had found some benefit to it. And as I... [LR424]

SENATOR LATHROP: I don't think...well, go ahead. Go ahead. [LR424]

DR. NATALIE BAKER: As I wrote, I also referred the patient to mental health--that's...MH is mental health--to work on trauma issues, anger management, and I requested evaluations by MIRT--is our Mental Illness Review Team--and the CVORT because of his history of violence. These are kind of teams of mental health individuals that evaluate patients at our facility. [LR424]

SENATOR LATHROP: Were you obliged to bring in MIRT under some protocol at Corrections or did you feel like you needed their assessment? [LR424]

DR. NATALIE BAKER: I felt that he needed that assessment. [LR424]

SENATOR LATHROP: Okay. When you did this initial assessment that we've been talking about which is July 30 of '09, do you know what his status was? Was he in the hole, for lack of a better word? [LR424]

DR. NATALIE BAKER: Okay. [LR424]

SENATOR LATHROP: Is he in isolation or is he in the general population or what's his status at that point if you know? [LR424]

DR. NATALIE BAKER: I know from my note that I had talked to him, when he told me--it's towards the bottom--he states he was briefly in GP which is general population

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but was back in the special management unit or the segregation because he had a "shank" or weapon and that that's why he had been placed back in the special management unit is my understanding. [LR424]

SENATOR LATHROP: And just so that I understand and everybody up here does, when you do an assessment of somebody like that and the special management or the intensive management or whatever euphemism they use for taking a guy and putting him in a room where he stays for 23 hours a day, that's what we're talking about. Am I right? [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: And they get to go out into a little fenced-in area and into fresh air and the sunlight one hour a day. [LR424]

DR. NATALIE BAKER: One hour a day. [LR424]

SENATOR LATHROP: Okay. And that's where he's housed. Where do you see a guy like this when that's the case? [LR424]

DR. NATALIE BAKER: When it is an initial visit, I try to take them out of their cell because it's a lot of information you try and get, and they're on a gallery that can be loud. It does depend on custody availability because Tecumseh does have the largest segregation population. Out of the thousand or so males there, a third...approximately a third of the population is segregation so it's a little more intensive. And if they have an emergency or if custody has other things to do, they may not always be able to remove people from their rooms to be seen because they just don't have the staff or sometimes people are a triple escort or a double escort or things like that and it requires a lot of custody to be there. If I follow them for mental health, the difference between...Mr. Jenkins was in what they call an IM or an intensive management cell. That is the

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highest security cell. And instead of a community shower--like in the gallery that they open a door and they go into the shower--they have their own shower in the front of the cell. And so there is a little area off of the gallery. In their cell they have a shower and they have their door. Then they have their living area and they have another door. And then the out door to the yard or their outside time. So sometimes I can see people in that showered area where the patient is safe and secure, I'm safe, and be able to evaluate them without being on the gallery for everyone else to hear. [LR424]

SENATOR LATHROP: Okay. So that's sort of the spectrum of different settings that you could see somebody in IM. And do you remember where you saw him on this occasion? Were you in a room? Don't know? It's okay if you don't remember. [LR424]

DR. NATALIE BAKER: I honestly...mostly likely...they have a client-attorney room. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. NATALIE BAKER: And most likely that is where I saw him. [LR424]

SENATOR LATHROP: Okay. Did you feel like you had developed a little bit of a rapport with him? [LR424]

DR. NATALIE BAKER: I did. He never refused...Mr. Jenkins never refused to see me. I felt that I needed to just follow him regularly, whether he took medications or not because he had difficulty functioning. It was not easy to see him because it was rather intense. I know he did tell me, Baker, I have no beef with you. And I did feel we...you know, I was able to talk to him. But sometimes it was difficult to sometimes redirect him. [LR424]

SENATOR LATHROP: Which was kind of part of the symptoms that he presented with.

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[LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Did you place him on medications on this first visit? [LR424]

DR. NATALIE BAKER: I did recommend the Risperdal, yes... [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. NATALIE BAKER: ...and ordered it. [LR424]

SENATOR LATHROP: Okay. And at least initially he took it, did he not? [LR424]

DR. NATALIE BAKER: He did take it for a little period of time. [LR424]

SENATOR LATHROP: And you next see him in October, October 8 of 2009; and that's on page 22. And I guess the first question I'd have is did he seem to be responding to the medications that you'd prescribed? In other words, did they have the intended effect? [LR424]

DR. NATALIE BAKER: I know initially when I had talked to him that it did appear that he felt a little better when he took it and that he did appear a little calmer. It just was difficult to continue to get consistency with the medication. [LR424]

SENATOR LATHROP: I appreciate that. And that happened sort of after October 8. [LR424]

DR. NATALIE BAKER: Correct. [LR424]

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SENATOR LATHROP: But I want to make this point if I can or ask this question. Does the fact that he seemed to respond to the medication tell you anything about the diagnosis you made in your initial assessment when you prescribed the medication in the first place? [LR424]

DR. NATALIE BAKER: I can tell you from my note from October 8 of 2009 in my assessment plan, that he did appear calmer, more redirectable, less paranoid, he still was hearing Apophis, less angry, aggressive, less anxious, less racing thoughts. So it would appear that it was having some positive effect on him and his symptoms. [LR424]

SENATOR LATHROP: And what's that tell you? Does that substantiate the diagnosis you made before? In other words, if someone responds to these two medications, is that telling you that they are Axis I problems that are being addressed by the medication and the medication is having an effect? And so the diagnosis on Axis I was in all likelihood correct? [LR424]

DR. NATALIE BAKER: I think it would support that when he's complaining of psychotic symptoms and you are treating him with an antipsychotic--which would appear to be the correct type of medications--and there is improvement, that there would be accuracy in the diagnosis. [LR424]

SENATOR LATHROP: Okay, which is another way of saying it supported your diagnosis... [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: ...and made you perhaps more confident in the diagnosis you made in your initial assessment because he was responding to medications that were intended to treat those diagnoses on Axis I? [LR424]

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DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: Okay. What did you do for him on October 8, Doctor? [LR424]

DR. NATALIE BAKER: So on October 8, again I did a follow-up and a mental status exam, and we talked about the medication. I...there was concern regarding his sleep because he would frequently state that he did not sleep well. And at Tecumseh it's kind of a luxury in Corrections that I'm able to do sleep studies to have people observed for 72 hours and to see...at that time when he was there, we would admit him into the hospital to see how they would sleep because a lot of patients may report that they don't sleep at all. But then when you watch them for 72 hours, maybe they're sleeping during the day or they're taking naps, so it's to give you a more accurate picture. He did leave after one night because it was their, you know, right to leave if they didn't want to stay for the sleep study. And so we didn't get a good picture of that. But he had said he's sleeping okay. He had...he was awaiting transfer to a transitions program. I did increase his Risperdal at that time. And what the one/two indicates is that it was increased to one milligram in the morning and two milligrams at night. And to continue him on the mood stabilizer, which was Depakote. And that to check a Depakote level--which is something we frequently do with mood stabilizers to make sure they're in a good level, that it's not toxic to them, also that they're compliant with the medication. And that we would continue to monitor for any side effects from the medications and that I would see him again in six to eight weeks to give the medication a little time to work. [LR424]

SENATOR LATHROP: That was the treatment plan and you did follow him. You had a number of visits with him before he was permitted or allowed to go to the funeral that led to the assault on a Corrections worker. [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: Okay. Your diagnosis never changed during the time...between

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the time you made the original diagnosis and the time he went off to and was ultimately held in Douglas County Corrections Center? [LR424]

DR. NATALIE BAKER: My diagnosis did not change. [LR424]

SENATOR LATHROP: Okay. You provided treatment and care. Some of it was...I don't want to go through every office note or we'll be here till like 5:00 at night just doing you. But in summary though he was on and off the medications, he was appealing for mental health treatment at different times, and he was also...reported hearing the voices through the whole experience before he left for Omaha and eventually was held at Douglas County Corrections Center. [LR424]

DR. NATALIE BAKER: The auditory hallucinations regarding Apophis and things like that remained pretty consistent. [LR424]

SENATOR LATHROP: Okay. And you do see him back in--and I say back because he returned after being in Douglas County Corrections Center and we heard that testimony this morning, his experience there--in September 26 of 2011, he returns and you have an opportunity to see him at that point. And that's...it looks like it's page 65 in the book. [LR424]

DR. NATALIE BAKER: Okay. September 26, 2011? [LR424]

SENATOR LATHROP: Yes. You have a pretty...it looks like a pretty extensive--just judging from the...your writing and the entries that you've made--that you do a pretty extensive assessment of him on his return from Douglas County. [LR424]

DR. NATALIE BAKER: I try and do that on all my patients that I see in Corrections, yes. [LR424]

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SENATOR LATHROP: Right. I can see that from the notes. Anything different or is it kind of right where we left off and now he's back? [LR424]

DR. NATALIE BAKER: So he had gone and when he returned he told me he stopped the Risperdal and Depakote. And in his words, he said they killed my adrenalin. And he had refused, he didn't want to restart it for me at that time. Every time I saw Mr. Jenkins...and my notes reflect that I would offer medications because I did feel he would benefit from them. He didn't always want to take them at that time. He was frequently making requests for therapy and to be transferred to the Lincoln Regional Center. I remember this because of his incident at the funeral, that the Department of Corrections had changed the policy, and that people were no longer allowed to go to family's funerals and things because of that risk. And that was a pretty big thing for all the inmates in Corrections. [LR424]

SENATOR LATHROP: Sure. When he returned, and Senator Chambers asked this this morning, when he returned he was taken directly to IM or one of these...the intensive management unit? Do you know that or remember that? [LR424]

DR. NATALIE BAKER: My understanding, I'm not for sure. I know when I would see him, he was in segregation. If he was out for a brief period of time, I may not know that or his status at Douglas County. [LR424]

SENATOR LATHROP: But by the time you see him for the first occasion after his return from Douglas County Corrections Center, he's in one of these intensive management segregation? [LR424]

DR. NATALIE BAKER: Segregation, yes. Yes, when I saw him. [LR424]

SENATOR LATHROP: Okay, I want to use the right terminology because...okay. You also reiterate your previous diagnosis, do you not? After you do this assessment, after

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you meet with him, after you talk to him, and after you've formulated your judgment, on page 67, in the third page of your notes it looks like you reiterate your diagnosis.

[LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: Okay. And is that done as a matter of course or did you reaffirm your previous diagnosis during that assessment? [LR424]

DR. NATALIE BAKER: For Mr. Jenkins, I maintained the psychosis not otherwise specified because it was difficult with the symptoms he reported and exhibited--and yet some of the collateral information indicating that this wasn't maybe necessarily true or that he was malingering--was difficult. And I wanted to try and see if we could get to the bottom of this and see, because that would to me guide our treatment options as to what we would do with this individual. And so I recommended and requested further psychiatric testing to try and help clarify a diagnosis versus behavioral issues because if it was found to be more mental illness, if we would have to go maybe a route of involuntary medication versus behavioral, which may not involve medications. [LR424]

SENATOR LATHROP: So tell us--because I'm a layperson in this respect--why do you need somebody to do further testing? Why is it not your judgment and why do you feel like you have to bring in somebody else to make a judgment when you have now had a number of contacts with him? And we haven't covered them, each one at a time, but you had a number of contacts with him, you've met with him, you did now two assessments...full assessments. Why is it you feel like you need additional testing? Why not just be confident in your own diagnosis? [LR424]

DR. NATALIE BAKER: My time with Mr. Jenkins is pretty limited. It is in a very set time. I don't know what happens between when I see him until the next time I see him. And so it's kind of a collaborative effort of people who are following him. I know mental health

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followed him and that sometimes they have access to other abilities of monitoring patients, either of phone calls or visits. And some of this information I became aware of. And so I don't have all that information myself. I also would visit with custody staff of what they would see with patients that I...because they're the ones who see them day to day. And so I wanted to make sure that I took everything into consideration and not just what I would see in a very short period of time. And again, he was at Tecumseh for a while but then he would be transferred out and so it was some movement back and forth. [LR424]

SENATOR LATHROP: But at this point in time he's there until he's discharged or until he goes to Nebraska State Penitentiary. [LR424]

DR. NATALIE BAKER: At this time. [LR424]

SENATOR LATHROP: Right. [LR424]

DR. NATALIE BAKER: And so I was requesting...the other part of it was because he didn't really want medicines consistently. And I certainly want to be sure that I feel very confident in what we're treating before I would make someone take medications by means of an injection. And so I thought it would be helpful... [LR424]

SENATOR LATHROP: Can you force one of these guys to do that? Is there any circumstance where you, as the psychiatrist at Tecumseh state penitentiary can--or state corrections facility, whatever they call it--can force an inmate to take or give them an injection of some medication? [LR424]

DR. NATALIE BAKER: You can force a medication like on a one-time basis if someone is acutely psychotic, a danger to themselves, right there and then, and you have to be able to document that. And I wouldn't do it unless I'm observing that. And then you can't keep doing it though. [LR424]

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SENATOR LATHROP: Right. [LR424]

DR. NATALIE BAKER: You can do it at that time to try and help that individual so that they are safe and that staff and people stay safe. So it would not help in the long term. If you wanted to do it long term, that's when you would file an involuntary medication order or petition and you go before a board if that gets approved or not. [LR424]

SENATOR LATHROP: And you make it sound like the only reason you'd do that is if you felt like you needed to involuntarily medicate somebody. [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: Then you get some permission after going through a legal process. [LR424]

DR. NATALIE BAKER: If you...because you always want to do the least restrictive form of treatment. That's always the ultimate goal. And if they will take oral medications, that's the best-case scenario. But if after repeated attempts or decompensation or things that way that you want to...you have to pursue that because that's a very high level of care because you're doing it against someone's wishes. So to me, it's important to be able to have all of the collaborative information prior to doing that, not just maybe a limited amount of visits with someone. [LR424]

SENATOR LATHROP: Okay. You next see him on December 23, 2011, and again you do the assessment. And is there anything new at that point in time? [LR424]

DR. NATALIE BAKER: What page is that? I'm sorry. [LR424]

SENATOR LATHROP: I'm sorry, 99. [LR424]

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DR. NATALIE BAKER: Ninety-nine. From my note, it appears he was agitated at that time, December 23, 2011. He continued to refuse the medications. He had told me at that time he would only take medications if he was transferred to the Lincoln Regional Center. And I know I talked to him that I was not able to transfer him and that if he could work with me and work on medications, that we could try and treat things here at Tecumseh. And again I think that is another time that I had requested and just recommended further testing to see what other people thought was also going on. [LR424]

SENATOR LATHROP: So it hadn't been done after the last time you asked for it? And you're now two months, three months later, two months asking for it to be done again? [LR424]

DR. NATALIE BAKER: If it was done, I may not have been aware of it at that time. [LR424]

SENATOR LATHROP: Okay. But you don't have any documentation that suggests it was? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. NATALIE BAKER: So I think I filled out another referral. [LR424]

SENATOR LATHROP: And once again in the column or in the margin of those notes you set out the same diagnosis once again? [LR424]

DR. NATALIE BAKER: I did. They may not be in the exact same order, but they are still

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there. [LR424]

SENATOR LATHROP: Is your opinion getting...do you develop a greater sense of confidence as you see him on multiple occasions, because you're writing the same thing and it makes me think, well, each time you see him, each time you do an assessment or have a contact with him you have more information in which to come up with a diagnosis? And you seem to be coming back to the same thing. [LR424]

DR. NATALIE BAKER: Yes. My struggle was that I did feel there was some mental illness there. The mental health staff did not agree with that and felt that it was more a behavioral or malingering for secondary gain. And so that was the struggle for me. And I wanted to be sure we were right. [LR424]

SENATOR LATHROP: The records reflect that struggle, too, don't they? [LR424]

DR. NATALIE BAKER: It was a struggle. [LR424]

SENATOR LATHROP: We'll talk about that in a minute. Your conclusion though and your diagnosis didn't change. You made the same diagnosis after you saw him December 23, 2011. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: On page 106, maybe this is the beginning of the evidence or the beginning of the struggle that you just described. It is an e-mail from Pearson to Geiger. Did I pronounce that last name right? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And it starts on 107 and actually continues on 106; we kind of do

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this backwards. [LR424]

DR. NATALIE BAKER: Okay. [LR424]

SENATOR LATHROP: Do you see the e-mail from Pearson to Geiger? [LR424]

DR. NATALIE BAKER: I have not seen it before but I see it right here. [LR424]

SENATOR LATHROP: Okay. And it says...and I'm going to read it: Baker gave Jenkins 59478 diagnosis on 12/23/11. Did you see her note? This is from Melinda Pearson, a psychologist, to a colleague who apparently is also a psychologist. And she responds--on page 106--January 30, 2012, at 9:43: I'm going to forward it to Dr. Weilage...and tap my third eye for a while to simmer down. Can you tell us why a psychologist at the Department of Corrections would be upset with your diagnosis that you made for the third time on December 23, 2011? [LR424]

DR. NATALIE BAKER: No, I cannot. [LR424]

SENATOR LATHROP: That e-mail would suggest that she was upset by the fact that you had made the diagnosis. Would you agree with that? [LR424]

DR. NATALIE BAKER: It would appear so. I have never seen these e-mails. [LR424]

SENATOR LATHROP: And the diagnosis that we're talking about aren't the Axis II diagnoses, it's the fact that you've made a diagnosis of a mental illness in Axis I. [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: And that was what was upsetting apparently to psychologists

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Geiger and to Pearson. [LR424]

DR. NATALIE BAKER: I don't know why it would be. I don't know why it would be.
[LR424]

SENATOR LATHROP: But it was. And you talked a little bit ago about the struggle, like you came up with a diagnosis and you felt like the other people working in mental health had a different idea. [LR424]

DR. NATALIE BAKER: Yes, they did. [LR424]

SENATOR LATHROP: And a diagnosis of a mental illness, would that necessarily improve Jenkins' opportunity to get mental healthcare somewhere and get out of the intensive management unit? [LR424]

DR. NATALIE BAKER: I would think it would if he had a mental illness. [LR424]

SENATOR LATHROP: And if his diagnoses were all on Axis II--which is to say all behavioral, which is what your psychologist colleagues were doing every time they wrote something in these records--that would leave Jenkins in intensive management, would it not? [LR424]

DR. NATALIE BAKER: Most likely. [LR424]

SENATOR LATHROP: In other words, they can dismiss any concern Jenkins has from the intensive management unit when he asks for mental health help by simply saying it's a behavioral issue not amenable to mental health treatment. We're leaving you where you're at. Isn't that true? [LR424]

DR. NATALIE BAKER: It's hard for me to speak to what mental health...where they

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formulated their... [LR424]

SENATOR LATHROP: And...I didn't ask you to tell me what they were thinking. But the reality is that if he is diagnosed as only a behavioral issue, which all of your psychology...all of the people in Corrections over at Tecumseh who looked at him said it's not Axis I, it's not mental illness, it's behavior. And that was a ticket or the consequence of that was, Jenkins could remain in intensive management and not go to some other part of the Department of Corrections and get mental healthcare? [LR424]

DR. NATALIE BAKER: He would stay most likely in Tecumseh because of that. [LR424]

SENATOR LATHROP: Right. That diagnosis of Axis II only, behavioral only, leaves him in the hole at Tecumseh. [LR424]

DR. NATALIE BAKER: Yes, because there would be no clinical reason to put him in the...a different place. [LR424]

SENATOR LATHROP: Tell us what care he did get. So now we're in 2012, 2011, in that time area, the first part of 2012. What's happening to Mr. Jenkins relative to his care? He's in isolation, he's in a room that's--am I right--about the size of a bathroom, depending on your bathroom maybe? [LR424]

DR. NATALIE BAKER: Well, it would depend on the...I don't know what the exact dimensions of the rooms are. [LR424]

SENATOR LATHROP: There's room for a bed and a sink and... [LR424]

DR. NATALIE BAKER: A bed, a sink, and a toilet, and a desk. [LR424]

SENATOR LATHROP: And then he's got another door where he...that will open. A

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guard opens it and he can go outside in a fenced area for one hour a day. But that's his environment for years while he's at Tecumseh. [LR424]

DR. NATALIE BAKER: Unless he has to go to medical or something else. But for the majority of the time, that is where they are at. [LR424]

SENATOR LATHROP: Okay. So is he getting anything from mental health, because...and I'm not going to go through those. You've seen them, I'm sure. His pleas for mental health are countless, right? He is asking for mental health treatment almost the entire time he's there. [LR424]

DR. NATALIE BAKER: He did ask for mental health treatment. I can speak that I did...I followed with him whether he wanted medicine or not. I'm not exactly sure... [LR424]

SENATOR LATHROP: But what's happening? What's he...I appreciate...by the way, I appreciate what you did, okay, because I've gone through the record and I can see that from the notes it looks like you were attentive and from the notes it looks like he respected you. Right? And he was even writing notes to you to get more care or talk to you about care. So I appreciate that. This isn't a question about the care you were providing, it's about what's going on. So you see him every couple of months because you're providing the medication if he wants it, right? Or if he'll take it. [LR424]

DR. NATALIE BAKER: Correct. Correct. [LR424]

SENATOR LATHROP: But what's everybody else doing? Does somebody come by and talk to him through the door? Do they bring him out of his cell? What's he get while he's sitting in this cell in intensive management by way of mental healthcare? Because I don't see those notes where somebody says...like Ms. Gaines did this morning. We heard about Ms. Gaines sitting down with him and going, now talk to me. You know, what's going on, Mr. Jenkins? And how do you feel about that? Sort of the counseling

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that goes on in some mental health settings, right, as a form of therapy. [LR424]

DR. NATALIE BAKER: Right. [LR424]

SENATOR LATHROP: I don't see those notes. And maybe I just didn't get them. Maybe they weren't forwarded. Or maybe he wasn't getting any of that. But what was he getting for mental healthcare other than you stopping by on a...for a scheduled visit? [LR424]

DR. NATALIE BAKER: I'm sorry, I probably won't be able to provide specific information... [LR424]

SENATOR LATHROP: That's okay. [LR424]

DR. NATALIE BAKER: ...because I don't have those notes myself. [LR424]

SENATOR LATHROP: Sure, that's okay. And maybe this isn't unique to Nikko Jenkins but here's the thing. We've...now we're on our third hearing. And Bob Houston sat in that chair and said, you know, this isolation and this intensive management unit, it's a bad practice. Everybody does it, it's a bad practice. Probably we should do it a lot less than we do, and I'm on a group that's studying it. And then I have a couple...like Dr. Oliveto, we've had some other people come in here to talk to us about this and they go, this is a bad thing, I mean, to be deprived of any contact with other people and be in this cell 23 hours a day, get to go out in the little bit of a yard for an hour a day, not be able to mix it up with other people. And I'm wondering who's stopping by and talking to him? Or do we not talk to him, we just slide food under there and that's his existence? [LR424]

DR. NATALIE BAKER: I know mental health have their policies or regulations, particularly for the segregated patients down there. I don't...I know like they had to do monthly reviews and follow and... [LR424]

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SENATOR LATHROP: Does monthly review suggest that they have to go by once a month and talk to him? Is that what you mean by a review? [LR424]

DR. NATALIE BAKER: That is my understanding, that mental health...and I don't...I'm not saying that that's the only time that they do. But I know...and I think they have to do it, you know, that they have to check on everybody in segregation, not just those that are diagnosed with a certain thing or not, but to check on everybody. [LR424]

SENATOR LATHROP: And they do that monthly. [LR424]

DR. NATALIE BAKER: I believe so but... [LR424]

SENATOR LATHROP: Is there any counseling going on at all? I mean, is anybody sitting down and going, tell me about it, Mr. Jenkins; what's on your mind today or the things that might happen in a counseling type setting? [LR424]

DR. NATALIE BAKER: I do know Dr. Pearson was, I believe, assigned and following with Mr. Jenkins. I don't know how often or if he always wanted...if he agreed to see her or not. I'm not sure. [LR424]

SENATOR LATHROP: You know when you bring up Pearson, the thing that stands out as I read through the notes is it wasn't too long into this relationship before she said, I got a conflict and I can't see him anymore. Right? So I'm just looking to see what he was getting. So if he was getting any kind of counseling at all, you wouldn't be aware of it? [LR424]

DR. NATALIE BAKER: Not specifically. [LR424]

SENATOR LATHROP: Okay. Were you in a position to order it? [LR424]

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DR. NATALIE BAKER: I cannot order the mental health staff. I can make a recommendation, but they have the final say on what they will do or want to do. [LR424]

SENATOR LATHROP: And that would be the psychologists at Tecumseh. [LR424]

DR. NATALIE BAKER: Psychologists, licensed mental health practitioners. [LR424]

SENATOR LATHROP: Okay. You do other assessments. I don't want to spend a lot of time on it, but you do one in April 19, 2012, that's on page 131 and 132. You come up with the same diagnosis after doing another assessment? [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: And July 2 of 2012, you do another assessment and come up with the same diagnosis? [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: Then we start to get close to January 31, 2013. And that...and the time line that we've sort of tried to develop here, is getting close to his jam out date, isn't it? [LR424]

DR. NATALIE BAKER: That is correct. And that's what Mr. Jenkins was indicating to me that he was going to be jamming in five to six months. [LR424]

SENATOR LATHROP: That's got to be a concern. I mean, he's telling you that he's going to get out and kill people. Right? He was telling you that, too, wasn't he? [LR424]

DR. NATALIE BAKER: Yes. Yes. [LR424]

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SENATOR LATHROP: And I appreciate that you...the notes reflect that you have some concern about that. And really as we roll into the first part of 2013, Jenkins has cut his face with a floor tile, right? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: So somebody chipped some floor tile and it came in under his door and he cut himself with it. He cut himself with a significant cut on some object in his cell... [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: ...required 39 stitches. And before they take him out of his cell to go put the stitches in, he's writing in his own blood on the walls of the cell, is he not? [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: He's writing for mental healthcare almost daily as we go into 2013, isn't he? Frequently. [LR424]

DR. NATALIE BAKER: Frequently. [LR424]

SENATOR LATHROP: And not just to you but he's writing to the warden, he's writing to all kinds of people and apparently trying to get ahold of the Ombudsman at the same time because he wants mental healthcare as he approaches his discharge date. [LR424]

DR. NATALIE BAKER: I know he contact...I mean, I know what he told me. [LR424]

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SENATOR LATHROP: Five and a half months out from discharge he said he wanted care or he was going to rip somebody's heart out when he was discharged. He was threatening to kill Christians, Jews, children, and women, and he claimed to be more--as time went on--under the spell or under the direction of Apophis, and he was about to engage in the war of Revelations. And that's kind of what we had in this guy as we approached 2013. [LR424]

DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: And you're about to go see him at the turn of the...at the beginning of 2013, but you have an exchange with Cameron White, don't you? Do you remember having a--and I'm going to direct you to page 181--do you remember having an exchange with Cameron White before you saw Jenkins at the beginning of 2013? [LR424]

DR. NATALIE BAKER: I was contacting a lot of people. I... [LR424]

SENATOR LATHROP: Okay. And I'll give you all the time you need to read it so that I can ask you a question or two about it. [LR424]

DR. NATALIE BAKER: Okay. Okay. I do recall this note. [LR424]

SENATOR LATHROP: That was an exchange you had with... [LR424]

DR. NATALIE BAKER: With Dr. White, yes. [LR424]

SENATOR LATHROP: Dr. White. And just so that...I'm going to read...you're writing him a letter. This is...first of all, tell us who Cameron White is. In the corporate structure of mental health in the Department of Corrections, where's Cameron White? [LR424]

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DR. NATALIE BAKER: Dr. White is the behavior health administrator. He's at the top. [LR424]

SENATOR LATHROP: Who does he report to? [LR424]

DR. NATALIE BAKER: Dr. Kohl, our medical director. [LR424]

SENATOR LATHROP: Okay. So he is under Kohl or does he report directly to the director, if you know? [LR424]

DR. NATALIE BAKER: I don't know. [LR424]

SENATOR LATHROP: Okay. Because you don't work for him, he's not your boss. But you're having a conversation that sounds a little bit like you're talking to somebody that's a boss. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Okay. And you say, I want to thank you for listening to my concerns in helping turn around TSCI. And we talk about kites and getting to some of these people faster. In the second paragraph you say: My other major concern is regarding the mental health referrals that I copied you on and that mental health staff does not have any plans to test or further evaluate any of these individuals whom I clinically have genuine concerns about. I will also be completing a mental health referral on Nikko Jenkins on Thursday when I'm back out at TSCI and really feel that another provider (NP or MD) needs to evaluate his mental status and diagnosis as he will be jamming out--and I believe--this July. You go on to say: Please let me know how to handle future referrals. I do not feel my concerns are being followed up with and I do not want to wait until we have a negative outcome, so I'm trying to be proactive with these

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issues. Do you remember writing that to him? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And were you expressing frustration with the fact that you were making one diagnosis and the psychologists who work for the state of Nebraska were making a different diagnosis? [LR424]

DR. NATALIE BAKER: And it's not even a different diagnosis, but they did not want to follow through of what I felt was important to do. [LR424]

SENATOR LATHROP: Okay, and I want to talk about that. You are the psychiatrist charged with the care of the inmates that are at Tecumseh and the psychologists won't listen to you and won't respect the diagnosis you've come up with. Would that be a fair understanding of that note to Cameron White? [LR424]

DR. NATALIE BAKER: I did not always feel my diagnosis was respected. [LR424]

SENATOR LATHROP: Okay. Then he responds, doesn't he? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And I find the response a little curious. On January 28, 2013, at 1:59 he sends you an e-mail. And he says, Natalie, thanks for your note. I appreciate you bringing your concerns forward. My thought is that we need to reset expectations and put some understandings and agreements in place. After you express some frustration with the staff not respecting your diagnosis and you appeal to Dr. White and he tells you that you need to reset your expectations and put some understandings and agreements in place, what did you make of that? [LR424]

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DR. NATALIE BAKER: There were conflicts at Tecumseh. Again, I have been there since they opened in 2001. And I...there I'm employed through CCS. And sometimes even though I feel we should be a team and work together, it was a little split and it was difficult. I was working and trying to get it so that we could come more together in treating because it's a very difficult population to treat. And Dr. White was trying to...because we have...we did have some meetings set forth where we would have face to face to try and improve communication and...which is very important there. [LR424]

SENATOR LATHROP: I'm sure it is. [LR424]

DR. NATALIE BAKER: And it was a struggle because I didn't always have access to mental health notes; it's somewhat of a separated system. I was frustrated just because I felt that we need to make sure we're evaluating all things. But if it stopped and the supervisor of mental health at Tecumseh, which was Dr. Pearson at that time, if she felt it did not go further than that, then it didn't. [LR424]

SENATOR LATHROP: Did you say you weren't getting notes from mental health?
[LR424]

DR. NATALIE BAKER: They...mental health notes are electronic medical records. I don't have the time to review all those so I've just asked if they have a concern to send me a hard copy of something because I go to numerous facilities, Tecumseh is not my only facility. [LR424]

SENATOR LATHROP: Sure. [LR424]

DR. NATALIE BAKER: And so it was difficult. My notes are handwritten as you can see. And then they are scanned into the system so that mental health will have access to my notes. And so we were trying to work to make sure that I had notes, you know, from mental health as well. [LR424]

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SENATOR LATHROP: Okay. But it's fair to say this arises out of what became a difficulty for you. You are a psychiatrist with a medical degree, diagnosing patients, treating them, and providing for their needs as a psychiatrist. And you didn't feel like the staff...I know you probably have to go back and work with these people but I need an answer to this. The psychologists were not respecting your diagnosis and not necessarily following through with the things that you recommended. And that led to this meeting or this exchange. [LR424]

DR. NATALIE BAKER: There was not always follow through or even a response if I wrote a referral and that was frustrating. [LR424]

SENATOR LATHROP: Did you also notice that sometimes you would make a diagnosis and then they would put a group together or send one of them out to do their own assessment and come up with a diagnosis that didn't include mental illness? [LR424]

DR. NATALIE BAKER: That was my big struggle... [LR424]

SENATOR LATHROP: It was happening a lot, wasn't it? [LR424]

DR. NATALIE BAKER: ...because it was so opposite ends of the spectrum. [LR424]

SENATOR LATHROP: It was happening a lot, wasn't it? [LR424]

DR. NATALIE BAKER: I was just trying to figure out what was going on. [LR424]

SENATOR LATHROP: But the fact of the matter is when you used your judgment as a psychiatrist with a medical degree and concluded that he had a mental illness, that it was impossible to ignore his mental health needs. But when the psychologists came in behind you and tried to do their own assessment or did their own assessment and

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concluded that we don't care what the psychiatrist just said. We've just concluded that it's all behavioral so he can sit in the hole and be left there unattended with no mental health treatment. And that's the problem, am I right? [LR424]

DR. NATALIE BAKER: I never felt comfortable that I could not diagnose him with a mental illness. And that was.... [LR424]

SENATOR LATHROP: Right. But you saw them come behind you after you did on a couple of occasions, right? They put the MIRT group together after you got done making a diagnosis of a mental illness. They would put the MIRT group together, some of whom weren't even mental health professionals, and come up with a different conclusion that was always, always not a mental illness but a behavior. [LR424]

DR. NATALIE BAKER: Well, and it shook me because you don't want to make...then you think, are you wrong? You know, and that was the tough thing. [LR424]

SENATOR LATHROP: I appreciate that because you were certainly outnumbered by psychologists over there. But the effect of calling it a behavior instead of the mental illness you diagnosed is no one has to provide him with mental healthcare, we blame it on faking, and we blame it on behavior, and we can leave him in the hole and not do anything for him. That's the reality of the difference between a mental health diagnosis and a behavioral diagnosis in the world of Tecumseh intensive management. True? I'm sorry, I am putting you on the spot. And I know you probably tomorrow have to punch the clock and show up at Tecumseh. [LR424]

DR. NATALIE BAKER: No. [LR424]

SENATOR LATHROP: But you know what? I read the records and I can't get anywhere but land on that impression. [LR424]

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DR. NATALIE BAKER: It's difficult. I'm in corrections because I care. [LR424]

SENATOR LATHROP: I can tell you do. And let me talk about that next. You do an assessment and he is five months from gone. Do you need a break? I'm serious. If you want a break, we can take a break. [LR424]

DR. NATALIE BAKER: I'm okay. No, I'm okay. [LR424]

SENATOR LATHROP: Okay? [LR424]

DR. NATALIE BAKER: Yep. [LR424]

SENATOR LATHROP: You do an assessment in January then, do you not? [LR424]

DR. NATALIE BAKER: What page is that on? [LR424]

SENATOR LATHROP: This is after...we're at page 184. [LR424]

DR. NATALIE BAKER: Okay. That's a mental health referral. [LR424]

SENATOR LATHROP: Okay. This comes to you...you must have stopped by and talked to him, right? [LR424]

DR. NATALIE BAKER: I filled this out. I did talk to them after my last note. [LR424]

SENATOR LATHROP: Okay. You talked to Jenkins. What did you find to be his state or place when you talked to him on January 31? Now January, February, March, April, May, June, July, he's six months from discharge, mandatory discharge. How is he doing? [LR424]

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DR. NATALIE BAKER: Not well. This is when I became really concerned is... [LR424]

SENATOR LATHROP: I can see it. [LR424]

DR. NATALIE BAKER: ..in the beginning of the year because he was very threatening. He was harming himself significantly. He was in segregation. I was concerned about him leaving segregation, that he can't go directly to the community because he has been in segregation. And that, again, I was requesting for a second opinion to have if somebody else saw that maybe we need to do something else for him. I did feel he was an imminent danger to himself or others at that time. [LR424]

SENATOR LATHROP: That's in your note. [LR424]

DR. NATALIE BAKER: Yes, it is. [LR424]

SENATOR LATHROP: As I looked through and I started to highlight what I thought was important, you can see I end up highlighting the whole thing. But he's telling you, in addition now he's been cutting himself. He is exercising naked in his room. He has cut himself and written in blood on the wall. He has...he won't take stimulants to increase his serotonin so he's drinking his own semen? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: He's drinking his own urine. He's exercising naked in his room. And you put in here that: Patient is significant/serious risk to others and had a H-O--history of--violent assaultive behaviors. Patient also with a history of strong Cluster B/A's? [LR424]

DR. NATALIE BAKER: Antisocial. [LR424]

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SENATOR LATHROP: I'm not sure what that next thing is. Can you see that? [LR424]

DR. NATALIE BAKER: What page are you on, 186? [LR424]

SENATOR LATHROP: One eighty-four. I am recommending for another provider, NP or MD, to evaluate this patient in the near future for further diagnostic clarification and treatment options. Patient currently appears mentally ill as well as an imminent danger to others. I also have scheduled the patient...? [LR424]

DR. NATALIE BAKER: Patient. [LR424]

SENATOR LATHROP: Scheduled the patient for a follow-up visit within the next week. Possible civil commitment will be needed. And that was your assessment on that date. [LR424]

DR. NATALIE BAKER: On that date. [LR424]

SENATOR LATHROP: Right. Then you see him again a few days later, don't you? [LR424]

DR. NATALIE BAKER: Yes. My last visit with Mr. Jenkins. [LR424]

SENATOR LATHROP: That's February 4, 2013. Would it be fair to say that you had some pressure from people at Corrections or the higher-ups, the psychologists that you answered to, to not come up with this diagnosis? [LR424]

DR. NATALIE BAKER: It's not that I didn't have pressure. It's not that I had pressure, I did not have support. [LR424]

SENATOR LATHROP: Okay. You did an assessment in that environment...by the way,

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when people are not supporting what you're doing, you do an assessment on February 4, 2013, and you kind of make your case there, don't you? [LR424]

DR. NATALIE BAKER: I try. [LR424]

SENATOR LATHROP: Okay, tell us what you did. I want you to walk through this one with us. [LR424]

DR. NATALIE BAKER: Can I use my copy... [LR424]

SENATOR LATHROP: You may. That's an awful copy and I don't know why it looks like that. It's hard to read. [LR424]

DR. NATALIE BAKER: ...because mine is very...it's very hard for...this is much better. This is my February 4, 2013. At that time, he was on 15-minute checks. [LR424]

SENATOR LATHROP: Because he had threatened to kill himself, right? [LR424]

DR. NATALIE BAKER: He did. And he also was destroying some property, had broken a sprinkler head. And then he was upset he didn't have his property because he was upset he didn't have a mattress and things. He reported he would harm people once he was released in five months. He had reported to the medical staff that he would harm people. He had been verbally threatening the safety of others. Again, that's where he had talked about drinking his semen for neurostimulators. He wanted to increase his serotonin level. My concern also rose because I had spoke to the custody staff who was down in segregation and they said he's exercising excessively, he's not sleeping, he seems just more revved up and just very angry and more aggressive. And so that wasn't something that he reported or that I saw. That was more objective things that staff was telling me. [LR424]

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SENATOR LATHROP: Okay. [LR424]

DR. NATALIE BAKER: And so I was concerned. He had cut on himself significantly. [LR424]

SENATOR LATHROP: Twice. [LR424]

DR. NATALIE BAKER: And would not let the medical staff remove the sutures that should have been removed. And they had tried three times. [LR424]

SENATOR LATHROP: They tried three times before this, right? [LR424]

DR. NATALIE BAKER: And they couldn't get those sutures out. He...you know, the concern is he also has such a significant history of anger and violence and aggression. He continued to report auditory hallucinations from Apophis and wanting...command hallucinations of telling him to "attack people." He had told me that he planned to make his mother power of attorney. I didn't have any contact with his family so I don't know what happened with that. When I had seen him, he had still the sutures in place above and below his right eye. You know, he was very agitated, irritable. It was difficult to kind of redirect him. He was speaking very fast and very pressured and his thoughts didn't appear very organized. He again said he was hearing things. He remained paranoid of staff. And at that time I documented that reality testing, insight, and judgment were all impaired at that time. And I was concerned again because he was...he reported to me that he jams in five months. [LR424]

SENATOR LATHROP: What's your concern, Doctor? If he's...you just described your assessment and he's jamming in five months. What's your concern? [LR424]

DR. NATALIE BAKER: My concern is that this is an individual who is psychotic and aggressive, harming himself, threatening to harm others, is mentally ill. And when you

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jam, you just walk out the door. You don't have any probation. You don't have to go do anything. And that he was mentally unstable at this time and didn't want medication, you know, didn't want to be treated. And so that was my concern. And that staff were also observing some of these symptoms in him as well as not sleeping well and exercising and being more agitated. So then I requested, you know, so that someone to come see him, too, to make sure this...there was someone else that would say, yes, I see mental illness or not or something because there was not another psychiatric provider at Tecumseh. Whether someone likes it or not, I've kind of been it and usually can work things out pretty well. So...and I wrote: This provider is concerned regarding the patient being released from this facility directly from segregation into the community as he is directly threatening to harm others once he is released. He also has had recent self-harm behaviors and wasn't allowing medical to remove his sutures. I documented that staff told me he wasn't sleeping well and was excessively exercising. He appeared psychotic. He remained on kind of a watch status. I again completed a formal mental health referral because I did feel at that time he poses a significant/serious risk to others and again has a history of violent assaultive behaviors. So I was recommending for another provider, someone to come see him. [LR424]

SENATOR LATHROP: You also indicate: The patient will possibly require a civil commitment prior to being released to ensure his safety as well as the safety of others. Right? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And this provider also discussed the above concerns with Dr. Weilage. Wellidge (phonetically)... [LR424]

DR. NATALIE BAKER: Weilage. [LR424]

SENATOR LATHROP: ...Weilage who is also planning to see the patient soon and

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determine further treatment and housing options. That discussion with Dr. Weilage, did you think that he was probably not going to be supportive of what you'd just come up with? [LR424]

DR. NATALIE BAKER: Well, I had phoned him because I just wanted to make sure that I let him know. And he said he would see him and he is also kind of the supervisor for mental health staff. [LR424]

SENATOR LATHROP: All right, but he's also somebody that hadn't been supportive of your diagnoses in the past. Is that true? [LR424]

DR. NATALIE BAKER: I believe he thought also...he did testing, I think, some testing with Mr. Jenkins and I think he felt... [LR424]

SENATOR LATHROP: Sure. And I've seen some of the stuff he wrote. And we'll talk to him about that shortly. But he was not one of the people that was supportive of the diagnoses that you'd made in the past of a mental illness. That would be true. [LR424]

DR. NATALIE BAKER: I don't know who was necessarily supportive of my diagnosis. Yeah, I don't know. [LR424]

SENATOR LATHROP: Okay. And that does...I have to say something maybe at this point. The last time we had a hearing, we had a lawyer in here who was sitting in a roomful of people and they were about to ignore a Supreme Court Opinion. And the lawyer whose probably her only sin was she didn't stand up. Right? I'm sure she's competent. I expect that she's competent. But she sat in the room and sort of gave in to the peer pressure. And when I look at what you're doing here, you're standing up while everybody else is standing behind you trying to discount your diagnosis and you stood your ground. And that's what you did in this note, am I right? [LR424]

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DR. NATALIE BAKER: I did. [LR424]

SENATOR LATHROP: And you expressed concern in your note and you documented:
a) that he had a mental illness; b) that he was an imminent danger to hurt somebody;
and c) you wanted something done. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: What happened after this? [LR424]

DR. NATALIE BAKER: When I spoke to Dr. Weilage, he said he would be coming to see Mr. Jenkins. Dr. Weilage, as part of mental health staff, can make that determination of sending, you know, helping send people to a different facility. That's above and beyond me. I just wanted for him to go somewhere because in Lincoln we have transition programs, we have a mental health unit. I don't know what the criteria are for that level of treatment, but that something needed to be done before he was released because you can't do a civil commitment while they're still serving their criminal time. And I just felt strongly that something needed to be done. [LR424]

SENATOR LATHROP: So you talked to Dr. Weilage and he says he's going to do an assessment. But interestingly, when you talk to Cameron White--and your notes here reflect you didn't say let's send Weilage down there to see him again--you said I want somebody who's an MD or an NP, which would exclude the psychologists that we're talking about. Am I right? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: You didn't want them to do an assessment. You wanted somebody else to confirm what you believed was the proper diagnosis and the proper course after you'd seen and treated this guy for years. Correct? [LR424]

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DR. NATALIE BAKER: I wanted another medical provider. [LR424]

SENATOR LATHROP: Okay. And that brings in Dr. Wetzel, is that right? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: Did you ever see Dr. Wetzel's assessment? [LR424]

DR. NATALIE BAKER: I did. [LR424]

SENATOR LATHROP: And Dr. Wetzel sees him the day before he's transferred to the Nebraska State Penitentiary. Is that true? [LR424]

DR. NATALIE BAKER: I don't even know when Mr. Jenkins was transferred. [LR424]

SENATOR LATHROP: Okay. He does see him. Do you see Dr. Wetzel's report? [LR424]

DR. NATALIE BAKER: I saw it some time later. I don't know exactly when, but I have seen it, yes. [LR424]

SENATOR LATHROP: I may avoid calling him by having a conversation with you about this. On page 231, is that Dr. Wetzel's report? [LR424]

DR. NATALIE BAKER: Yes, it is. [LR424]

SENATOR LATHROP: And so this actually was done in response to your request in February of 2013. [LR424]

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DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: We're five months away or less than five months away from him getting out of the place with no one to answer to and you say he needs another test and Wetzel does it. [LR424]

DR. NATALIE BAKER: I wanted the consult, yes. And he came. [LR424]

SENATOR LATHROP: Who's Wetzel? [LR424]

DR. NATALIE BAKER: Dr. Wetzel is a psychiatrist and he sees patients in the mental health unit in Lincoln for the department. [LR424]

SENATOR LATHROP: Okay. So did he come over to Tecumseh from Lincoln to do this assessment? [LR424]

DR. NATALIE BAKER: He did, with Wayne Chandler. [LR424]

SENATOR LATHROP: Okay. Were you around for it? Or did you have anything to do with it? Or did he do it independent of anything? [LR424]

DR. NATALIE BAKER: He came over. I may have been in the facility that day, I cannot recall, because he did come and see some other patients as well on occasion. I did not go with him to see Mr. Jenkins, but he did come to Tecumseh to see Mr. Jenkins. [LR424]

SENATOR LATHROP: Okay, and you read his report? [LR424]

DR. NATALIE BAKER: I have. [LR424]

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SENATOR LATHROP: And he concludes in this report...he kind of goes through a lot of the same things you observed while you provided care, and he does an assessment. Right? [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: And his assessment is bipolar NOS probable. What's that mean, bipolar and mental illness? [LR424]

DR. NATALIE BAKER: Bipolar it is. Not otherwise specified, again, when you're not exactly sure does it meet full criteria for bipolar, whether there appears to be significant mood issues and things going on. [LR424]

SENATOR LATHROP: Okay. So he also says PTSD probable. That's posttraumatic stress disorder probable. [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: You also had that on your list of diagnoses, did you not? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: And is that a mental illness or is that a behavior? [LR424]

DR. NATALIE BAKER: That's a mental illness. [LR424]

SENATOR LATHROP: So that would support mental healthcare or perhaps a commitment if he's dangerous, right? [LR424]

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DR. NATALIE BAKER: Yes, if he is dangerous. [LR424]

SENATOR LATHROP: No one...is there anybody that didn't think he was dangerous that you ran into? [LR424]

DR. NATALIE BAKER: He was treated as if he was dangerous. [LR424]

SENATOR LATHROP: Yeah. I mean everything about his confinement said, we think this guy is dangerous. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And what he's telling everybody that will listen is he's going to get out and hurt people or kill them or pull their heart out of their chest and go after people and kill all manner of different groups of people. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: Polysubstance dependence in a controlled environment would also be a mental illness diagnosis? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And that was also on your list, too, wasn't it? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: He does not have psychosis NOS on there, but he does give us at least three diagnoses of mental illness, am I right? [LR424]

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DR. NATALIE BAKER: That is correct. [LR424]

SENATOR LATHROP: Then suggests, in his report, long-term strategies recommended for this patient include development of a rapport and trust to enhance participation in psychiatric care, ongoing development of objective evidence supporting or not supporting the presence of a major mental illness, and the possibility of future psychological formal testing to help clarify the diagnostic picture. And that comes from Dr. Wetzel. [LR424]

DR. NATALIE BAKER: Correct. [LR424]

SENATOR LATHROP: Did you feel like he had supported you after you read this report, like the two of you may not be precisely on the same page, but at least you now have somebody who is supporting the idea that Nikko Jenkins has a mental illness? [LR424]

DR. NATALIE BAKER: I was thankful he came to see Mr. Jenkins. [LR424]

SENATOR LATHROP: Did you have any more involvement after that February 2013 report you did? [LR424]

DR. NATALIE BAKER: That was my last visit with Mr. Jenkins. I could not even tell you what day that he was transferred. [LR424]

SENATOR LATHROP: Okay. Along the way, in this time line, we have our friends over at the Ombudsman's Office are becoming involved. They've taken a call from Senator Chambers, near as I can tell, and that has the Ombudsman's Office sometime in January of 2013, and they are now trying to figure out what a transition plan should be like because I think Senator Chambers probably started the process by suggesting, this guy is going to jam out. He has been in isolation and he's coming back to my legislative district or Omaha, and we want to make sure he doesn't go from isolation to the streets.

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So the Ombudsman gets involved. And there are a number of meetings, and I just wanted to ask you before we let you go, did you participate in any meetings with the Ombudsman's where you were in a position to share your diagnosis and your concerns? [LR424]

DR. NATALIE BAKER: No. [LR424]

SENATOR LATHROP: So whenever these meetings happened between the Department of Corrections or the mental health staff and the Ombudsman's Office, no one asked you to participate and to share with the Ombudsman's Office your concerns? [LR424]

DR. NATALIE BAKER: No, and honestly, when the Ombudsman report came out, it was very frustrating and upsetting and I couldn't even read it because of the inaccuracies. I was named "Norma." Nobody talked to me. I've been at the prison for 13 years and they didn't even get my name right. [LR424]

SENATOR LATHROP: Well, yeah...okay, that's fair. And I'm not going to...it's not my place to defend them except that they were coming over to try to figure out what to do with Jenkins because they had been asked to by Senator Chambers and no one had the doctor in the room who thought he had a mental illness. The room was occupied by people who ignored your diagnosis and concluded that everything that was wrong with Nikko Jenkins was a behavioral issue and no one could treat that, and there was no reason for a commitment or to do anything further with him but let him walk out the door. And no one asked you to come to any of those meetings. [LR424]

DR. NATALIE BAKER: No, they did not. [LR424]

SENATOR LATHROP: Similarly, in January or February of 2013, there is a county attorney in Johnson County who is being contacted by Nikko Jenkins and Nikko Jenkins'

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mother about a civil commitment. Were you aware of that? [LR424]

DR. NATALIE BAKER: No. [LR424]

SENATOR LATHROP: Well, let me...then I think I know what the answer to the next question is going to be, but I'm going to ask it anyway. When the Johnson County Attorney was looking at a civil commitment of Nikko Jenkins who was writing the county attorney in Johnson County saying, I have mental illness and I want to be committed, instead of discharged, I want to be committed. And his mother was trying to get him committed. He was trying to get himself committed and the Johnson County Attorney is contacting mental health professionals at the Department of Corrections to get supporting information for a commitment, no one talked to you about it, would that be true? [LR424]

DR. NATALIE BAKER: That's true. [LR424]

SENATOR LATHROP: Have you ever been involved in a civil commitment? [LR424]

DR. NATALIE BAKER: In the community? [LR424]

SENATOR LATHROP: Anywhere. [LR424]

DR. NATALIE BAKER: Yes, I've sat on the Board of Mental Health for Douglas County in the past. [LR424]

SENATOR LATHROP: Okay. That's sort of a two-criteria checklist, isn't it? [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR LATHROP: And the two criteria are mental illness and dangerous to himself

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or another person. [LR424]

DR. NATALIE BAKER: An imminent danger to himself or others. [LR424]

SENATOR LATHROP: Imminent danger. And you used that term in your February 4, 2013 report, did you not? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR LATHROP: Did you think that this guy fit the bill for a commitment having seen him, treated him, assessed him, come up with your own conclusions, and with your experience of having served on the Board of Mental Health in Douglas County, did you think he fit the bill for a civil commitment? [LR424]

DR. NATALIE BAKER: At that time, yes, I did. [LR424]

SENATOR LATHROP: Did you ever go to...and this isn't...maybe this is Monday morning quarterbacking and I apologize for it. I'm just going to say that right up-front because I think you've done a...I appreciate all the testimony and all you did to stand up to what seemed like a lot of people that weren't with you during this process. But did you at some point go to Mr....or to Dr. White or to Dr. Weilage and say, why didn't we commit this guy? And I don't want to pry. You've got to have some regrets about all of this. [LR424]

DR. NATALIE BAKER: No, no. [LR424]

SENATOR LATHROP: And I'm not trying to make this like an accusation, but I'm trying to figure out what was going on at Corrections that they are steering everything they can, but you, towards behavioral issues when all they had to do was just say, you know what, Dr. Baker is right. This guy is dangerous as all get out, let's commit him, and at

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least we'll keep him off the street and we'll get him some care perhaps, and somebody can treat him in a therapeutic setting. [LR424]

DR. NATALIE BAKER: I do feel strongly enough if he were released from Tecumseh, I would have pursued a civil commitment. He was transferred to Lincoln and undergoing transition, whatever treatment, and he was assumed by the care by another psychiatrist, Dr. Jack. So I felt he was in a secure place. I did not have any further contact with him. And that's what I know, you know, happened. I don't know what happened in Lincoln. [LR424]

SENATOR LATHROP: Do you think his transfer to Lincoln is a coincidence or do you think that was, as some have suggested, a move to stay ahead of the Johnson County Attorney in his effort to commit this guy? [LR424]

DR. NATALIE BAKER: I don't know. [LR424]

SENATOR LATHROP: You don't have any information one way or the other? [LR424]

DR. NATALIE BAKER: I don't know, huh-uh. [LR424]

SENATOR LATHROP: I will probably think of something else when other people have questions, but I want to thank you first for your time, your candor, and honestly during the course of these hearings, it's been hard to find people who will stand up in a crowd and put their spear in the ground and not move. And I think you did that, Dr. Baker. [LR424]

DR. NATALIE BAKER: Thank you. [LR424]

SENATOR LATHROP: I think you did that, and I'm looking forward to talking to the other people that were involved in his care. So let's maybe start with Senator Krist and we'll

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work our way down. [LR424]

SENATOR KRIST: Thanks for coming. This morning you heard the testimony of the other two. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR KRIST: And I believe it was the second who told us that--so I'm confused--who told us that if you broke your arm or you had a coronary, you could be transferred for medical attention. Now you have a man that's in segregation who is doing harm to himself. Does that mean within our system that the only place that patient would go then would be just to suture him up, not to go to a mental health facility for what they have done to themselves? [LR424]

DR. NATALIE BAKER: I've worked...I mean, I started at Douglas County Corrections and what I remember is that if you could find you had a mentally ill patient, if you could get them before they were sentenced, and get ahold of the county attorneys, it was much easier--and depending on their crime and dangerousness--of being able to get them transferred into a mental health hospital or place. Once they are sentenced and at Tecumseh being the security level, it is very difficult to find a place that would accept and be able to necessarily handle that level of security. At Tecumseh we do have an infirmary where people can receive medical and mental healthcare, at least at that time. If it's severe enough, you know, they can send them out. We've been very fortunate with having a mental health unit now in the department, which we did not have before. [LR424]

SENATOR KRIST: We didn't have that when Mr. Jenkins was there? [LR424]

DR. NATALIE BAKER: It was. I think it's been around since about 2006 or '07. [LR424]

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SENATOR KRIST: So the picture that I'm looking at here is a man who is in segregation, who has done serious harm to himself, we stitch him up and throw him back in the hole? [LR424]

DR. NATALIE BAKER: That is what happened. But a lot of it was that it wasn't necessarily the feelings that he had a mental illness. [LR424]

SENATOR KRIST: You're talking about the feelings that other judgments were made that he didn't have a mental illness. [LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR KRIST: Were you consulted on whether or not he should go back into segregation after doing serious bodily injury to himself? [LR424]

DR. NATALIE BAKER: They don't consult me for where people's disposition, where they go. [LR424]

SENATOR KRIST: Okay. That...one more question. Did you at anytime request or find background information from the Douglas County doctor...the doctor's opinion and his diagnosis? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR KRIST: So you knew that there was supported documentation for what you believed in as well? [LR424]

DR. NATALIE BAKER: Yes, I did. [LR424]

SENATOR KRIST: So now we have three psychiatrists, you being the principal, and you

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did a great job, let me say that. Prior to that, Douglas County and Dr. Wetzel were all confirming that this man had mental issues...has mental issues, mental diagnosis.

[LR424]

DR. NATALIE BAKER: Yes. [LR424]

SENATOR KRIST: Thank you very much. [LR424]

SENATOR LATHROP: Senator Mello. [LR424]

SENATOR MELLO: Thank you, Chairman Lathrop; and thank you, Dr. Baker, for your testimony today. I understand that with doctor-patient confidentiality issues that exist in regards to not just Mr. Jenkins but other patients that you would assist with the Department of Corrections, but through our previous couple other hearings, it seems to be an issue that's been raised to some extent, which is whether or not employees within the Department of Corrections, and we can take anecdotally within state government, feel they have enough whistle-blower protections to be able to, when something is not right, to be able to come forward and tell someone something is not right. At least hearing from Senator Lathrop's questioning in regards to your diagnosis that was consistent over the period of years with Mr. Jenkins, that you had someone above you that was challenging that and ultimately chose a different path even though you had documentation from Dr. Oliveto, as well as ultimately Dr. Wetzel as well, to give some credibility to the diagnosis you gave. I understand you wear a unique hat because you're also a contractor as well as a direct...direct employee with the Department of Corrections, but... [LR424]

DR. NATALIE BAKER: I'm not...I'm just a contract for both, for CCS and the department. [LR424]

SENATOR MELLO: Okay, for both. And maybe this is...maybe this isn't...I guess the

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question maybe will elicit a different response than in respects to you being a contractor, but is that...was that ever...did that ever cross your mind in the sense that if you came forward and talked to the Ombudsman's Office or talked to some other entity outside the Department of Corrections in regards to questioning what was going on there, that you would fear any kind of retribution, contractually or financially, with your contract with the department? [LR424]

DR. NATALIE BAKER: I didn't feel that at the facility itself that I was able to really get very far and that's why I did go above to Dr. Weilage and Dr. White. Because, again, I also do contract to the department and, you know, go to other facilities. And it was difficult because there was just such a difference of opinion and that's why I really wanted someone else to come see him. And, you know, to...am I, you know, am I just off or something or what do we need to do? And just as time went on, it just became more evident that, you know, that this...there was mental illness and things that needed to be addressed, definitely. [LR424]

SENATOR MELLO: Did you feel that you had that ability at any point in time that things weren't going right, so to speak, or that your professional judgment was being challenged every step of the way and you just felt that you could have gone somewhere else and say, something just doesn't feel right in regards to this situation and I want to let someone else know, and I'm going to try to address it in regards to the higher-ups at the Department of Corrections, but I just wanted to let someone else know that someone else may want to consider to start asking questions about what's going on in this department. Has that...was that ever...did that ever cross your mind? Was it ever presented to you in any of your contracts with the department that if there's something that didn't feel right or didn't seem right that you had a pathway or an avenue to raise those concerns to an independent entity or someone in the Department of Corrections that could be your voice to say, we'll get to the bottom of it? [LR424]

DR. NATALIE BAKER: It's difficult because being a contractor, I'm not involved in the

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meetings and the things that happen, you know, to the patients and, you know, when the mental illness review teams, and all, I don't know all the undergoings. All I know is if you feel strongly about something, I just tried to keep trying to figure out what we can do. I definitely not...it was not a good situation, not an easy situation, and Corrections' still remains very challenging. But that, you know, you keep thinking, too, well, we're going to try and get this and, you know, we need to do something for this individual and to get him treatment. And I didn't just say, you know, offhand, you know, or call somebody. I mean, you try and fill out the form so that everybody is aware so that, you know, we can do that. I definitely learned and I don't know, you know, exactly, you know, what I should have done differently in this respect. Again, I felt that he was transferred to Lincoln and was getting care. I, you know, I think some, you know, positive things with the mental health unit and things are happening in Corrections. And Tecumseh is a little different because they do have Correct Care Solutions there. And I'm hoping that, you know, it can be a team approach to patients. I really do hope that. [LR424]

SENATOR MELLO: More looking forward, is this something that we as a Legislature should be considering in a bigger picture issue outside of this one particular case with Mr. Jenkins is ensuring that not just state employees but state contractors in your particular instance, which serves a pretty unique role, I'm not saying that you're not a contractor that's providing a direct product or good the way that an Office Depot would provide paper to the Department of Corrections. [LR424]

DR. NATALIE BAKER: Right. [LR424]

SENATOR MELLO: You're providing a direct service internally within an agency that's pretty vital to the operations of that agency. Do you think you should have the same kind of whistle-blower protections that state employees have in the sense of being able to contact the Ombudsman's Office or contact the Legislature, a senator on an organization entity's behalf in regards to identifying challenges or problems that are

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existing within a state agency that you feel needs to be addressed or needs to be looked into? [LR424]

DR. NATALIE BAKER: It is difficult because, you know, I am a board-certified psychiatrist. I've been in Corrections for 15 years. There's a lot of turnover in Corrections. I have always felt very vested. It's what I have done since I've been a resident. I don't know if that always carries over. I've seen a lot of people come and go and there's probably, unfortunately due to this case, just a lot of people have left, some good people too. And that's difficult because you do have people who come on board and you really...I think, there needs to be maybe another way that if this is not matching up maybe to what other people are feeling, to be able to have more of a consensus. Because it is very difficult if you're in a system and you're kind of maybe stating something that others don't believe is true and yet you feel just something is not quite right, how do you address that? Is it with Ombudsman? Is it with the staff? How to bring that together, I don't know. [LR424]

SENATOR MELLO: Thank you. [LR424]

SENATOR LATHROP: Senator Seiler. [LR424]

SENATOR SEILER: I'd like to ask you a question. Are these handwritten notes you're writing? [LR424]

DR. NATALIE BAKER: Yes, they are. [LR424]

SENATOR SEILER: Did you skip the "doctors can't write" class? (Laughter) [LR424]

DR. NATALIE BAKER: Nurses have always liked that. I've always tried to...so you can read it. [LR424]

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SENATOR SEILER: It was excellent. I thought you had to dictate that to one of your staff people. [LR424]

DR. NATALIE BAKER: Thank you. [LR424]

SENATOR SEILER: Don't change that as long as you practice. [LR424]

DR. NATALIE BAKER: I'm trying not to. [LR424]

SENATOR SEILER: And the other thing is, is that you did as you drew your analysis, you drew your diagnosis and you stayed with them. And I say that with a lot of respect because I was a mental health chairman for 15 years in Hastings. We did everything from five to ten cases a week with that many psychiatrists. And most of them changed their diagnosis about every two weeks. And I noticed you were verbatim on your diagnosis. Continue to do that and thank you for coming. [LR424]

DR. NATALIE BAKER: Thank you. [LR424]

SENATOR LATHROP: Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you for your testimony today. It's been very helpful. One comment you made when you were talking about your discussions with Mr. Jenkins, is that he told you, I have no beef with you. Who did he have a beef with? What caused the beef? [LR424]

DR. NATALIE BAKER: What he told me, and maybe what I heard are...probably weren't always the same. As you've heard, he would ask for, you know, psychotherapy and things. But I did hear from mental health staff that he had refused, you know, to talk to them. So, you know, I don't know what measures were kind of taken to see. I think he may have seen different mental health staff during that time, but when I saw him he was

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always willing, you know, at least to talk to me and things. I don't know if he presented differently, and why, maybe to the mental health staff. [LR424]

SENATOR SCHUMACHER: Then maybe...that leads to the next kind of question. From everything we've heard about his condition, the things he was saying, the prolonged period, the actual expectation what you would expect to see about somebody who is confined by themselves 23 hours a day for a net of six years, this guy had some serious problems. But yet the impression that we're getting is...or at least that I'm getting, is that the mental health staff, state employees, these psychologists, were pretty adamant that, no, he's a behavior problem, lock him up and throw away the key and, you know, it will take care of itself. Was there a building war of wills between Jenkins and the institution? And is that what we're seeing playing out here? And does it play out with other inmates? You know, by gosh, we will show you. Oh, no, you won't. And you got this unusual situation of solitary confinement, all of the bad things associated with that. Is that what we're seeing here from a psychological point of view? Is that driving this? [LR424]

DR. NATALIE BAKER: I would hope not. I, I...again I've been in Corrections a long time. I don't feel I'm hardened against patients that, you know, there's good days and bad days and they're in a very difficult situation. And we all hope that we're there to help them, no matter what. I think we see a lot of antisocial personality issues in the patients that we care for. And sometimes, maybe that overshadows some of the mental health issues that are also there. And I think it is important to remember that people can have significant personality, you know, antisocial issues, but also have mental illness as well. And that, you know, that the way people do the best is usually is medication and therapy. I mean, that's really what you hope is not just medications, not just therapy, that you put it together. And, you know, hopefully, that's something that, you know, we will be able to continue to work on of doing that. And that's what I hope, you know, everybody's goal is, you know, when you're in mental health is to try and help people that way. [LR424]

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SENATOR SCHUMACHER: Well, with this solitary confinement mechanism, and there's a couple hundred people supposedly under that system at any given time, I mean, how can you call that therapy? That's almost antitherapy. It's feeding the cardiac patient lard. Is any effort made from your level or the psychology staff level there to say, look at...this mechanism is not doing society any good and is not doing these inmates any good? And to bring psychiatric care in or medication in or behavioral therapy in, or whatever, is just a drop in a bucket compared to the flood of environmental factors that this odd setting puts on people. Any effort at all along that line? I mean... [LR424]

DR. NATALIE BAKER: I think there have been some very positive...one thing since, again since Tecumseh has opened, is the mental health unit. They have review teams that come and see people. We now have a multidisciplinary team at Tecumseh. We meet monthly to discuss not only patients in segregation but also those in general population. Dr. Weilage is seeing patients in segregation now involving in group treatments, actually bring, you know, some of the patients out and to work with them. It has been difficult at times. Staffing, I think, sometimes has been difficult. I know the patient load has increased for myself and, you know, they're looking for more help. I think that will help the situation, too, to have more providers. And they've added a social worker at Tecumseh, which is not something we had. Recently they're using a discharge review team in looking at people before they go out, which I think is extremely important and very helpful. [LR424]

SENATOR SCHUMACHER: How much of this did they have before Jenkins was released? Is this all new stuff? [LR424]

DR. NATALIE BAKER: Well, they may not have had it when he first was at Tecumseh. This has probably been developing during that time and since he's left. The mental health unit has definitely expanded over the last few years. They've taken some very difficult patients who have been in segregation for long periods of time and so have been able to take them to Lincoln and work with them in a more therapeutic milieu. So

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they're trying to work with some of these people. But there is always a lot of people in segregation and I think they are looking at what are more they can do. I think they're increasing more yard time in being able to do some of these other things so that they aren't just sitting all the time. [LR424]

SENATOR SCHUMACHER: How much in touch with the actual functioning at the ground level, kind of the level that you were working with and these concerns, how much in touch is upper management at level? I mean, is there an effort to...from the decision makers high in the department to communicate with the people who are having these frustrations on the ground? [LR424]

DR. NATALIE BAKER: Well, as you saw, I mean, there's some ways of communicating and another thing is, I've always sometimes felt I was on an island just because I moved from facility to facility so I don't always have a lot of contact with some of the other providers. But Dr. White has organized, now we have provider meetings where I actually see the other providers at the other facilities and that has been very helpful to do that. I think the mental health and administration, the staff probably communicate more because they have meetings and things. Because I contract, I think I'm probably a little more outside the loop of some of that. [LR424]

SENATOR SCHUMACHER: Thank you, Doctor. It's been very helpful. [LR424]

SENATOR LATHROP: Senator Chambers, you got questions? Senator Chambers, you're recognized. [LR424]

SENATOR CHAMBERS: Dr. Baker, I always start with comments. When there was a little boy, a little black kid, he was talking to his father and he said, daddy, why is it...because he's beginning to learn something about black history, he said, why is it that in Africa where black people are, there's a white guy who owns all the animals? Lions are afraid of him. Everybody knows that a white man can't beat a lion. Why does the

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story always work out like that, daddy? And his father said, son, as long as the white man can write and the lion cannot, the white man in every story is going to whip the lion. When you have history and a lot of other things written by men, men are always the heroes. So if I use a masculine example, don't take it disparagingly because I have to for my purpose. As I was reading through this material, you know what I thought of? I'm looking at a Gulliver among Lilliputians. You were the Gulliver. I thought when I saw how you stood, as the chairman pointed out, consistently with all of the yappers and yammers around you, I thought of that verse about John the Baptist, the voice of one crying in the wilderness. Even though people were not listening, and it was like being in the wilderness, he did not change his message. Although when you jump forward to the end of the story, he did lose his head. That won't happen to you. (Laughter) [LR424]

DR. NATALIE BAKER: Good. (Laughter) Happy to...(inaudible). [LR424]

SENATOR CHAMBERS: I was waiting for the response. (Laughter) There was...I also thought because I love animals, four-footed, two-footed, no-footed, which would include snakes, and I thought of another bit of imagery: a majestic, regal lioness among sharp-teeth little jackals, yipping, yapping, jackals with their little sharp teeth. And there stood the lioness. Then when we come to the professionalism that you have based on training, experience, and education, the architect, the person of ideas, creativity and imagination, that will take a clean piece of paper and bring something out of nothing onto that paper, then overseeing a structure erected. The Sistine Chapel, I don't know. The Empire State Building, I don't know. But I'll tell you what, it's something that no carpenter could do. And in this situation, as the chairman said it in his own way through his questioning, we had an architect being countermanded by carpenters. I think when I look at their names and the term doctors there, it has to be an honorary title. And it certainly, we know, would not indicate a medical degree. So with no knowledge, no education, no training, they're going to be presumptuous enough to overrule the expert. I have a few things that I'm going to touch on. I'll tell you why I'm so exercised. I contacted Director Houston about Nikko Jenkins. And Mr. Houston knows, as

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everybody who has ever dealt with me knows, that if I get my teeth in something I'm not going to let go. So he gave me reason to believe that Nikko Jenkins was going to be given mental healthcare. Then I get this information from the e-mails and I look at how long he was kept continuously in segregation from July 19 of 2011 to July 30 of 2013. And during that time would have been the period when Mr. Houston with his lying, deceitful self, had led me to believe that something was being done in the way of mental health treatment for Nikko Jenkins. When I sat in a hearing where the quacks from the state HHS...the quacks work for HHS, that's who hires the quacks. It was developed during the testimony from a new guy who had come here, he's a psychiatrist, now he'll be quacking pretty soon. He hadn't learned how to quack yet so he was telling the truth about what it takes to really give mental health rehabilitative assistance to an individual, even one who might be deemed dangerous, and how in the therapeutic setting, they may have to have a secure area where people watch, but the person is not kept perpetually in restraints. There are periods of time when that person is given a socialization opportunity to be around other people and will never be kept in solitary confinement as they do in a penal facility 23 hours out of the day. So there's no way that Houston could have been telling me the truth when he said that after my contact with him, Nikko Jenkins was going to be given this mental healthcare. And I find that out when I look at the documentation that the staff has obtained of this long period of solitary confinement. But I just have a couple of things, then I'm going to let this go. And it's going to go back to the validity of what you said and to show how the quackers and the jackals, the carpenters were totally wrong. But they had banded together and I think gotten orders from upstairs that Nikko Jenkins is to be handled like no other person had ever been handled before. They had mass murderers at the Lincoln Regional Center. They had them. There had been referrals of murderers to the Regional Center. That's where you send people who are insane and committed murder and they dealt with them. Nikko Jenkins was handled differently from the way any other person has been handled in this state and that was developed by way of testimony in a courtroom where I was present. But here are a couple of things I want to touch on and then I'm going to leave it alone because I want this in the record. On May 2 of 2012, Nikko Jenkins cut his

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face with a shelf and stated to the guard, look at what Apophis told me to do. Nikko again stated that his mental state is deteriorating, that the meds don't help, and that he's not getting proper treatment. Then there was a photo which indicated that he had used his blood to write with and the words were "Apophis, evil Nikko" on the wall. That same day, there's e-mail from some person called "Pearson" to a person called "White" expressing...oh, and Weilage or whatever his name is, and Shantrice Gibson, whoever that is, and this dealt with the incident of Nikko cutting himself, his face on the shelf. And this Pearson wrote, quote: It's hard to believe someone could bang their head on a shelf and have vertical cuts like he has. If you read the misconduct report...it appears that he may have fallen off of his sink and cut his face on the shelf. He also hasn't been cutting himself and I would think it unlikely that someone who is so attentive to appearance would initiate by cutting in a way that could be potentially disfiguring to his face. That's this Pearson...he hasn't been cutting himself. It's not likely in this Pearson's view, the carpenter's view, that he would deliberately do this. That's on May 2. So let's go to July...I mean, January 18 of 2013. Nikko used a floor tile to cut his face. Now, remember, expert Pearson said, he wouldn't do that because he wouldn't deliberately disfigure his face, so he was lying when he said that he banged his head on the shelf, he fell off of a sink. In the report he states that he was having a psychotic episode and had been requesting treatment. He had also been in isolation for 18 months. Three inmates wrote reports regarding the event. All three stated that Nikko had been requesting help for his mental illness. One stated that Nikko made requests throughout the day, but was ignored. I don't see where carpenter Pearson had any comments about that and shows how little she knew, but she's not trained medically. She's a state employee going along with the program, a part of the mislabeling of this situation. We go to May 25 of 2014 (sic--2013), a few months before Nikko is to be released. May 25, he was asking for therapy, but here's what happened on May 22. Nikko again cut his face, smearing blood and water on the walls. He stated he either had to hurt someone or himself. He again stated he was not receiving therapy and proper care. Notes from the May 22 incident indicate that Nikko told nurses that he cut himself because he heard voices and the voices told him to do it, and he wanted to be seen by mental health. In

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the same way that your diagnoses were consistent, his requests for mental healthcare were consistent. And a few days before that--I'm going backwards--he again had cut himself. He used a broken sprinkler head to cut his face. That was May 14. Then eight days later on May 22, he again cut himself. Now I don't know how many people may have cut themselves, but if you are in your right mind, cutting like that is painful. You don't do it systematically and several times. Something is wrong and it's clear from the record from the time this man was a 7-year-old child, you have an unbroken record of these kind of activities, self-harm, harm to others, threats to others, requests for help, and he never got it, ever. The one who tried to get them to do the right thing with the state at the state level, now at Douglas County there was a different treatment toward him. But at the state level where it really became aggravated and the long periods of unbroken solitary confinement, all the state employees said the same thing. Nothing's wrong with him. But one woman, after he got out, she was worried, she said, well, as long as he doesn't go southeast...I guess that's down in the lower part of the state where she lived, she wouldn't be worried about him. There was a comment from the Parole Board. Maybe I'll wait until that guy comes up here who dealt with that person but that person at the Parole Board with the Parole administration had asked the question, why is this man not in mental health facility? And pointed out that she was scared to death. Then one of these persons with the little sharp teeth wrote that person and assured her that we're aware of this, we're doing what needs to be done, and if you have any other problems, well, just let us know. And he was still in solitary. But here's how I'm going to wrap it up. There were some e-mails from some Parole officers after Nikko was out. August 30, 2013, e-mails from some Parole officers after Jenkins was arrested, quote: Didn't take long to catch another possible murder charge. We knew Omaha wasn't safe when he got out. It's sad that it happened that quick. Four people. If Nikko's request for commitment had been granted, if his mother's request had been granted, if your suggestion that there be commitment had been granted, he would be, right now, in a facility being treated and four people would still be walking this earth. But the jackals with their sharp little teeth, the carpenters who would be architects, nixed all of that and said this man who on at least four separate occasions cut his face, had done

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other things, had pleaded for help. Oh, and by the way, that last time of cutting himself, he cut his face on May 22, on May 23 he was put in five-point restraints continuing to request to be seen by mental health. And those jackals are going to say that there was nothing wrong with him. The carpenters are going to say there was nothing wrong with him. And the psychiatrist said, oh, but wait. And here's how I wrap it up. I have to use the man again because they burn women at the stake. Galileo, who is dealing with a very authoritarian operation, which created the world in its own image. Well, Galileo studied the divine constellations of the heavens and the movements of the stars and he knew that the earth moved. But this authoritarian organization said no, the earth is the center of the universe and that is the truth, not what you say. So Galileo said, no, I'm a scientist, the facts are that the earth moves. So they put him on a rack, a wheel. His back was on the wheel and these righteous people turned the crank and as they turned the crank, then these ropes that attached him to the wheel went taut. Then when they could give no more, then that which did give, began to give. Tendons, ligaments stretched, great pain shot through his body. And they said, you know what you have to say Galileo to get us to stop this. And Galileo knew they were talking about the earth, so Galileo said, it doesn't move, it doesn't move, it doesn't move. Talking about the earth. So they began to loosen the wheel and as the tendons and ligaments resumed to the extent that they could, their normal position, the muscles reconfigured the way they should have been, then Galileo's...the mind of the scientist took over, that knowledge that he had reasserted itself, and when he no longer was under that great agony, he said, but it does move. The earth does move. They had you on the wheel, you did not cease to say what your training, your knowledge told you was the truth. The jackals were nipping at your heels and biting with their little sharp teeth and you didn't give up. The Lilliputians got their little slingshots and little stones and threw them and hit you on the ankles and you stood. So whatever happens to you from now on, you can look back to at least one point in your life when you vindicated all of the truth that you had accumulated and you behaved in the way that a person, not just with knowledge, but who has conviction and courage, would behave. And it's clear from reading these reports that there were points when you didn't feel that you had the backing you should

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have and you might have wondered if there was a different way you should go. Look, a person can only be courageous when the person is afraid. If you had no fear, you can be bold, you can be brave, you can be foolhardy, but courage is the ability to act when you are afraid. And you overcome the fear and do the thing that's right because you know it's right and that's what you did. You won't get to read your epitaph. You won't get to hear all of the flowery statements made when you're lying in that box. You won't smell all the flowers that people will bring to honor a corpse because people, for some reason, cannot give flowers to people while they can smell them, will not express those encouraging words when they will mean something to the person who is struggling. But I wanted to say them to you and I want them to be a matter of record and I want the sharp-teethed little jackals to know that a day of reckoning does come. They will not always be in transcendence and their very words will come back to haunt them because as cynical as I am, as skeptical as I am, on occasion truth will prevail and evil will fail. So I applaud you for what you did and you have given us, who are not informed in this area and are not experts, the hook we need on which to hang our little garment that we're putting together now. And we're going to make sure to the extent that we can that something like this never happens again. Personally, I hope every family who lost a member sues this state and I hope they win. And when they get this information and see how these hacks and quacks carried on, how they had knowledge, how they even talked about a discharge plan, how even after Nikko Jenkins was released some of them expressed fear of what might happen, but they did everything they could to cover up the reality, to facilitate a desperately mentally ill man being released. And that I told a reporter to try to get him to understand what I was talking about, when you torment an animal, that's called baiting. So you put a panther in a cage and you stand out there with a sharp stick and you stick him and you jab him; and if he comes towards you, you smack him across the snout and you continue to torment him, and then when he's roaring, then you open the door and step aside and let him go out. And then you blame him for what you made him. This state created Nikko Jenkins. This state is responsible for what Nikko Jenkins did. That doesn't mean he has no culpability as an individual. But without what these little jackals did, and prevented from being done that needed to be

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done, facilitated and made possible what Nikko Jenkins did, keeping him in solitary as long as they did, encouraging him to harm himself in the way that he did, you could predict the outcome. But they didn't have to predict it, he told them over and over and over. And as release day came, he said, I don't want to be discharged. And they said, oh, but you will be. And here's what I think is behind it, because you're going to go back out there among black people. And you're going to be the virus that we're going to send into that community and we're going to kill two creatures with one stone. We created you, and now you go forth and do what we equipped and prepared you to do. And they opened the cage door and he came forth roaring, and he did what they knew he would do, what he told them he would do, and he asked them to help stop him from doing. That is why throughout this hearing I've been so upset because not only was Nikko speaking, not only did the Ombudsman's Office intervene, not only did I talk to the director and he even acknowledged to the media through his spokesperson that he was well-aware of my concerns about Nikko Jenkins. But I wasn't in the Legislature then. He probably thought I'd never come back so he could what they call on the street, he could play me. And I'll acknowledge it. He tricked me. He snookered me. He made a chump out of me. He made a sucker out of me that other people had to pay for it with their lives, and their families are still suffering to this day. Every time there's another hearing in court, every time there's an action of the kind we're putting forth now, even if those families can see what we're trying to do, that doesn't take away the pain. There's no such thing as closure. That's a word and that's all that it is. That pain is always there because these are deaths that could have been prevented and they didn't have to occur. And there was a doctor who deliberately withheld information from the Johnson County Attorney who wanted that information and made it clear to these people. He wants that information so he can pursue civil commitment. They reached a point where they wouldn't even respond to him, wouldn't even respond. And they didn't talk to you and say, send to the Johnson County Attorney what your conclusions are because when this man jams out...he wasn't paroled. He didn't get out early. When he jams out, we're going to have somebody waiting to take him to a place that's safe for him and that will make it possible for everybody else to be safe. Right now, there's pressure on the

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Department of Corrections, but we don't know that there's not another Nikko Jenkins who is not as demonstrative about his own mental illness, who is not telling them, keep me here, I don't want to get out. But when he or she gets out, and we look at what happened to that person while in the state's custody, we'll say, oops, again. Now, you may feel like a sounding board that my main reason for saying this is so that you will know, and you can get a transcript of what we say, and you can show it to your grandchildren when you have some in about 70 years, this is what somebody thought of your grandma when she was out there doing what needed to be done and I want you to take this as an example. And when everybody is on the other side of the issue but you think you're right, when you know you're right, then you go ahead. And you just keep doing what you're doing. And if they try to mess with you because you came here, I hope you'll tell me. And in fact, not for your sake, I hope they will to give me a cause and an...not an excuse, a justification. And I will show them what it means to mess with somebody their own size, because I can deal with them. I know how to deal with them. They just need to give me the opportunity. But thank you very much. [LR424]

DR. NATALIE BAKER: Thank you. [LR424]

SENATOR LATHROP: Dr. Baker, I think that's it. [LR424]

DR. NATALIE BAKER: Okay. [LR424]

SENATOR LATHROP: I, too, want to thank you for coming here today and for what you've done and your testimony and for standing your ground when you did. We are going to have another witness. Is Dr. Wetzel here? Dr. Wetzel, you are relieved from your subpoena. I'm not going to call you as it turns out. We're going to take ten minutes so the people on the committee and so forth may stretch their legs and we'll be back here at 4:15. Thank you. [LR424]

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SENATOR LATHROP: Okay, so are we good to go? Okay. We are going to...looks like we're waiting on Mello and Bolz, but I think we can begin since we're past the point where I said we were going to start back up again. So it is 9...pardon me, 4:18. This is the LR424 committee. We're going to resume our hearing and begin this segment of the hearing by calling Dr. Wellegg (phonetic). Did I pronounce that right? [LR424]

DR. MARK WEILAGE: Wylaj (phonetic). [LR424]

SENATOR LATHROP: Wylaj (phonetic). Okay, Dr. Weilage, why don't we have you come on up and we'll first have you be sworn in. So before you sit down if you can raise your right hand. Sir, is the testimony you're about to give...do you swear the testimony you're about to give to the Special Investigative Committee will be the truth, the whole truth, and nothing but the truth? [LR424]

DR. MARK WEILAGE: I do. [LR424]

SENATOR LATHROP: All right. Thank you. Have a seat. Will you recite your name for us and then spell your last name, please? [LR424]

DR. MARK WEILAGE: Yes. Mark Weilage, W-e-i-l-a-g-e. [LR424]

SENATOR LATHROP: Okay, Dr. Weilage. Are you employed at the present time? [LR424]

DR. MARK WEILAGE: Yes, I am. [LR424]

SENATOR LATHROP: And by whom are you employed? [LR424]

DR. MARK WEILAGE: The Department of Corrections. [LR424]

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SENATOR LATHROP: How long have you been employed by the Department of Corrections? [LR424]

DR. MARK WEILAGE: Almost 15 years. [LR424]

SENATOR LATHROP: And what is your current...in what capacity are you employed at the current time by the Department of Corrections? [LR424]

DR. MARK WEILAGE: I am the assistant behavioral health administrator for mental health. [LR424]

SENATOR LATHROP: Assistant behavioral health... [LR424]

DR. MARK WEILAGE: Administrator. [LR424]

SENATOR LATHROP: ...assistant behavioral health administrator for mental health. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Okay. Tell me where you are in the corporate structure that is...that they maintain at the Department of Corrections. [LR424]

DR. MARK WEILAGE: I'm responsible for mental health services which would be our services for mentally ill offenders and violent offenders. I'm kind of on the same level as the assistant behavioral health administrator for sex offender services and the assistant behavioral health administrator for substance abuse. And then above me is Dr. White, then Dr. Kohl, who is the medical director...or deputy director for health services, and then the director. [LR424]

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SENATOR LATHROP: So in the corporate structure there is yourself, you have contemporaries who deal with other types of prisoners who have different mental health problems, like substance abuse, but yours is mental health and above you is Dr. Cameron White and above him is... [LR424]

DR. MARK WEILAGE: Dr. Randy Kohl. [LR424]

SENATOR LATHROP: ...Dr. Randy Kohl, who is in charge of all health issues. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: So he's covering pneumonia and he's covering mental health, right? And above him is the director. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Okay. Have you always maintained this position? Has that always been your job at the Department of Corrections or have you had other jobs? [LR424]

DR. MARK WEILAGE: No, it hasn't. I've had other jobs. [LR424]

SENATOR LATHROP: What other work have you done? [LR424]

DR. MARK WEILAGE: I was the psychologist supervisor for the Omaha Correctional Center from '99 until 2005 when I became...went into this current position. [LR424]

SENATOR LATHROP: So you've been there ten years. [LR424]

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DR. MARK WEILAGE: In the current position, yes. [LR424]

SENATOR LATHROP: Almost ten years. [LR424]

DR. MARK WEILAGE: Almost. [LR424]

SENATOR LATHROP: Okay. And so tell us what your education is. [LR424]

DR. MARK WEILAGE: I have a Ph.D. in clinical psychology from the University of Nebraska-Lincoln. I have a master's degree from the University of Nebraska-Lincoln. I have a bachelor's degree from Doane College. [LR424]

SENATOR LATHROP: Okay. I'm going to make sure you talk up so we can get a decent record. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: Okay. And that's not to be rude or to try to humiliate you. [LR424]

DR. MARK WEILAGE: No, that's okay. [LR424]

SENATOR LATHROP: I just need to make sure that we have you talking up loud enough for us to hear you. [LR424]

DR. MARK WEILAGE: Sure. [LR424]

SENATOR LATHROP: Okay. The...what...you said in 2005 you got your doctorate degree? [LR424]

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DR. MARK WEILAGE: No, I received my doctorate degree in 1997. [LR424]

SENATOR LATHROP: '97 you were OCC and then you went to your current position in 2005. [LR424]

DR. MARK WEILAGE: Prior to starting with the Department of Corrections, I was in private practice for a number of years. [LR424]

SENATOR LATHROP: Okay, where you saw patients? Were they adolescents or adults or what did you specialize in? [LR424]

DR. MARK WEILAGE: Adults and late adolescents and then some geriatrics as well (inaudible). [LR424]

SENATOR LATHROP: Okay. How much of your duties, since you've been at Tecumseh...are you at Tecumseh or are you in charge of all the different institutions? [LR424]

DR. MARK WEILAGE: I'm in charge of mental health services for all the institutions. My office is at the Nebraska State Penitentiary. But the reality of my job is that I go kind of where...if we're short-staffed, I'll go help out there. If we have somebody...a certain need, I'll go consult, go see clients. I've worked at all the institutions or provided services at all the institutions. [LR424]

SENATOR LATHROP: Does...we're back in the relevant time that we're talking about during sort of the last two or three years of Jenkins' stay at Tecumseh. Did they have psychologists that were...worked just at Tecumseh? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

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SENATOR LATHROP: And would that be Pearson and Geiger? [LR424]

DR. MARK WEILAGE: And also Dr. Gibson, Shantrice Gibson was also there at that time. [LR424]

SENATOR LATHROP: Okay. So were you their supervisor? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: As a supervisor and the person holding the position that you held, did you have access to all the inmates' records? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So if I am a mental health provider and I am at the department and I'm assigned to Tecumseh and I make an entry, is there an electronic record that you can read? [LR424]

DR. MARK WEILAGE: Starting in April of 2011, we transitioned over to primarily an electronic mental health record. So at that point, it was easier for me to review those because they're on our electronic system. There's a few things that because they're generated in paper form that they stayed in the paper file, but primarily it was an electronic record after that point. [LR424]

SENATOR LATHROP: When they did that in 2011, did they go back and scan and put into place things that were older than 2011 or was that just sort of going forward, we'll make this stuff available on-line? [LR424]

DR. MARK WEILAGE: Yes, going forward. [LR424]

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SENATOR LATHROP: Okay. Does your...do your duties...do you generally oversee or review medical...mental health records from people that are getting care in the system? [LR424]

DR. MARK WEILAGE: At different times, yes. [LR424]

SENATOR LATHROP: What would precipitate or bring you to review records of an inmate? [LR424]

DR. MARK WEILAGE: Request from a mental health staff person, request from psychiatry, request from institutional staff perhaps that they wanted my opinion on something, they'd request that I see them. [LR424]

SENATOR LATHROP: Okay. And so how much of your time is spent in administration and how much of it is spent actually directly involved in the assessment, care, or treatment of an inmate? [LR424]

DR. MARK WEILAGE: My job definition says that it's 50-50, although I probably end up doing more clinical work than administrative work. That's just the way it seems to turn out. There's always other clinical work that can be done that I assist with at various institutions. [LR424]

SENATOR LATHROP: If you have three psychologists that are all Ph.D.'s at Tecumseh during this period of time? [LR424]

DR. MARK WEILAGE: They weren't all there at the same time. We're allocated two psychologist positions at Tecumseh. And at various times there's one psychologist, sometimes there's two, but not three at the same time. [LR424]

SENATOR LATHROP: Okay. If you have one or two psychologists at Tecumseh, why

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would they ever bring you in? What kind of things do they go, well, we'd better bring Dr. Weilage in? [LR424]

DR. MARK WEILAGE: Second opinion about a difficult client in thought. That's usually what it is, like a second opinion about a difficult client. [LR424]

SENATOR LATHROP: Okay. So when you say that you are...50 percent or more of your time is spent doing clinical work, that would be spent on difficult clients other psychologists have brought you in for, for perhaps a second opinion. [LR424]

DR. MARK WEILAGE: That's one of the reasons. The other thing that I do is fill in if we are...have a...are down a staff person someplace. For example, if somebody was out on extended sick leave at the women's facility, I went out there and handled all the intakes for...or not all of them. I handled a lot of the intake evaluations for new admissions into the women's facility. I did the same thing when we were without a psychologist at our Diagnostic and Evaluation Center. I supervised and saw clients, 90-day evaluators, and things like that during that period. So those are the types of things. It's not a specific case but an incident or instance where I have the experience, since I've kind of done all the different things within the department, I'm able to kind of able to plug myself in at the different institutions and provide assistance. [LR424]

SENATOR LATHROP: Okay. And that's generally done when an institution is shorthanded or when you've been asked to come in. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: If you get asked to come in and do an assessment or an evaluation of an inmate, do you review their file before you do that? [LR424]

DR. MARK WEILAGE: At some point I review the file, depending on what the nature of

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the referral is. If it's urgent, I may see the person without reviewing the file and then indicate that I may need to come back after I review the file. It depends on the urgency of the referral. [LR424]

SENATOR LATHROP: Okay. Do you have access to or would you have had access to the medical records generated by Dr. Baker before you saw Mr. Jenkins? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And I know that you saw him at least on one occasion, right? [LR424]

DR. MARK WEILAGE: That I saw the records or Mr. Jenkins? [LR424]

SENATOR LATHROP: Mr. Jenkins. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Somewhere, maybe February 8 of 2012? [LR424]

DR. MARK WEILAGE: Probably, yes. [LR424]

SENATOR LATHROP: Okay. Do you remember why you were called upon to see Mr. Jenkins then? [LR424]

DR. MARK WEILAGE: Not off the top of my head. [LR424]

SENATOR LATHROP: Can you tell me, did you do anything to prepare for your testimony today? [LR424]

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DR. MARK WEILAGE: I have reviewed the record and...in the last year. I mean, I have reviewed it on a number of occasions, yes. [LR424]

SENATOR LATHROP: So...but have you reviewed the record in the last week? [LR424]

DR. MARK WEILAGE: Some of it, not all of it. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR LATHROP: It would be natural if you had. I'm not suggesting there's something wrong with it if you had. [LR424]

DR. MARK WEILAGE: I've reviewed some of it. I did not go through page by page in the last week. [LR424]

SENATOR LATHROP: Okay. You did do an evaluation and that was February 8 of 2012. Do you remember that? By the way, you can open that book. This isn't a test to test your memory. On page 114 it looks like an assessment. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: Do you recognize that document? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And is that a note from an assessment or an evaluation you did February 8, 2012? [LR424]

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DR. MARK WEILAGE: It is a summary that was submitted as a mental illness review team referral form or review form that was generated by me. [LR424]

SENATOR LATHROP: Okay. And if I can draw your attention down to the bottom of page...of the first page of that report where it says diagnostic impressions, says, most recent diagnosis per Baker, Dr. Baker, includes psychosis NOS, possible bipolar affective disorder with psychotic features, or delusional disorder grandiose type, probable PTSD relational problem, NOS, polysubstance dependence (THC, wet) and (ETOH) antisocial and narcissistic traits. Had Dr. Baker recently done, in relationship to this report, had she recently done an evaluation and offered a diagnosis before you came to do this evaluation on February 8, 2012? [LR424]

DR. MARK WEILAGE: I don't know the date of the diagnosis that I listed there. [LR424]

SENATOR LATHROP: It does suggest it's recent. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And so in the wake of her evaluation, you were called upon to evaluate Mr. Jenkins? [LR424]

DR. MARK WEILAGE: Right. [LR424]

SENATOR LATHROP: Do you know who called you in for this evaluation? [LR424]

DR. MARK WEILAGE: I don't recall, probably mental health staff at the institution. [LR424]

SENATOR LATHROP: Okay. That would be Pearson or Geiger? Am I pronouncing that right? Is it Pearson and Geiger? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay, Geiger. Got it. [LR424]

DR. MARK WEILAGE: Yes, Pearson and Geiger. [LR424]

SENATOR LATHROP: Okay. They would have been the people that would have called you in? [LR424]

DR. MARK WEILAGE: Most likely, yes. [LR424]

SENATOR LATHROP: Do you know why they would have called you in? [LR424]

DR. MARK WEILAGE: To get my opinion about a difficult case, in this case, Mr. Jenkins. [LR424]

SENATOR LATHROP: They are both Ph.Ds in psychology? [LR424]

DR. MARK WEILAGE: Correct. [LR424]

SENATOR LATHROP: So they don't have the experience or they're going to bring the guy in from...if I can use this term, the home office, to do this evaluation? [LR424]

DR. MARK WEILAGE: They didn't have at that point as much experience as I had, so I think they valued my opinion. [LR424]

SENATOR LATHROP: Okay. You do your...you come up with an assessment result, am I right,... [LR424]

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DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: ...after having done this? And your assessment, did you spend some time with him? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Do you know how much time you spent with him to do this assessment? [LR424]

DR. MARK WEILAGE: I'd have to go back and look at individual notes and see if I indicated in there. It doesn't really say in this particular... [LR424]

SENATOR LATHROP: How much time would you typically spend? [LR424]

DR. MARK WEILAGE: Oh, to do an assessment at least an hour, probably more than that, two hours, three hours potentially. [LR424]

SENATOR LATHROP: Okay. Potentially? [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR LATHROP: You don't remember in this case. [LR424]

DR. MARK WEILAGE: I don't remember the exact... [LR424]

SENATOR LATHROP: Okay. So I'm going to confess to being a layperson when it comes to psychology, but don't psychologists, some of them, do batteries of test? [LR424]

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DR. MARK WEILAGE: Depending on the referral question, yes. [LR424]

SENATOR LATHROP: Okay. And those batteries of tests can be standardized tests to get to the bottom of it, to assist in getting to the bottom of a diagnosis. [LR424]

DR. MARK WEILAGE: That could be one of the reasons that they do additional testing. [LR424]

SENATOR LATHROP: Okay. Are you trained and equipped to do those kind of tests? [LR424]

DR. MARK WEILAGE: Yes, I am. [LR424]

SENATOR LATHROP: Okay. And so did you do any testing on Nikko Jenkins on February 8, 2012, or did you just meet with him and talk with him? [LR424]

DR. MARK WEILAGE: Well, just to clarify, February 8 is the date of this referral form, not necessarily the date that I saw him because this is a form that...this is a summative statement that was sent to the mental illness review team describing what was going on, so it wasn't... [LR424]

SENATOR LATHROP: Okay. So how much time might have passed between the time you saw Mr. Jenkins and the time this report gets generated or dated February 8, 2012? [LR424]

DR. MARK WEILAGE: I did document that...or summarize that I did the PCL-R which is a structured interview, Psychopathy Checklist-Revised as part of the assessment. And I did that in multiple settings, January and February of 2012. [LR424]

SENATOR LATHROP: Is that in here somewhere? [LR424]

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DR. MARK WEILAGE: It's on page 115, if you look at assessments. [LR424]

SENATOR LATHROP: Okay. In somewhere...I'm trying to scan it, but I don't see it.
[LR424]

DR. MARK WEILAGE: It's in the middle of the page. [LR424]

SENATOR LATHROP: Oh, I see it. I see it. So January and February of 2012. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So it might have started...well, did you meet with him more than
once to do this? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. How many times did you meet with him, do you know?
[LR424]

DR. MARK WEILAGE: I don't recall. [LR424]

SENATOR LATHROP: And do you...it could have been as little as an hour over three
visits or as much as three? [LR424]

DR. MARK WEILAGE: Or potentially more. I mean there's been times where to get
through a full PCL-R that it's taken four hours. [LR424]

SENATOR LATHROP: Okay. And whatever it was, you don't have any recollection?
[LR424]

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DR. MARK WEILAGE: Not based on this, no. [LR424]

SENATOR LATHROP: Okay. Did you administer any standardized tests to Mr. Jenkins?
[LR424]

DR. MARK WEILAGE: No testing other than that guided interview, clinical interview, the
Psychopathy Checklist. [LR424]

SENATOR LATHROP: Okay. So when you study psychology to the level that you have,
master's and then a Ph.D., somewhere along the way the standard of care, there is an
approach to the proper way to do an assessment that's going to involve just interview.
[LR424]

DR. MARK WEILAGE: Yeah, it's acceptable and reasonable to just do an interview to
arrive at a diagnosis, correct. [LR424]

SENATOR LATHROP: Sure. Sure. I get that. I'm not questioning that. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: I'm just trying to find a...there's a standardized way you
approach it and that's what you did in this case. And whether you did it in an hour or
three hours, you don't have a recollection of that. [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: But it would not have involved any testing? [LR424]

DR. MARK WEILAGE: I did not do any specific standardized testing like what you had

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referred to. [LR424]

SENATOR LATHROP: Does anybody at the Department of Corrections do that?
[LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So that is a tool that can be employed, it just wasn't in this case.
[LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Okay. And after you go through the structured approach that
you've described, you come up with an impression. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And that impression is what? What's your assessment after you
meet with Mr. Jenkins following Dr. Baker's meeting with Mr. Jenkins? [LR424]

DR. MARK WEILAGE: It was an inconsistent picture. I felt like there was some definite
characterological issues that were predominant in his presentation. His presentation of
symptoms related to voices, Apophis, was inconsistent, and in my discussions with him
at times he was very clear, concise, not at all focused on any sort of statements about
wanting to hurt people, anything like that. Other times, he would bring up things like
that. So in an effort to further understand, kind of, Mr. Jenkins, and I've done this
numerous times with other offenders who have presented in one way but inconsistently,
is I took an opportunity to observe him in other situations and in this case I observed
him in some video visits to gather additional information about how he's presenting
himself outside the context of a mental health assessment. [LR424]

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SENATOR LATHROP: Okay. And so was this your first contact with Mr. Jenkins?
[LR424]

DR. MARK WEILAGE: In 2012? [LR424]

SENATOR LATHROP: No, at all. Had you ever met him before this? [LR424]

DR. MARK WEILAGE: I would have to go back and look as to what the dates are, when I had seen him. [LR424]

SENATOR LATHROP: Do you have a recollection of meeting him? I know that after this gets done, you have a meeting with him where I think you take it as a threat, but in terms of doing an assessment, is this the only one you did? [LR424]

DR. MARK WEILAGE: This was after he came back from...this was the first time I met with him for any sort of assessment, yes, if I remember correctly. [LR424]

SENATOR LATHROP: Okay. Do you remember doing any other assessments after this? [LR424]

DR. MARK WEILAGE: I may have met with him. I'd have to go back and look now.
[LR424]

SENATOR LATHROP: Okay. Tell us what your conclusion was. [LR424]

DR. MARK WEILAGE: At that time my conclusion was that he had antisocial and narcissistic traits. He did express some symptoms and he seemed to attribute the symptoms related to trauma. However, this complete symptom picture did not equate to an Axis I disorder in my opinion. The threats of violence seemed to stem from his anger

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about society and the situation he was in and not related to any sort of mental disorder.
[LR424]

SENATOR LATHROP: Okay. So the bottom line is, on your evaluation, you come to a conclusion that he has no diagnosis on Axis I or nor mental illness... [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: ...and that everything that's wrong with this fellow, after you see him one time, or see him for one evaluation, is a behavioral problem which would leave him in the intensive management unit. Am I right? [LR424]

DR. MARK WEILAGE: I wouldn't say that was my ultimate recommendation that it's a behavioral problem and he needs to stay in the intensive management unit. [LR424]

SENATOR LATHROP: Okay. Maybe I'll ask it in two questions. You concluded that all of his problems were a behavior or an Axis II diagnosis and nothing in your assessment resulted in a diagnosis on Axis I. [LR424]

DR. MARK WEILAGE: Well, I think...let me clarify a little bit about how I envision Axis II disorders because it's not just behavior, it's people develop a belief system about themselves and their place in the world and how they interact with the world. And sometimes those can be very disabling, dysfunctional. And so it's not just about he has a behavior problem, but he has some beliefs about the world that are proving difficult for him to manage. And it's my belief, based on my interactions with him, my observations of him in visits with his family, that it was not the...it was his belief system that was fueling the statements, not a mental illness. [LR424]

SENATOR LATHROP: Well, isn't that sort of what the psychosis was about? Or I'm listening, believe me, I'm getting educated today on some of this stuff that I've not dealt

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with, it's not part of my practice. So when somebody talks to me about psychosis, and I thought I heard a description today that was, they have their own belief system, and it may not be in touch with reality. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: Do I have it? [LR424]

DR. MARK WEILAGE: Well, I think that's part of it, yes. There's some lack of touch with reality that goes into psychosis and... [LR424]

SENATOR LATHROP: Okay. When you looked at his belief system, because you just told me that that was part of the issue with this guy when you saw him, did you feel like all of it was in touch with reality or some of it wasn't and so he was somewhat psychotic? [LR424]

DR. MARK WEILAGE: No, I believe he was fully in touch with reality in all the things that he was saying and doing. [LR424]

SENATOR LATHROP: So your conclusion would be that he had antisocial behavior...narcissistic, did you put that in there too? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. Narcissistic, that he had behavioral issues and nothing was on Axis I. [LR424]

DR. MARK WEILAGE: That is my opinion, yes. [LR424]

SENATOR LATHROP: Okay. Now the consequence of that...I'm not saying it was your

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goal. Okay? But the consequence of that is that we don't have to provide him mental healthcare while he's sitting in intensive management, isn't that also true? [LR424]

DR. MARK WEILAGE: No, I disagree with that. [LR424]

SENATOR LATHROP: Okay. He was in intensive management and you concluded that all of his problems or the diagnosis was all on Axis II. What was he getting for mental healthcare? [LR424]

DR. MARK WEILAGE: Well, unfortunately, when I informed him of my opinion that he wasn't mentally ill, he became very resistant and resentful of that and I said, you know, we'd be willing to meet with you to talk about some of these other things, but the reality is, I don't believe that you're mentally ill. And he was very dismissive at that point. So there are things that we can do for people that aren't mentally ill in segregation and we've done those for years. [LR424]

SENATOR LATHROP: I want to talk about those for a second. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: If someone is sitting over in intensive management or segregation, right, how often...who's going to be involved in their care and treatment if they are amenable or at least agreeable to or receptive to some form of care? [LR424]

DR. MARK WEILAGE: A mental health practitioner or a psychologist would be. [LR424]

SENATOR LATHROP: Okay. And if...so the psychologists would be Pearson and Geiger. [LR424]

DR. MARK WEILAGE: Depending on the time frame that you're talking about, but yes.

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[LR424]

SENATOR LATHROP: So how often are they going to come by my cell if I'm over there? [LR424]

DR. MARK WEILAGE: It's going to... [LR424]

SENATOR LATHROP: I'd like to see somebody. How often are those two or either of those two going to come by and see me? [LR424]

DR. MARK WEILAGE: It's going to vary, depending on what they...your kind of readiness to change, amenability to treatment, and identification of shared treatment goals. So these are all things that when I meet with somebody in segregation, regardless of whether they're mentally ill or not, is there a shared treatment goal we can focus on, and then devise a plan to work on it. [LR424]

SENATOR LATHROP: Okay. So at the high end, how frequently might one of these people stop by my cell? [LR424]

DR. MARK WEILAGE: Maybe weekly. [LR424]

SENATOR LATHROP: Weekly? [LR424]

DR. MARK WEILAGE: Weekly. Weekly. [LR424]

SENATOR LATHROP: So my circumstance would then be 23 hours a day in confinement, 1 hour out in the yard, out the back door of my cell, and I will have somebody come by weekly if I am the ideal candidate. [LR424]

DR. MARK WEILAGE: Or at least open to it. I mean... [LR424]

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SENATOR LATHROP: Okay. [LR424]

DR. MARK WEILAGE: ...it doesn't have to be an ideal candidate. [LR424]

SENATOR LATHROP: Okay. And if I'm not the ideal candidate, are they even going to come by? Let's say Jenkins. How often did they come by and see Mr. Jenkins for treatment? [LR424]

DR. MARK WEILAGE: For...and I think, sir, are you asking counseling sessions? [LR424]

SENATOR LATHROP: Sure. [LR424]

DR. MARK WEILAGE: Ah...it... [LR424]

SENATOR LATHROP: If you know. [LR424]

DR. MARK WEILAGE: I don't know. I can't say exactly. [LR424]

SENATOR LATHROP: Okay. I don't need you guessing. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: After you did this assessment, you sit down and talk to him, don't you? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And that happens...I think there's a note about this at 126. This

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is a note that followed a conversation you had with him, it would appear, February 15, 2012. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And in that note you indicate that you basically told him...inmate, so this is why we met here. I indicated it was convenient. Jenkins said, you don't have to be afraid of me. This is the meeting where you told him... [LR424]

DR. MARK WEILAGE: Right. [LR424]

SENATOR LATHROP: ...I don't think you have a mental illness. [LR424]

DR. MARK WEILAGE: Right. [LR424]

SENATOR LATHROP: Did you offer him anything? [LR424]

DR. MARK WEILAGE: I said we could continue to meet to try and work on other things that may have come up in your life that are problematic for you, and... [LR424]

SENATOR LATHROP: And in that, this is the meeting where he said, did he tell you at some point during the course of your assessment that he was listening to a voice? [LR424]

DR. MARK WEILAGE: Are you talking about on page 126 or a different page? [LR424]

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SENATOR LATHROP: I'm back to the assessment you did during the course of January and February... [LR424]

DR. MARK WEILAGE: Oh. [LR424]

SENATOR LATHROP: ...of 2012. [LR424]

DR. MARK WEILAGE: He did mention voices, yes. [LR424]

SENATOR LATHROP: Okay, because it seems like he's telling everybody that will listen that he's listening to the Egyptian god of war, and you heard that as well. [LR424]

DR. MARK WEILAGE: I didn't hear the Egyptian god of war, but I did hear him say that, yes. [LR424]

SENATOR LATHROP: Okay. So he explained that to you when he was going through the assessment. You knew that was part of the drill. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Did you also know that he was threatening to kill people when he got out? [LR424]

DR. MARK WEILAGE: Yes, he had made statements about that. [LR424]

SENATOR LATHROP: Okay. And then you meet with him to talk to him about, well, I don't think you have a mental illness, Mr. Jenkins. Right? [LR424]

DR. MARK WEILAGE: Correct. [LR424]

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SENATOR LATHROP: And he's not happy about it. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And then he tells you, well, Doc, you don't need to be afraid of me right now. Right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Because were you...did you have a piece of glass between the two of you? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. So you're talking in one of those rooms. Is it on a phone or are you yelling through a vent? [LR424]

DR. MARK WEILAGE: It was on...no, no, no. It was on a phone. It was in an attorney-client room, so it's private. [LR424]

SENATOR LATHROP: Okay, so you pick up the phone. You guys record those sometimes, don't you? [LR424]

DR. MARK WEILAGE: No, not in there. We don't record those sessions. [LR424]

SENATOR LATHROP: Okay. And so you're talking to him on the telephone and he's telling you: You don't need to be afraid of me. Why you sitting on the other side of the glass? Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

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SENATOR LATHROP: And he also tells you that he's not happy with the fact that you've just decided that he's not mentally ill. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And then he tells you, he's not interested in any mental health services based upon what you've just told him,... [LR424]

DR. MARK WEILAGE: Basically, yes. [LR424]

SENATOR LATHROP: ...that he doesn't have a mental illness. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. And then he says, "Ticktock." Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: You get up to leave and he, as you're leaving the room, he says, "Ticktock, Dr. Weilage." Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: What did you take that to mean? Given what he's told you during the assessment, what you've just got done telling him, and as you're walking away from your meeting and he says, "Ticktock, Doc," what did you take that to mean? [LR424]

DR. MARK WEILAGE: As a... [LR424]

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SENATOR LATHROP: What did you think he was talking about? [LR424]

DR. MARK WEILAGE: ...threatening, intimidation. [LR424]

SENATOR LATHROP: Who do you think he was threatening? Do you think that was a promise to go out and carry through on his threat to hurt people when he's discharged, or did you take that personally? [LR424]

DR. MARK WEILAGE: I didn't really take it personally, that part. I mean I wasn't...he was just threatening that something bad was going to happen, in my opinion. [LR424]

SENATOR LATHROP: Well, you weren't afraid of him? [LR424]

DR. MARK WEILAGE: Oh, he was intimidating, yes. [LR424]

SENATOR LATHROP: You're afraid of him, weren't you? Why don't you turn your book to page 156. See that e-mail dated October 19, 2012? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: You're writing...who's Jeriann Keller-Heuke? [LR424]

DR. MARK WEILAGE: That is my administrative assistant. [LR424]

SENATOR LATHROP: Okay. And you ask your administrative assistant, is there any way to set up a system to flag dangerous people prior to them getting out? And then you put an inmate's name, who I'm not going to give, and then Nikko Jenkins are two examples. Did you write that e-mail? [LR424]

DR. MARK WEILAGE: Yes, I did. [LR424]

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SENATOR LATHROP: And were you worried that Nikko Jenkins was a dangerous person? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. So from this point on, in our conversation, can you and I agree that you thought Nikko Jenkins was a dangerous person? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And that he presented a risk of injury to not just you but other people upon his discharge? [LR424]

DR. MARK WEILAGE: He presented a risk. He was dangerous at the time that I wrote that, yes, and that... [LR424]

SENATOR LATHROP: Yeah. Well, you wanted him flagged, right? [LR424]

DR. MARK WEILAGE: Correct. [LR424]

SENATOR LATHROP: And it wasn't because he was going to get you from inside a cell in administrative segregation. It was because at some point he's going to get out. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And you were worried about him being dangerous, and "dangerous" is your term, when he got out and the possibility that you might get yourself hurt by this fellow when he got out. [LR424]

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DR. MARK WEILAGE: That...it's more of a general statement rather than a concern about myself. [LR424]

SENATOR LATHROP: Well, fair enough. You wanted him flagged so that people knew when he got out because he was a dangerous person. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Okay. You had a...you get involved a little later on, about a year later, don't you, in Mr. Jenkins when he's beginning to approach the period of time when he's going to be discharged? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And that was precipitated actually kind of on two fronts, wasn't it? February 25 there is a call from or some communication from the Ombudsman's Office, and also some communication from the Johnson County Attorney. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: You remember both of those,... [LR424]

DR. MARK WEILAGE: I... [LR424]

SENATOR LATHROP: ...that you became involved in both? [LR424]

DR. MARK WEILAGE: I remember the call from the Johnson County Attorney. I remember at some point, I don't remember the dates, the contacts with the Ombudsman's Office. [LR424]

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SENATOR LATHROP: Okay. Well, it looks like, and I'm looking at page 195, there is a memo that comes to you from Cameron White, right? You see that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And he talks about having two things, a couple things have come up on Jenkins, okay? Now I notice that when he says, "a couple things that have come up on Jenkins," he doesn't give his first name nor does he give his inmate number. Do you see that in the memo? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So were you familiar enough with Jenkins by the time you got this memo, February 25, or this e-mail that when he said Jenkins, you knew he was talking about Nikko? [LR424]

DR. MARK WEILAGE: It says in the subject line, Nikko Jenkins. [LR424]

SENATOR LATHROP: Did you have a conversation with him after this e-mail? [LR424]

DR. MARK WEILAGE: With who? [LR424]

SENATOR LATHROP: Cameron White. He's sending you an e-mail, is he not? [LR424]

DR. MARK WEILAGE: Yes. I didn't... [LR424]

SENATOR LATHROP: And he's talking about two problems he's having or two things that have come up on Jenkins. [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And one of them is Jerall Moreland called. Do you know who Jerall Moreland is? [LR424]

DR. MARK WEILAGE: Yes, I do. [LR424]

SENATOR LATHROP: Who's Jerall Moreland? [LR424]

DR. MARK WEILAGE: He's one of the people in the Ombudsman's Office. [LR424]

SENATOR LATHROP: Okay. So the Ombudsman is calling. And it says, number two, Rick Smith, deputy county attorney from Johnson County. Apparently Jenkins and his family are trying to petition for Jenkins to be committed postincarceration. So you knew or in one e-mail you found out that there was activity in Nikko Jenkins' circumstance on two fronts. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. And you are then enlisted to help, am I right? [LR424]

DR. MARK WEILAGE: To be involved, yes. [LR424]

SENATOR LATHROP: I need to catch up with my notes, all right? [LR424]

DR. MARK WEILAGE: That's fine. [LR424]

SENATOR LATHROP: Before this memo came, what was your involvement? What had been your most recent involvement with Jenkins? [LR424]

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DR. MARK WEILAGE: I don't recall at that point when my last contact was with Mr. Jenkins. [LR424]

SENATOR LATHROP: Okay. How about with other mental health folks over at Tecumseh? Were you visiting with Pearson and Geiger? [LR424]

DR. MARK WEILAGE: I'm sure I did. Did do that frequently and Mr. Jenkins may have came up at different times. [LR424]

SENATOR LATHROP: Okay. So there are conversations you would have had with the two psychologists over at Tecumseh that might not be the subject of an e-mail or a document. [LR424]

DR. MARK WEILAGE: Potentially, yes. [LR424]

SENATOR LATHROP: Okay. And that would not be unusual, you talking to them, some back and forth that goes on. [LR424]

DR. MARK WEILAGE: Sure. [LR424]

SENATOR LATHROP: Okay. By February 25, 2013, when this comes to your attention that the county attorney in Johnson County is interested in...or called about a civil commitment and the Ombudsman wants to talk about Nikko Jenkins and his discharge plan, there's a couple of things that are going on at the time, aren't there? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Jenkins is five months from his discharge, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

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SENATOR LATHROP: And Baker had written an assessment and found Jenkins mentally ill back in February 4 of 2013. So just three weeks earlier, Baker had done another assessment. The psychiatrist had done another assessment and found him psychotic NOS and all the things that she talked about before. That was going on when you learned about this. True? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: She also said in that assessment that Jenkins had a mental illness. This was three weeks before the activity from the Ombudsman's Office and the Johnson County Attorney: Nikko is an imminent danger to others and may possibly require a civil commitment prior to his release. That was in her February 4, 2013, report, was it not? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. Did you know that he was also making almost daily pleas to get mental healthcare? [LR424]

DR. MARK WEILAGE: I probably wasn't aware of daily pleas, but I was aware of his pleas. [LR424]

SENATOR LATHROP: Did you see the inmate request for interviews that he was sending out? [LR424]

DR. MARK WEILAGE: I probably saw a number of them, yes. [LR424]

SENATOR LATHROP: There were a lot of them, weren't there? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And can we generally agree that there were a lot of them and generally he said: I need help; I want help because I want to get help before I release or I'm going to get out and kill people? That was the theme of most of his pleas for mental healthcare. [LR424]

DR. MARK WEILAGE: There is that theme in most of them, yes. [LR424]

SENATOR LATHROP: Right. That was a theme that was common. And on a lot of them he was writing in caps "EMERGENCY," "NEED HOSPITALIZATION," and things like that. That was going on before February 25, when you became aware that the Ombudsman's Office was interested in Jenkins and so was the Johnson County Attorney. Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. You knew that he was threatening...Jenkins was threatening to get out and kill Christians, Jews, women, and children, and pull the heart out of people. That was included in some of the threats that he was making... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: ...before you became aware of this memo. He had threatened to eat people. He had been involved in self-mutilation. He had had two episodes where he cut himself to the face. He was...did you know he was snorting his own semen and that was something that Dr. Baker had put in her February... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

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SENATOR LATHROP: ...report just three weeks before this, and that he was drinking his own urine, that he had cut himself and wrote on the wall in his own blood in his cell? That, too, was something you knew before this e-mail came about the Ombudsman's Office and the county attorney in Johnson County inquiring about a commitment. True? [LR424]

DR. MARK WEILAGE: Yes. Yes. [LR424]

SENATOR LATHROP: Did you ever see Judge Randall's order, the one that said this guy needs some mental health treatment? [LR424]

DR. MARK WEILAGE: I think I may have, yes. [LR424]

SENATOR LATHROP: You know this guy was threatening to bring on the war of Revelations too? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And that three weeks earlier Dr. Baker, the psychiatrist who had done the most recent evaluation, thought he was mentally ill, an imminent danger, and possibly needed to be civilly committed. And that is the context for this particular set of concerns regarding Nikko Jenkins, that being the Ombudsman's Office and the county attorney's office. [LR424]

DR. MARK WEILAGE: Well, from this...from this e-mail, I wasn't sure what the Ombudsman's concern was specifically but... [LR424]

SENATOR LATHROP: No, you wouldn't have known... [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

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SENATOR LATHROP: ...his concern at that point,... [LR424]

DR. MARK WEILAGE: Right. [LR424]

SENATOR LATHROP: ...but some...they're calling, right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: But you know all this other stuff about Jenkins,... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: ...including Baker's last assessment... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: ...three weeks earlier. Okay. You are enlisted by Dr. White to participate in these things, are you not? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And Dr. White has you gather information so that he can, or you can, respond to the Johnson County Attorney as well as the Ombudsman's Office. [LR424]

DR. MARK WEILAGE: He didn't necessarily...my recollection, he didn't have me gather information to respond to the Johnson County Attorney, but then... [LR424]

SENATOR LATHROP: He suggested you...or he asked you to call... [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: ...the Johnson County Attorney, did he not? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And I...did you do that? [LR424]

DR. MARK WEILAGE: Yes, I did. [LR424]

SENATOR LATHROP: And did you have a meeting or you just have a phone conversation with the guy in Johnson County? [LR424]

DR. MARK WEILAGE: Phone conversation. [LR424]

SENATOR LATHROP: It's Smith, right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. Go ahead. Did you just have a meeting or did you have a meeting or did you just visit? [LR424]

DR. MARK WEILAGE: Phone conversation. Just a phone conversation. [LR424]

SENATOR LATHROP: And how many times did you talk to him? [LR424]

DR. MARK WEILAGE: Just once. [LR424]

SENATOR LATHROP: And do you know if anybody else from Corrections had visited

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with Mr. Smith, the Johnson County Attorney, besides you? [LR424]

DR. MARK WEILAGE: I'm not aware. [LR424]

SENATOR LATHROP: As far as you knew, you were the only person. [LR424]

DR. MARK WEILAGE: Far as I know, yes. [LR424]

SENATOR LATHROP: Would it be fair to say that Mr. Smith was calling to inquire because he had received a number of letters from Nikko Jenkins and family members about a civil commitment? [LR424]

DR. MARK WEILAGE: He mentioned that he received a petition from Mr. Jenkins' mother about civil commitment. [LR424]

SENATOR LATHROP: You received, I think, and I'll find it here if you want me to, you received from Cameron White an e-mail that included all the things that Jenkins had sent to the county attorney in Johnson County, did you not? [LR424]

DR. MARK WEILAGE: Probably, yes. [LR424]

SENATOR LATHROP: Do you remember receiving that? [LR424]

DR. MARK WEILAGE: Yes. Probably. [LR424]

SENATOR LATHROP: Okay. So you have the Johnson County Attorney writing an e-mail and then attached to it are a number of handwritten notes from Nikko Jenkins. [LR424]

DR. MARK WEILAGE: That sounds familiar, yes. [LR424]

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SENATOR LATHROP: Okay. And they are back to the same thing: I'm going to kill people and I need mental help, and as I approach my discharge date I want to be committed to some place to get mental help. Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And you knew he was trying to get the Johnson County Attorney to discharge...or to civilly commit him so that he could get mental health help. [LR424]

DR. MARK WEILAGE: That was what he said, yes. [LR424]

SENATOR LATHROP: Okay. I know that a lot of what he said, as I read through the records, a lot of what he said--I want mental health help--and a lot of it was interpreted as malingering, secondary gain, wants to go to Lincoln Regional Center. You familiar with those records? [LR424]

DR. MARK WEILAGE: Yeah, I'm familiar with some of those. [LR424]

SENATOR LATHROP: Okay. So when he said, I want to go to the regional center, it was greeted with suspicion because it sounded like a guy who wanted to go from the can or the intensive management, the segregation unit, to the regional center because it might be a little easier. [LR424]

DR. MARK WEILAGE: That's a fair... [LR424]

SENATOR LATHROP: That would have been the interpretation... [LR424]

DR. MARK WEILAGE: Sure. [LR424]

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SENATOR LATHROP: ...while he was incarcerated. But as he got closer to discharge, as he got closer where he would have been free, free, he could just walk out the door, which he ultimately did, what's the secondary gain for him going to the regional center when he could otherwise walk out the gates of the Department of Corrections and not look back? [LR424]

DR. MARK WEILAGE: Well, he actually talked about that with his mom on one of the visits that I had observed where he actually was saying that he needed to go the regional center and that would show that I've been mistreated and then I can sue the department. [LR424]

SENATOR LATHROP: So the secondary gain is you think he's laying the foundation for a lawsuit. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. So you never thought he meant it? [LR424]

DR. MARK WEILAGE: What do you mean? [LR424]

SENATOR LATHROP: You never thought he meant it? [LR424]

DR. MARK WEILAGE: Meant what? [LR424]

SENATOR LATHROP: That he wanted to go to the regional center. [LR424]

DR. MARK WEILAGE: No, I think he did want to go to the regional center. [LR424]

SENATOR LATHROP: No, that he wanted to go to get care. You thought when he said he wanted to go to the regional center to get care, what he was doing was laying the

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foundation for a lawsuit against the state of Nebraska for not treating him when he was at Tecumseh. Was that your conclusion? [LR424]

DR. MARK WEILAGE: That was part of the conclusion, yes. [LR424]

SENATOR LATHROP: Okay. Did any part of you ever think that he actually wanted mental healthcare at the regional center? [LR424]

DR. MARK WEILAGE: I mean he could...yeah, I think he...he did want help with stuff, yes. [LR424]

SENATOR LATHROP: Okay. So he wanted help with stuff. When you spoke to the Johnson County Attorney, you knew all this stuff about him. You knew that he had cut himself twice, you knew he was snorting his own semen, drinking his own urine, writing on the wall of his cell with blood, and...and that Baker had just three weeks earlier written a report that said (a) he's mentally ill, (b) he's an imminent danger to hurt somebody, and (c) the guy ought to be committed. And you talked to the Johnson County Attorney. Did you tell Mr. Smith, the Johnson County Attorney, that Jenkins was self-mutilating, that Baker had just written three weeks ago a report that said he was mentally ill and needed to be...or perhaps needed to be civilly committed and that he was a danger to other people? Did you tell that stuff to the county attorney in Johnson County when he was calling to find out should we commit this guy or not? [LR424]

DR. MARK WEILAGE: No, I did not. [LR424]

SENATOR LATHROP: How come? Why would you not tell him when the two boxes he needs to check are "dangerous" and "mentally ill" and you had a report by your psychiatrist that said he was mentally ill, imminent danger, and you were afraid of him? You were afraid of what he was going to do. Whether you thought he was a behavior or a mentally ill person, we can agree that you were afraid of him and everybody should

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have been. And Smith was the guy that was going to commit him and you had him on the phone. Tell me, tell us why you did not tell him that you had a report from a psychiatrist that would have given him everything he needed to do a commitment. Why? [LR424]

DR. MARK WEILAGE: The mental health board commitment process starts at the end of an incarceration. As Dr. Baker already testified, we don't do it while they're incarcerated. So if...that's just the policy that we have. As somebody gets close to getting out, we will be evaluating them for dangerousness. If we are, that's when we'd make the referral. I did not have a release to talk to the county attorney and so I did not give that information to him. And I said, you know, he has X number of months left; we're going to continue to monitor him and try to work with him. And if that comes up closer to his discharge, whatever county he's in would get...that's where the referral would be made. [LR424]

SENATOR LATHROP: You knew that this was initiated by Jenkins himself, did you not? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So he's asking for this guy to commit him, and the guy who could commit him calls you, and you're worried about a release? This committee got a release signed by Nikko Jenkins and it was done at the direction of the director. I know that if this committee can get a release of Nikko Jenkins you could have got one to do exactly what he wanted you to do, which was to commit him to the regional center. I have trouble with the release thing, I'm just going to tell you. So that's astonishing. That's astonishing, it really is. I get maybe you can't commit him till the end, but you can start laying the groundwork, can't you? Say, you know what, let me get a release from him and I got...I got everything you're going to need, Smith; I can't tell you what it is but I can check all the boxes on a civil commitment because I've read...well, I can't tell you

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what but I got everything you need; just let me get a release and I'll send it to you. I have to tell you, when I read through this record, and I'll let you speak in a second, but as I read through this record, it is astonishing. It looks like we have a doctor who's making a diagnosis and everybody...the information is being bottled up and so no one tells the guy who can commit Nikko Jenkins that everything that county attorney needs is in your file. Everything he needs is in your file. And instead, you say we don't have a release. And we let him go on to the next place and he trips on to the next place and then he's out doing exactly what he promised. Tell me there's something more than the fact that you didn't have a medical release. [LR424]

DR. MARK WEILAGE: Well, yes, there is. I did not believe he was mentally ill, as I've...that...that as... [LR424]

SENATOR LATHROP: Don't you think you at least had an ethical obligation to tell Smith that, you know what, I'm not sure he's mentally ill but I got a psychiatrist here who not only thinks he's mentally ill, she has thought he's mentally ill since he showed up and she thinks he's dangerous? Didn't you have a duty? Didn't you have an ethical duty in your profession to inform this county attorney that at least there was a difference of opinion? [LR424]

DR. MARK WEILAGE: Well, I think that ultimately I didn't believe he was mentally ill and I'm not going to advocate for a mental health board hearing on somebody that I don't believe is mentally ill. I mean, in fact, there's even statute that says it's a misdemeanor to file on somebody if you don't think that they're mentally ill and...I mean to file... [LR424]

SENATOR LATHROP: You weren't going to file. That wasn't your job, right? That's not...your role is not to file. The county attorney does that. [LR424]

DR. MARK WEILAGE: Well, to submit paperwork requesting that somebody file.

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[LR424]

SENATOR LATHROP: But no one asked you to request it either. That's the thing. You bottled up the information that would have got this guy committed. And I don't know if it was a turf war or what it was, but it had to be more than a release. Molly here called up the director and we had a release in two days from Nikko Jenkins, so it wasn't a release. I don't believe that, I just don't. And it seems a pattern, it seems a pattern where there was a group that just said, you know what, she just did another one of these psychotic diagnoses; get MIRT together because we need to do another one that says he wasn't. And then, when somebody wants to commit him...and for the life of me, I don't know what was in it for you or the people that wouldn't let this information out so the county attorney could do their job. I don't know what was in it for you. It...what's the harm in having him go to the regional center and get care unless they told you something? So did somebody at the regional center tell you, do not send this guy over here? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: That never came up. [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: Did you ever know that they had capacity issues over at the regional center that would make sending him over there on a commitment a problem? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: No, you didn't? [LR424]

DR. MARK WEILAGE: I knew they had capacity issues, but I don't know... [LR424]

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SENATOR LATHROP: Had you ever had trouble trying to get somebody committed and they're over there going, quit sending these people, we have no room for them? [LR424]

DR. MARK WEILAGE: Not that I'm aware of. [LR424]

SENATOR LATHROP: You're not? [LR424]

DR. MARK WEILAGE: I've...we've...I've testified at numerous mental health board hearings around the state and I'm not made aware of any issues related to getting them committed. [LR424]

SENATOR LATHROP: So you would expect that if Mr. Smith over in Johnson County would have got the supporting documentation, which was basically Dr. Baker's report that was three weeks old, that there wouldn't have been an issue getting him into the regional center and having him committed. [LR424]

DR. MARK WEILAGE: I can't speak for them. [LR424]

SENATOR LATHROP: Did anybody suggest that you not give Smith the information he needed for a mental health commitment? [LR424]

DR. MARK WEILAGE: No one suggested that. [LR424]

SENATOR LATHROP: Did you talk to anybody about it? [LR424]

DR. MARK WEILAGE: I probably have talked to somebody about it. I don't recall who exactly. [LR424]

SENATOR LATHROP: Before you called Mr. Smith back in Johnson County, did you

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ever visit with Cameron Wright (phonetically), pardon me, Cameron White, Dr. White about what your response was going to be? [LR424]

DR. MARK WEILAGE: I don't believe so. I think I called him directly after getting the e-mail. [LR424]

SENATOR LATHROP: Okay. You called who when you say "him"? [LR424]

DR. MARK WEILAGE: The deputy county attorney, Rick Smith. [LR424]

SENATOR LATHROP: Okay. So you didn't...you didn't...this...your response was strictly your own idea. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Did anybody ask you afterwards, jeez, you know, we have this report, it's only three weeks old, did you tell Smith about that? [LR424]

DR. MARK WEILAGE: No, no one asked me that. [LR424]

SENATOR LATHROP: No one questioned what you or asked you what you told the county attorney, who was interested in a commitment? [LR424]

DR. MARK WEILAGE: No, but I did share with people that I told them that if we...if a provider thought that he was mentally ill and dangerous, they would be filing towards the end in whatever county he resided in, towards the end of his incarceration. [LR424]

SENATOR LATHROP: You told that to whom? [LR424]

DR. MARK WEILAGE: I'm sure I said that in a conversation with Dr. White, if not other

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people. [LR424]

SENATOR LATHROP: So you did have a conversation with White about what you told Smith? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: When was that conversation? [LR424]

DR. MARK WEILAGE: I don't recall. [LR424]

SENATOR LATHROP: Well, was it after you talked to Smith... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: ...or before? [LR424]

DR. MARK WEILAGE: No, it was after. [LR424]

SENATOR LATHROP: And was it that afternoon or the next day or a week or after Nikko murdered four people? [LR424]

DR. MARK WEILAGE: It was before then. [LR424]

SENATOR LATHROP: Before the murders? [LR424]

DR. MARK WEILAGE: Before...before he got out. I mean obviously I...I responded to him, since he sent me the e-mail. I talked to him probably within the next few days. [LR424]

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SENATOR LATHROP: Why did it come up? [LR424]

DR. MARK WEILAGE: Why did what come up? [LR424]

SENATOR LATHROP: Why were you having a conversation with White about your response at all? [LR424]

DR. MARK WEILAGE: Because he asked. He sent me an e-mail, so I told him what...that I followed up and this is what I said. [LR424]

SENATOR LATHROP: Where is that? [LR424]

DR. MARK WEILAGE: What do you mean? [LR424]

SENATOR LATHROP: You sent Cameron White an e-mail telling... [LR424]

DR. MARK WEILAGE: No, no, no. I just talked to him. I didn't...I don't...I probably just called him on the phone. [LR424]

SENATOR LATHROP: Okay. Did Dr. White know that you had a report from Dr. Baker that was three weeks old that had everything the county attorney needed for a civil commitment? [LR424]

DR. MARK WEILAGE: I don't know if he knew that or not. [LR424]

SENATOR LATHROP: Did you explain that to Dr. White, that you had a report... [LR424]

DR. MARK WEILAGE: No. [LR424]

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SENATOR LATHROP: ...that was three weeks old? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: No? So did Dr. White know or have any reason to know about Dr. Baker's report? [LR424]

DR. MARK WEILAGE: I don't know if he did or not. I didn't...I didn't discuss that with him. My recollection is that I didn't. [LR424]

SENATOR LATHROP: Kind of part of the problem. Baker writes a report. It's three weeks old. And when you talk to the county attorney you don't bring it up, and when you talk to your boss about what you said, you don't tell him that you have a report that's three weeks old that you didn't share with the county attorney. So this isn't...the problem with this isn't going up the chain of command. It stopped with you. Is that what you're telling me? [LR424]

DR. MARK WEILAGE: That's...I guess that's your interpretation. I don't feel like it's a problem that stopped with me, but I felt like... [LR424]

SENATOR LATHROP: Well,... [LR424]

DR. MARK WEILAGE: ...I handled it ethically. [LR424]

SENATOR LATHROP: ...just before I call Dr. White up here in a little bit, is there any reason Dr. White would have to know about the report written by Dr. Baker in February of 2013? [LR424]

DR. MARK WEILAGE: I'm not sure. I... [LR424]

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SENATOR LATHROP: You didn't tell him about it. [LR424]

DR. MARK WEILAGE: I didn't share it with him specifically, no. [LR424]

SENATOR LATHROP: You also had meetings or conversations with Dr. White about concerns expressed by the Ombudsman's Office. Remember those? [LR424]

DR. MARK WEILAGE: When was this? [LR424]

SENATOR LATHROP: Interestingly, about 20 minutes later, after the county attorney and the Ombudsman are calling within 20 minutes of each other on February 25. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: Does that sound familiar to you? It's kind of why you got this e-mail here, right? [LR424]

DR. MARK WEILAGE: Right, I guess. Yes. [LR424]

SENATOR LATHROP: It looks like Cameron White is being approached by both the county attorney and the Ombudsman on the same day, right? [LR424]

DR. MARK WEILAGE: Looks like it, yes. [LR424]

SENATOR LATHROP: And the Ombudsman wants to work on a discharge plan, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

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SENATOR LATHROP: And they approach...by the way, they're copying Bob Houston on the e-mail and Cameron White, and you're brought in to sort of help get the information they need to respond to the Ombudsman. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Okay. What you're asked to do is get the behavioral health information, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: And so would the behavioral health information, when somebody says get me the behavioral health information, would that include reports from your two psychologists over at Tecumseh? [LR424]

DR. MARK WEILAGE: It would include lots of things, yes, like including that. [LR424]

SENATOR LATHROP: Okay, but it would include what your two psychologists were saying? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Would it include your assessment? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Would it include the five assessments and diagnoses done by Dr. Baker? [LR424]

DR. MARK WEILAGE: Probably, yes. [LR424]

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SENATOR LATHROP: Now I'm asking you, did you put it in the information that you gave to Cameron White when he asked for the behavioral health information before he met with the Ombudsman? [LR424]

DR. MARK WEILAGE: I gave him my summary of the information that I thought was... [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. MARK WEILAGE: My interpretation of the case. [LR424]

SENATOR LATHROP: Your interpretation. You did not provide him with what I would call the original materials. [LR424]

DR. MARK WEILAGE: No, I did not give him the complete file. [LR424]

SENATOR LATHROP: So if one of your psychologists, Pearson or Geiger, did an assessment of Mr. Jenkins and said that it's, you know, he's antisocial and narcissistic, you didn't put that report in the stack or in a...in an attachment to your summary. [LR424]

DR. MARK WEILAGE: No, I did not. [LR424]

SENATOR LATHROP: So let me look at this because I know I have a copy of this and I want to talk to you about it. By the way, on 199, on page 199 it is an e-mail from Dr. White to, I think, you, wasn't it? It looks like, yeah, because you reply to it. And he says: Gather and send me a summary of prior behavioral health activity on this case, including contacts and treatment plans. [LR424]

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DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: You remember getting that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And then above that, on the same page, you say: I'll work on gathering the information. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Right? So you remember gathering the information. And you don't...you're telling me that all you did, as a result of that directive, was to do a summary to Dr. White and not to give him copies of any documents. [LR424]

DR. MARK WEILAGE: That's correct. I believe that's what I did. [LR424]

SENATOR LATHROP: Before I talk about what you sent him, on 197 there's an e-mail. There's a couple of them. One is Bob Houston asking Kathy and Cameron to take the lead on gathering information on how we care for Mr. Jenkins in anticipation of responding to the Ombudsman. Do you see that? [LR424]

DR. MARK WEILAGE: Uh-huh. [LR424]

SENATOR LATHROP: And then above that...by the way, you were copied on that? Yes, you were. And so above that you write back to, or apparently hit reply and write back to Bob Houston the director, then-director; Kathy Foster, who's over at...what does she do? [LR424]

DR. MARK WEILAGE: Oh, Kathy Foster is the social work... [LR424]

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SENATOR LATHROP: Social worker. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Pardon me. [LR424]

DR. MARK WEILAGE: Yes, the director of social work. [LR424]

SENATOR LATHROP: Cameron White, your boss; Evelyn Bullock; Randy Kohl, the boss's boss; and Frank Hopkins. You write back and say: Do I need to be at the 3-4 meeting? If so, what time? Is the 3-4 a reference to March 4? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: And is the meeting a reference to a meeting with respect to this subject matter? [LR424]

DR. MARK WEILAGE: That's my assumption, yes. [LR424]

SENATOR LATHROP: Okay. So to get the time line, the Ombudsman's Office expresses concern on the 25th. They want to have a meeting. And that goes to Dr. White. Dr. White asks you to gather some stuff, and then you say, am I supposed to be at the meeting on March 4, 2013, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR LATHROP: Tell me what that meeting was supposed to be about. First of all, were you invited? [LR424]

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DR. MARK WEILAGE: Um...it was unclear, which is why I was trying to clarify with Dr. White if... [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. MARK WEILAGE: ...they wanted me to go to that, but. [LR424]

SENATOR LATHROP: So did they? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: All right. So where was the meeting? [LR424]

DR. MARK WEILAGE: It was at central office. [LR424]

SENATOR LATHROP: And is there a conference room in the central office? [LR424]

DR. MARK WEILAGE: There's lots of them, yes. [LR424]

SENATOR LATHROP: Yeah? Is it the one right next to the director's office? [LR424]

DR. MARK WEILAGE: There is one there, yes. [LR424]

SENATOR LATHROP: Is that where you met? [LR424]

DR. MARK WEILAGE: I believe so, yes. [LR424]

SENATOR LATHROP: Okay. So you're in a conference room right outside the director's office and the subject matter is the Ombudsman's want to know what's going on with Jenkins in his last five months before he's discharged. True? [LR424]

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DR. MARK WEILAGE: Basically, yes. [LR424]

SENATOR LATHROP: And you were tasked with gathering the behavioral health information. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: Right? And you're in the meeting to talk about behavioral health information because you're the behavioral health guy. [LR424]

DR. MARK WEILAGE: Correct. [LR424]

SENATOR LATHROP: Okay. Now who else is in the meeting? [LR424]

DR. MARK WEILAGE: I don't recall all the people that were there. [LR424]

SENATOR LATHROP: Was Cameron White there? [LR424]

DR. MARK WEILAGE: I believe so. [LR424]

SENATOR LATHROP: Was Kathy Foster there? [LR424]

DR. MARK WEILAGE: I believe so. [LR424]

SENATOR LATHROP: Were Pearson and Geiger there? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR LATHROP: Okay. [LR424]

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DR. MARK WEILAGE: I don't think so. [LR424]

SENATOR LATHROP: How about Bob Houston? [LR424]

DR. MARK WEILAGE: Well, let me just say I don't think so. [LR424]

SENATOR LATHROP: Okay. Did you have some lawyers in the room? I saw something about notifying Green and Lindstrom (sic--Lindgren). [LR424]

DR. MARK WEILAGE: So they probably...one of them or both of them were probably in the room. [LR424]

SENATOR LATHROP: Do you remember them being there? [LR424]

DR. MARK WEILAGE: I think there was somebody from legal. I don't remember who. [LR424]

SENATOR LATHROP: Okay. And was the director there? [LR424]

DR. MARK WEILAGE: I believe...I don't remember if he was there for that meeting. [LR424]

SENATOR LATHROP: It's in the office right next to his, right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR LATHROP: So you don't know or you're not sure? What's your answer about whether Bob Houston was... [LR424]

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DR. MARK WEILAGE: Well, I'm not sure. I know there was...I know there was a deputy director there. I can't remember if the director came in for that meeting. We've had a number of meetings there over the course of time and I don't recall if he was there. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. MARK WEILAGE: I wasn't taking minutes on who was in attendance. [LR424]

SENATOR LATHROP: That's a good point. Was there somebody taking minutes of this meeting? [LR424]

DR. MARK WEILAGE: I don't know. I don't recall. [LR424]

SENATOR LATHROP: Did you ever see minutes printed from this meeting? [LR424]

DR. MARK WEILAGE: I don't recall seeing any minutes printed from the meeting. [LR424]

SENATOR LATHROP: Okay. So is there somebody from the Ombudsman's Office there? [LR424]

DR. MARK WEILAGE: I believe so. [LR424]

SENATOR LATHROP: Do you know who? [LR424]

DR. MARK WEILAGE: I don't recall. I want to say Mr. Moreland, but I'm not 100 percent sure. [LR424]

SENATOR LATHROP: Okay. And was the purpose of the meeting to figure out what his

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discharge should look like? [LR424]

DR. MARK WEILAGE: That's, yeah, it's part of it, yeah. [LR424]

SENATOR LATHROP: Now did anybody from the Ombudsman's Office come in and go, you know, I'm getting reports that this guy is mentally ill and he's really acting bizarre over there at intensive management or the segregation unit? Did you get that from the Ombudsman's Office? [LR424]

DR. MARK WEILAGE: I don't recall what they said at the meeting. [LR424]

SENATOR LATHROP: Did they tell you or say anything in the meeting that gave you any idea that the Ombudsman had any notion that Nikko Jenkins was doing the things that I've described: snorting his own semen, drinking his own urine, writing on the wall with his own blood, threatening to get out and murder and kill and pull the heart out of people? Did you get a sense that they already knew that before they were there? [LR424]

DR. MARK WEILAGE: I don't recall. [LR424]

SENATOR LATHROP: Okay. Your job, you're the mental health guy. You're sitting in the room and everybody starts talking about what do we do with Jenkins because he's going to jam out at the end of July. Do you tell the roomful of people there, that are assembled to figure out what to do with Nikko Jenkins, that there was a report prepared by a psychiatrist less than a month earlier that said he is dangerous, mentally ill, an imminent danger, and that he is going to be released soon and should be civilly committed? Did you tell that room of people assembled to address Nikko Jenkins' discharge that that was the case? [LR424]

DR. MARK WEILAGE: I don't...I don't recall if I said that specifically. [LR424]

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SENATOR LATHROP: Well, did you say anything that even sounded like that? [LR424]

DR. MARK WEILAGE: I think we did talk about what the psychiatrists' opinions were in terms of diagnosis. [LR424]

SENATOR LATHROP: Now I can call these other guys up here, okay? I can call the Ombudsman's up here and have them testify. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: I want to know what you remember, because... [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR LATHROP: ...I don't want you guessing... [LR424]

DR. MARK WEILAGE: Okay. All right. [LR424]

SENATOR LATHROP: ...or filling in gaps. [LR424]

DR. MARK WEILAGE: So I don't remember. [LR424]

SENATOR LATHROP: Okay. You don't remember telling people that Jenkins was engaged in self-mutilation and all these other things that would, to most of us, demonstrate mental illness. [LR424]

DR. MARK WEILAGE: No, I don't believe I said... [LR424]

SENATOR LATHROP: Did you share the report of Dr. Baker with anybody in the room?

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[LR424]

DR. MARK WEILAGE: I don't recall doing that, no. [LR424]

SENATOR LATHROP: Do you think the subject might have been...as it turns out we talk about how to transition him, right,... [LR424]

DR. MARK WEILAGE: Correct. [LR424]

SENATOR LATHROP: ...get him out of segregation and get him...have him spend some time in population, general population, before he gets out and do the violence prevention programming. [LR424]

DR. MARK WEILAGE: Violence Reduction Program. [LR424]

SENATOR LATHROP: Okay. That's what the focus was on, right? [LR424]

DR. MARK WEILAGE: Well, I don't think the focus, because of the time constraints, the focus necessarily wasn't on Violence Reduction Program. It was on transition opportunities and working with social work for...to identify things that he may need or to help him transition back into the community. That was the discussion as I recall it. [LR424]

SENATOR LATHROP: And the "what's he need" would be the services he's going to need on the outside. [LR424]

DR. MARK WEILAGE: Services, supports, living, all that stuff. [LR424]

SENATOR LATHROP: Here is what I don't understand, okay? I really don't understand this and you can help me out. You have a bunch of people assembled in the room to

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talk about Nikko Jenkins and it's like they're talking about making sure he has a place to live. And you have to be sitting there thinking, oh, there are way bigger problems than where this guy is going to live, whether it's going to be in Omaha or Lincoln, or whether he's going to get...whether that outfit down in Lincoln is going to close up before he can get some care. You have to be sitting in that room going, oh, these people have no idea. This guy has been cutting himself and writing on the wall in his own blood and drinking his own urine and threatening to bring the war of Revelations when he gets out. Didn't tell anybody? [LR424]

DR. MARK WEILAGE: I didn't believe it was related to a mental illness, therefore, I didn't. [LR424]

SENATOR LATHROP: Oh my! Really? That's it. You had the psychiatrist...by the way, you hadn't done another assessment since the psychiatrist, Dr. Baker, did one on, pardon me, February 4 of 2013. Would that be true? [LR424]

DR. MARK WEILAGE: That's right. [LR424]

SENATOR LATHROP: The last assessment done was by the psychiatrist that said he's mentally ill, and still you wouldn't believe her. [LR424]

DR. MARK WEILAGE: I had a differing opinion. [LR424]

SENATOR LATHROP: And your differing opinion kept you from sharing Dr. Baker's opinion with not only the county attorney in Johnson County but the Ombudsman and everybody assembled in the room who was there to figure out what to do with this guy, because everybody was afraid of him before he got out. And so you didn't share it with anybody because you didn't share the opinion. Is that what you're telling us? [LR424]

DR. MARK WEILAGE: That was a long question. Can you...? [LR424]

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SENATOR LATHROP: You didn't share that you had an opinion from the psychiatrist, who was the last person to do an assessment before that meeting. You didn't tell anybody in the room that you had an opinion from the doctor because you didn't believe it. [LR424]

DR. MARK WEILAGE: I don't know if...I can't recall if I shared anything about Dr. Baker's last report in that meeting. [LR424]

SENATOR LATHROP: In hindsight, do you think it would have been useful? Do you think the ombudsmen, who were trying to figure out a discharge plan for Nikko Jenkins, should have seen Dr. Baker's report? I know they had a release because you went through that with them. You think they should have seen Dr. Baker's report? [LR424]

DR. MARK WEILAGE: They can...they could have...it would have been useful for them to have seen everything I guess. I mean if they want to... [LR424]

SENATOR LATHROP: So they should have seen Dr. Baker's report along with your opinion that was a year old. [LR424]

DR. MARK WEILAGE: Both opinions, yes. [LR424]

SENATOR LATHROP: Okay. But they didn't. [LR424]

DR. MARK WEILAGE: I don't know if they saw it or not. Not...but at the.. [LR424]

SENATOR LATHROP: You didn't share it with them. [LR424]

DR. MARK WEILAGE: I didn't...I don't know if I...what I shared at that meeting about that, Dr. Baker's report. [LR424]

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SENATOR LATHROP: When you went to the meeting, did you bring any documents with you? [LR424]

DR. MARK WEILAGE: I don't recall if I...I don't think I did. [LR424]

SENATOR LATHROP: Then they wouldn't have got it from you. Would that be a fair statement? [LR424]

DR. MARK WEILAGE: A document? No. [LR424]

SENATOR LATHROP: They would not have got Dr. Baker's last evaluation at that meeting from you because you didn't bring any documents with you. True? [LR424]

DR. MARK WEILAGE: That's correct. Yes. [LR424]

SENATOR LATHROP: Okay. Did anybody else? Who else was there from mental health? Dr. White? [LR424]

DR. MARK WEILAGE: Probably. [LR424]

SENATOR LATHROP: He wouldn't have given them the report because you didn't give it to Dr. White, if I understand your testimony. So he had no way to give them the report. Who was supposed to give these guys, that were assembled to talk about Nikko Jenkins, a copy of Dr. Baker's assessment that was about a month old? [LR424]

DR. MARK WEILAGE: I don't know. If they already had a release, they could have had it already. I don't know. [LR424]

SENATOR LATHROP: Well, I got to think that the conversation in the room would have

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been different and you would have recognized that it was different if they had Dr. Baker's report. I look at this, some kind of a power struggle I don't understand. I don't think I'm going to get the answer to why in the world, why in the world would mental health professionals sitting on that report not share it with somebody that would commit this guy? And it seemed to be some turf war and I don't understand it. I don't understand the bureaucracy that would let a turf war like this turn into something so, so tragic. What did you think when you got the...when you opened the newspaper and found out Nikko Jenkins had murdered four people? Did you think maybe you should have done something different or did you think you'd done everything you should have? [LR424]

DR. MARK WEILAGE: I stand by what I did because I didn't believe he was mentally ill. Therefore, I didn't think that he was a candidate for civil commitment. And I think it's a tragedy. [LR424]

SENATOR LATHROP: And it didn't matter if somebody had a different opinion. [LR424]

DR. MARK WEILAGE: Well, I mean each of us has to be responsible for our own opinion. We have people from throughout the department that write, make referrals to the mental health board. It doesn't have to be...it doesn't have to be vetted through me. We have psychologists at other institutions do that, I do it, so. [LR424]

SENATOR LATHROP: You know, I can appreciate that two professionals can, from different disciplines, can assess the same patient and come up with a difference of opinion, okay? I don't know if I can see it in this particular guy, but I don't know enough about it. You certainly do. I can see that someone would have a difference of opinion, and so maybe I can't fault you for having a difference of opinion with Dr. Baker. But what I do struggle with and what I do have a huge problem with is that you bottled up that information. You bottled it up, and that is...that's not a difference of professional opinion because you come from different disciplines or you have been at it longer or you

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know more. That is, if you thought you were right, let all the information out and let somebody else decide who to believe. But this became, I'm not going to share Dr. Baker's stuff because every time she does some...one of these crazy diagnosis, we have to run around and get the MIRT team together to do something that says it's all behavioral and none of it is mental illness. And I'm just telling you, we're here, honestly, I believe we're here because you bottled up that information and wouldn't share it. And somebody asked me if we're going to get to the smoking gun. Here it is. For the life of me, I'll never understand why you wouldn't have told the county attorney or the Ombudsman, either one of whom would have done something and acted with Dr. Baker's report. That's all I got, Doctor. Senator Krist. [LR424]

SENATOR KRIST: You're not related to George Green, are you? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR KRIST: Because I feel like this is just a replay of what we heard: I don't remember. I wanted to be a psychiatrist and I studied psychology in college, and I got to tell you, what's up here is very difficult to draw out and to diagnose and to treat, from my short experience in my undergraduate years. But when he manifests things, when you saw the things and you knew the things that he was doing, I have a hard time believing that your diagnosis didn't change. And if this is an example of the diagnostic skills of a psychologist, particularly someone in your position...you know what the 407 process is? It's where we in the Health and Human Services Committee and the 407 process evaluates a scope of practice. I think we should do one in reverse, because I have very little faith in your diagnostic skills, because it wasn't up here anymore. It was here as he was cutting his face, as he was doing the things he was doing, as he was drinking his urine. You're going to sit there and tell me that your diagnosis didn't change, that you didn't think there was something mentally wrong with this man. When you sat in that roomful of decision makers, you didn't think that your diagnosis might have been wrong? I'm going to be a little more blunt than Senator Lathrop. It was your

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responsibility to bring that into that room. And if you didn't...if you did, we'll find out. I guess somebody else would have known about it. But if you didn't, you'll have to live with that. And I'm not going to give you an opportunity to respond. [LR424]

SENATOR LATHROP: Senator Mello. [LR424]

SENATOR MELLO: Thank you, Chairman Lathrop. Dr. Weilage, I, too, a little bit share I think Senator Lathrop's understanding that people in different professions may have come to a different opinion, so to speak, when it comes to a diagnostic evaluation of an inmate or a patient. But in any of your evaluations or Dr. Pearson's or Dr. Geiger's evaluation did you pay attention at all to the previous psychiatrist's, Dr. Oliveto's, analysis as well? Because...and then I'd ask a follow-up with that. If you didn't follow up or didn't consider Dr. Oliveto's analysis as well as obviously Dr. Baker's, if you turn to page 222, you sent an e-mail to Larry Wayne, who I believe is the deputy director of the Department of Corrections, Cameron White, and Kathy Foster where you essentially disregard Dr. Oliveto's and Dr. Baker's assessment. But you also then give yourself another option of saying that Dr. Wetzel is going to do an evaluation and maybe that psychiatrist's evaluation will provide a different result. After Dr. Wetzel's evaluation, which we heard earlier today from Dr. Baker's testimony, which was very similar to Oliveto and Baker, did you have any second thoughts after that psychiatrist's review that was the third psychiatrist essentially to have a very similar evaluation of Nikko Jenkins that was obviously run very counter to your analysis? Did you have any second-guesses at all or provide any information and put it up the food chain in regard to the latest psychiatrist report, which you clearly told your higher-ups, your bosses, that you were waiting for to see what they were going to say? [LR424]

DR. MARK WEILAGE: And Dr. Wetzel did do the evaluation and he did mention the possibility of malingering in his evaluation. And that was reviewed in the MIRT team, which I didn't...I didn't weigh in on. They had the option, they had the ability to review all the documentation. I did not vote or make my opinion...I did not give an opinion in that.

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They reviewed the documentation and decided, made a decision. [LR424]

SENATOR MELLO: So you left...you essentially left Dr. Wetzel's evaluation...you kind of deferred that to the MIRT team to make the determination... [LR424]

DR. MARK WEILAGE: Yes, let it speak for... [LR424]

SENATOR MELLO: ...whether or not that was something they were going to move forward with. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR MELLO: If you could turn real quick, just maybe some information that Senator...I was wondering if Senator Lathrop was going to approach it. But if you turn to page 211, are you aware of the multidisciplinary treatment team meetings? [LR424]

DR. MARK WEILAGE: At Tecumseh State Correctional Institution? [LR424]

SENATOR MELLO: Yes. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR MELLO: If you turn to page 211, it looks like there's some meeting minutes which you were copied on, and it appears Dr. Baker as well as Dr. Pearson were attendees to that meeting. If you actually go to page 213 where it goes over Nikko Jenkins, it's ironic to some extent because the timing of it, the meeting minutes were from 2/28/2013, and if you go to the middle of the page it says Nikko Jenkins, the third bullet point down: Mental health board commitment was discussed. Mr. Jenkins is not a good candidate. However, the option is currently under review. Did you evaluate this? Did you get these minutes and discuss with Doctor, I assume, Dr. Pearson, who

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essentially reports to you? Did you talk with her or any of the other mental health professionals that were at this attendees' meeting in the sense of this was kind of the general department's point of view moving forward on February 28? [LR424]

DR. MARK WEILAGE: I don't recall talking to them about this, no. [LR424]

SENATOR MELLO: Do you recall ever reviewing these minutes of this meeting? [LR424]

DR. MARK WEILAGE: I probably, yes, I probably did look at them. [LR424]

SENATOR MELLO: Was there anything that was discussed obviously with: Dr. Baker reported to the county attorney; called recently with concerns about Mr. Jenkins? Was there any...did that come across your radar any further in the sense of the meetings that Senator Lathrop mentioned that you were going to be having with the Ombudsman's Office on March 4? [LR424]

DR. MARK WEILAGE: Probably not directly in...it wasn't in the forefront of my memory, I guess, in the context of having these meetings. [LR424]

SENATOR LATHROP: Can you speak up just a little bit... [LR424]

DR. MARK WEILAGE: I'm sorry. [LR424]

SENATOR LATHROP: ...so we can make a record, sir? [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR LATHROP: Thank you. [LR424]

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DR. MARK WEILAGE: I did not...I don't recall this being in the forefront of my memory when we were planning these meetings with the Ombudsman's Office. I think that's what you're referring to, correct? Yeah. [LR424]

SENATOR MELLO: It is. Okay, the last real e-mail I guess that, if you could turn to page 216, I guess if anything I read page 216 and 217, as Senator Lathrop was asking you a few questions, that I think I share his dismay in the sense that anyone who would read this e-mail after hearing your testimony I think would get the opinion that you didn't care what anyone else's general opinion was. You had come up with your own conclusion. And this e-mail lays out your conclusion pretty...in fairly close detail of what you thought was a scenario and what had to be essentially the scenario moving forward. Is that pretty safe to say that? I mean, it's a fairly long e-mail obviously in regards to your analysis. This was, I do assume, what you sent Dr. White in regard to his initial request in respects to wanting some behavioral health...the behavioral records background on Nikko Jenkins. Is that safe to say this was what you sent him in response to his initial information request? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR MELLO: And that essentially it was your professional opinion as you lay it out here fairly clear that Nikko Jenkins is faking this, that there was obviously no signs of mental illness, there was purely his psychotic behavior or sociopath behavior, narcissism, and this was the department's essential opinion moving forward of... [LR424]

DR. MARK WEILAGE: That was my opinion and... [LR424]

SENATOR MELLO: Did Dr. White respond to you at all in respects to this e-mail of...I know, I did see, you did send it to Melinda Pearson, Elizabeth Geiger, Dr. Geiger, Dr. Pearson, assuming they were your mental health practitioners who worked under you to

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just give them a heads up that this was your opinion, as was essentially their opinion, to Dr. White and it was going to be the department's opinion? [LR424]

DR. MARK WEILAGE: Well, it was my...I was not trying to say this had to be the department's opinion. I was saying this is what I...this is my opinion and it's what I'm recommending. [LR424]

SENATOR MELLO: Which ultimately became the department's opinion. [LR424]

DR. MARK WEILAGE: I can't speak for the department but... [LR424]

SENATOR MELLO: Did the...in the months prior to this, did anything change in regards to the department's, as Senator Lathrop asked you... [LR424]

DR. MARK WEILAGE: Oh. [LR424]

SENATOR MELLO: ...multiple times, did anything change after this information was moved forward to Dr. White, to the Ombudsman's Office, in any which way, shape, or form as it related to Nikko Jenkins being... [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR MELLO: ...sent out of Tecumseh or NSP to the regional center and/or be civilly committed? [LR424]

DR. MARK WEILAGE: No, he didn't. Nothing changed. [LR424]

SENATOR MELLO: So this was the opinion of the department, essentially drafted in your e-mail that you gave to Dr. White that was then given to everyone else. [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR MELLO: Thank you. [LR424]

SENATOR LATHROP: Senator Seiler. [LR424]

SENATOR SEILER: I have a real problem and it started with testimony of Bob Houston that said he transferred Nikko from Tecumseh back to Lincoln. Are you aware of that? [LR424]

DR. MARK WEILAGE: I know he got transferred, yes. [LR424]

SENATOR SEILER: Do you know Bob Houston did that? [LR424]

DR. MARK WEILAGE: I don't know who initiated the transfer officially. [LR424]

SENATOR SEILER: Well, let's take some dates that bother me a lot. The fact is on the....Deputy County Attorney Smith from Johnson County started a process February 25 of '13, 2013, asking questions about doing a mental health commitment. Now you've testified that you're familiar with the process and you've testified in a bunch of these. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SEILER: You also know...do you know that the county attorney in which the party is located has jurisdiction? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SEILER: Okay. So then on...at the central office on 3/4/13, just a few days,

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one week, you have a meeting and you're to bring all the information to that meeting and gather it up and bring it to that meeting, and you do. And you say you don't remember giving them Dr. Baker's report and that, but I have some question about the next thing that happens would indicate they knew that about Dr. Baker's report, because Bob Houston transfers to Lancaster County ten days later, jerking the jurisdiction right out from below the deputy county attorney Smith in Johnson County. Are you aware of that? [LR424]

DR. MARK WEILAGE: I'm aware he got transferred. I don't know the... [LR424]

SENATOR SEILER: Okay. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR SEILER: Well, have you read the Ombudsman's report? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SEILER: And he talks about the civil commitment on page 54, and he says on March 11, 2013, Mr. Richard Smith, Deputy Johnson County Attorney, wrote to Mr. Jenkins, acknowledging his receipt of the information. And we know from testimony he was continuing to look into this matter. Wait a minute. That's seven days after you had your meeting. He still doesn't know about it. It's three days before his jurisdiction is jerked out from under him, and you say nobody knows about the commitment that he's going to have and based on Baker's testimony? It's a little hard to believe. Thank you. [LR424]

SENATOR LATHROP: Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Let's review just for a little bit

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the commitment process. The county attorney, elected official, is charged with being the gatekeeper on the commitment process. Do you agree with that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: And he gets information, or she, from any number of sources--from the police department, from the hospitals, from people complaining about Grandma being loony--all those different sources and got to sort out whether to engage the system. Is that correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Okay. And that decision making rests with the county attorney. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Doesn't rest with the police chief or the officer in the field or Corrections or the doctor; rests with the county attorney to engage that system. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Correct? The county attorney has got an obligation, when a credible complaint comes in, to check it out. Would you agree with that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: And the citizen, when the county attorney inquires, has got an obligation to give full and fair disclosure to the county attorney. [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: And then the county attorney, if he believes that there's good cause for it, takes it over to the board that Senator Seiler sat on and they make a final review to make sure that the county attorney just doesn't have it in for somebody and to make sure that the person is mentally ill and dangerous. And if so, they engage the system of some type of corrective measures. Is that correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Okay. We've outlined basically the system. Now there's a phone call from the county attorney's office charged with that responsibility to you, an employee of the state of Nebraska, trying to figure out which way is up with these reports that are coming in. Describe that phone call. What does the county attorney say to you; what do you say to him? [LR424]

DR. MARK WEILAGE: He asked or he informed me that he received a petition or some information from Nikko Jenkins' mother and requesting that he be seen for or be reviewed for a civil commitment or have the civil commitment process started. And he asked, what's your plan? And I said, well, at this point we make those decisions as somebody gets closer to discharge because it's related to imminence as well as mentally ill and dangerous, as we've had other people testify. Imminence is a part of the process. So when somebody is getting close to getting out, that's when we have to look at mentally ill, dangerous, and imminence. [LR424]

SENATOR SCHUMACHER: He's looking at it right now though. [LR424]

DR. MARK WEILAGE: He is looking...he was looking at it right then. [LR424]

SENATOR SCHUMACHER: And he has to be asking the question, what can you tell me

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about this guy? [LR424]

DR. MARK WEILAGE: And I... [LR424]

SENATOR SCHUMACHER: Right? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: And do you say, oh God, this one is a weird one? I mean, he's drinking semen, he's drinking urine, he's cutting himself, he's writing on the wall with blood, he's threatening to cut hearts out of people and kill Catholics, Jews, and children. Do you tell him any of this? [LR424]

DR. MARK WEILAGE: No. I talked to him about that we are...because he mentioned the statements, and I said that we're aware of that and that we're continuing to work with him to try and develop some sort of plan for him. [LR424]

SENATOR SCHUMACHER: He was aware of the urine drinking and the blood on the walls? [LR424]

DR. MARK WEILAGE: Oh, no. [LR424]

SENATOR SCHUMACHER: Oh, okay. [LR424]

DR. MARK WEILAGE: Just...I was aware. I told him that I was, because he had said that he kind of recited some of the things that were in the petition that the... [LR424]

SENATOR SCHUMACHER: Why wouldn't you spill your guts out to him, say, hey, I'm glad you're going to be the guy making a decision on this character? Why do you feel that you are the gatekeeper of the system at that point and not... [LR424]

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DR. MARK WEILAGE: I didn't. I didn't feel that I was the gatekeeper. [LR424]

SENATOR SCHUMACHER: Then why didn't you tell him? [LR424]

DR. MARK WEILAGE: Because (a) it wasn't at the time that we normally do that. We normally do that as they get much closer to their discharge. [LR424]

SENATOR SCHUMACHER: But that isn't your decision. That's his decision. He has jurisdiction on that question, right? And he's asking you the question: Tell me about this character. [LR424]

DR. MARK WEILAGE: Well, he didn't really say it like that. What...he just said, what's your plan? And I said the plan is that we're going to, like we do with all inmates, we'll evaluate that as we get closer to discharge. And he seemed satisfied with that. [LR424]

SENATOR SCHUMACHER: Oh, and that was all he wanted? And you didn't feel obligated. You're talking to the man in charge of engaging the system and you didn't feel to tell him all the things that we've heard today, psychiatric reports calling into question, all this weird behavior. You didn't...it just wasn't relevant to the conversation. [LR424]

DR. MARK WEILAGE: It would be relevant if we were making a referral. [LR424]

SENATOR SCHUMACHER: But he was making the referral. He...the referral already was on his desk. He was coming to you for information and you weren't giving it to him. [LR424]

DR. MARK WEILAGE: Well,...what as that? [LR424]

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SENATOR SCHUMACHER: And you weren't giving it to him. [LR424]

DR. MARK WEILAGE: I reassured him that we were aware of the things that he was being told about and that we were trying to work on a discharge plan for... [LR424]

SENATOR SCHUMACHER: And you didn't tell him what he needed to know. You mentioned that you testified in numerous mental health hearings across the state of Nebraska in your career. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: How many were as bad as Nikko Jenkins? I've prosecuted hundreds of them, Senator Seiler has heard a bunch, and there are very rare situations where some behavior that's been clearly admitted is as clearly out of the norm as this character's. I can't recall one of anybody drinking urine or writing with blood on the walls or sniffing semen. How many have you been in where there's been weirder behavior than this? [LR424]

DR. MARK WEILAGE: Well, we have that...that sort of behavior is not unusual in offenders in segregation. I mean they cut on themselves, they...and frequently, the unfortunate...the difficult thing is that, and I've had numerous offenders say this to me, that there are some offenders in segregation that coach other inmates on this is how you act crazy, these are the things you need to do, this will get you...and so it becomes very difficult to understand why they are doing a behavior, because some of them readily admit, I was doing it because I was bored; I was, you know, angry. And it's unfortunate. [LR424]

SENATOR SCHUMACHER: So what I'm almost hearing is that you're saddled with a heck of a mess and a lot of people, and you caged them in little rooms for 23 hours out of the day, at least 200 and some of them, and...or not you but the system, us. We've

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done this to people. And they get all kinds of weird, goofy behavior because that's what you do when you're caged in a room by yourself? [LR424]

DR. MARK WEILAGE: Some of them would say that, yes. That is part of the reason that they display that behavior. [LR424]

SENATOR SCHUMACHER: And it's become almost callous to have to do this day in and day out and watch this behavior. [LR424]

DR. MARK WEILAGE: I don't feel like I have been calloused at all. [LR424]

SENATOR SCHUMACHER: But there was nothing terribly unusual about this cat. I mean, you know, he didn't even merit a psychotic diagnosis. He just was, you know, narcissistic, liked the good looks that a scar gives you on the face. That's not seeing through to what's going on if you feel that there was just nothing terribly unusual about this kind of thing. [LR424]

DR. MARK WEILAGE: No, I think it was unusual and I was concerned about it. I don't think it was due to a mental illness. [LR424]

SENATOR SCHUMACHER: How many people have you found to be this Axis I classification and sent on to the regional center? What does somebody have to do to convince you they are mentally ill? [LR424]

DR. MARK WEILAGE: There's any number of people, I mean there's lots of people that I have... [LR424]

SENATOR SCHUMACHER: Any number can be 1; it can be 1,000. I mean give me an idea. [LR424]

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DR. MARK WEILAGE: Okay. Well, that I get directly involved in, I would say, you know, I'm trying to think how many mental health board referrals I've done. You know, two or three. [LR424]

SENATOR SCHUMACHER: Well, mental health you say you engage only at the end of the system. [LR424]

DR. MARK WEILAGE: Right. [LR424]

SENATOR SCHUMACHER: Okay, while they're in there, they got ten years to go and they're just goofy as heck, how many have you said, well, you know, you are truly Axis I, you're going over to the regional center? [LR424]

DR. MARK WEILAGE: Well, I haven't said...I've said they're Axis I, but if they have ten years to do, I haven't said you're going to the regional center. I... [LR424]

SENATOR SCHUMACHER: What do you do with them then? [LR424]

DR. MARK WEILAGE: We try to get them, wherever they're at, over to our mental health unit, which is a general population unit where they can access social work, some mental health counseling, and... [LR424]

SENATOR SCHUMACHER: So automatically, once they're Axis I, they don't go into these little cells. [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR SCHUMACHER: That's a way to get out of the little cells, to be Axis I? [LR424]

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DR. MARK WEILAGE: Potentially. I mean... [LR424]

SENATOR SCHUMACHER: Potentially. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR SCHUMACHER: But there's a lot of them that might be Axis I in those cells?
Is that what you're telling me? [LR424]

DR. MARK WEILAGE: Yeah, of varying severity, yes. [LR424]

SENATOR SCHUMACHER: When you send somebody over to the regional center,
does the regional center bill back the Department of Corrections? That's... [LR424]

DR. MARK WEILAGE: Not that I'm aware of, no. [LR424]

SENATOR SCHUMACHER: That's a free trip? [LR424]

DR. MARK WEILAGE: Yeah, I guess. I mean I don't know the billing procedures so I
shouldn't say. [LR424]

SENATOR SCHUMACHER: Of the 200-and-some people that are confined into, what is
it, the magic word, administrative management or whatever, solitary confinement, how
many of those are suffering from a mental illness? [LR424]

DR. MARK WEILAGE: We have right now, I think our list is at Tecumseh about 20.
[LR424]

SENATOR SCHUMACHER: Ten percent? [LR424]

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DR. MARK WEILAGE: Yeah, approximately. I think there's... [LR424]

SENATOR SCHUMACHER: Less than what the general population...I mean 20 percent of people... [LR424]

DR. MARK WEILAGE: Are you saying for...okay, so to clarify our definitions perhaps,... [LR424]

SENATOR SCHUMACHER: Okay. [LR424]

DR. MARK WEILAGE: ...of people being seen by mental health, because they have any type of diagnosis, including adjustment disorders. I mean when I say 20, those are the severely mentally ill. [LR424]

SENATOR SCHUMACHER: So those are people you would say are Axis I. They are mentally ill. They are psychiatrically ill. They just aren't a social behavioral disorder. There's... [LR424]

DR. MARK WEILAGE: They may have social and behavioral issues as well but... [LR424]

SENATOR SCHUMACHER: They may have that, but they've also crossed a line into the... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: ...into what you would call or what we would call today this Axis I classification. [LR424]

DR. MARK WEILAGE: Right. [LR424]

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SENATOR SCHUMACHER: Okay. And Nikko Jenkins was not worse or equal to those people. [LR424]

DR. MARK WEILAGE: In his dangerousness, yes. [LR424]

SENATOR SCHUMACHER: In his mental illness. [LR424]

DR. MARK WEILAGE: Well, as I've said, I mean I...I don't believe he had an Axis I mental illness and... [LR424]

SENATOR SCHUMACHER: You made a comment early on that, you know, he would be subject to the mental health system with the county attorney on when he...whenever...and it would be filed in whatever county he would reside in at the time. Did you have any reason to believe that he was going to be transferred out of there before Johnson County could get their teeth into him? [LR424]

DR. MARK WEILAGE: No idea. I didn't know that. [LR424]

SENATOR SCHUMACHER: A comment was a little unusual that you just made a little while ago that, like, it was on your mind that, hey, people are moved out of here, out of Johnson County to Lincoln or to another county prior to actually being released. [LR424]

DR. MARK WEILAGE: I think what I...and correct me if I'm wrong. I'm going to try and respond because I think I know what your question is. What I was referring to about transferring people would be transfer...our mental health unit, that has...that's fully staffed and to deal with the most severely mentally ill, is at the Lincoln Correctional Center. That's why they get transferred out of Tecumseh. Is that what you're referring to? [LR424]

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SENATOR SCHUMACHER: Right. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR SCHUMACHER: Now when he got transferred out to Lincoln,... [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: ...he wasn't put in that unit, was he? [LR424]

DR. MARK WEILAGE: No, he was not. [LR424]

SENATOR SCHUMACHER: He was just put in another dog cell, little cage. [LR424]

DR. MARK WEILAGE: He was put in segregation, yes. [LR424]

SENATOR SCHUMACHER: A little room with a bed and his own shower and a place to run back and forth for an hour a day. Doesn't it bother you that's the system? Have you ever made a recommendation to the higher-ups that maybe we're overusing this system? [LR424]

DR. MARK WEILAGE: Yes, I have. [LR424]

SENATOR SCHUMACHER: And the response? [LR424]

DR. MARK WEILAGE: And they have supported me fully in some of the things that I've developed over...well, let me go back. I developed a program back in the 2000s when I was in the Omaha Correctional Center that was targeting serious and violent offenders, young offenders who were going to be reentering the community, developed a specific program that I had all of them run through to kind of kick-start and get them focused on

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things that they could change about themselves. That was carried on for a number of years during that time that we had the grant. [LR424]

SENATOR SCHUMACHER: Had the what? [LR424]

DR. MARK WEILAGE: That we had a grant. [LR424]

SENATOR SCHUMACHER: Oh. Okay. [LR424]

DR. MARK WEILAGE: It was called the SVORI grant, Serious and Violent Offender Reentry Initiative. So I had developed this and, yeah, about October of last year, as I said previously, I go to kind of where the need is. Both of our psychologists had departed from the Tecumseh State Correctional Institution, so I started going down there and working and, two to three days a week, trying to help the offenders. And you know, I get a sense as to what the...how the committee views me, but to be honest, I am a firm believer in that these are not bad...or they're not bad people. And I have to believe this if I'm going to try and help them. They are people that have done bad things and they're...but first and foremost, they're people, and that's how I have approached throughout the years working with the offenders wherever they are in the department and whether they're murderers, sex offenders, whatever. So part of what, after I started going down and working in October, I said, you know, we need...I think we need to try something a little different down here in the special management unit. I went to the warden and he supported it fully and he set up a system where we could start running groups in the special management unit with the idea...and this has been brought up before. I mean, part of the issue when people, in long-term segregation is that they...not everybody becomes mentally ill, but they have increased difficulties with communication, socialization. They become bored. That's first up. So, I went to them. I said, this is what I want to do. They supported it fully. And we started running groups and we've been doing that since February and gotten some people out of segregation that had...were long-term, long-term segregation inmates and out into GP and been

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able to transition them. And it points to the...and I go back to--just because somebody is mentally ill. Now not all those people are mentally ill. They wouldn't have a diagnosis. But they had behaviors that led them to be in segregation for long periods. And we've been able to get them focused on some other things, not the boredom, not the anger, not the, you know, the hopelessness, or whatever that they struggled with and get them focused and...in transitioning. And so, I have expressed concern about it. And I've developed a program and I've implemented it. So after the success there, we've implemented it at the Nebraska State Penitentiary in their control unit. And I'm starting a group at the Lincoln Correctional Center; the same group. It's called the METEOR group. [LR424]

SENATOR SCHUMACHER: Thank you. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR LATHROP: Senator Chambers. I assume you got a question. [LR424]

SENATOR CHAMBERS: Yes, I do. Do you prefer to be called doctor or mister? [LR424]

DR. MARK WEILAGE: Mark. [LR424]

SENATOR CHAMBERS: I'm not going to call you by your first name. [LR424]

DR. MARK WEILAGE: Okay. Whatever. Whatever you prefer. [LR424]

SENATOR CHAMBERS: What do you prefer? [LR424]

DR. MARK WEILAGE: It doesn't matter. Mr. Weilage is fine. [LR424]

SENATOR CHAMBERS: I'll call you doctor. Now, Dr. Weilage, you're under oath.

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[LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Do you think I'm crazy? [LR424]

DR. MARK WEILAGE: No. But I...that's my opinion just on the brief interaction. [LR424]

SENATOR CHAMBERS: And you're under oath. [LR424]

DR. MARK WEILAGE: I can't give an opinion really, yeah. [LR424]

SENATOR CHAMBERS: Okay. Now... [LR424]

DR. MARK WEILAGE: So the default is, no, I don't think you are. (Laugh) [LR424]

SENATOR CHAMBERS: If you had heard...if you...let me, before I ask that question, you have the term, the title "doctor," but you haven't gone to medical school. Is that correct? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: So how do you come to be entitled to use the title "doctor"? [LR424]

DR. MARK WEILAGE: Because it's a Doctorate of Philosophy and I don't feel entitled to it. [LR424]

SENATOR CHAMBERS: And what is your doctorate in? [LR424]

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DR. MARK WEILAGE: Clinical psychology. [LR424]

SENATOR CHAMBERS: Clinical psychology? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And so you had a bachelor's. What was your bachelor's degree in? [LR424]

DR. MARK WEILAGE: I had a double major--psychology, sociology, and...yeah. [LR424]

SENATOR CHAMBERS: And what was your master's in? [LR424]

DR. MARK WEILAGE: Clinical psychology. [LR424]

SENATOR CHAMBERS: So you had an interest in that field for some time? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Were your courses taught in English? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Did you take any English classes during your college days? [LR424]

DR. MARK WEILAGE: I'm sure I did, you know? [LR424]

SENATOR CHAMBERS: But you don't remember. [LR424]

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DR. MARK WEILAGE: Well, I'm sure at the bachelor's level I did. [LR424]

SENATOR CHAMBERS: But you don't really remember whether you did or not. I'm just checking your memory. You don't remember some very serious things that happened recently, so I want to see if you remember some of the courses you took when you were in college. Did you remember taking an English course? [LR424]

DR. MARK WEILAGE: I couldn't tell you what the name of it was, but I'm sure I did. [LR424]

SENATOR CHAMBERS: Did you take a literature course? Did you study English literature? [LR424]

DR. MARK WEILAGE: I don't know. [LR424]

SENATOR CHAMBERS: You don't know. [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Is a Ph.D. in clinical psychology considered what they call an advanced degree? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: What is your job title? [LR424]

DR. MARK WEILAGE: Assistant Behavioral Health Administrator for Mental Health. [LR424]

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SENATOR CHAMBERS: For what? [LR424]

DR. MARK WEILAGE: Mental health. [LR424]

SENATOR CHAMBERS: Mental health. And who hired you? [LR424]

DR. MARK WEILAGE: Dr. Kohl, Dr. Randy Kohl and Dr. Cameron White and the director...well no, actually, for that position, are you speaking of specifically? [LR424]

SENATOR CHAMBERS: Yes. [LR424]

DR. MARK WEILAGE: That would be Dr. Kohl and...Dr. Randy Kohl and Dr. Cameron White. [LR424]

SENATOR CHAMBERS: Both of them hired you? [LR424]

DR. MARK WEILAGE: I believe so. I mean, they're my superiors. [LR424]

SENATOR CHAMBERS: You don't know for sure. [LR424]

DR. MARK WEILAGE: I don't know who signed it. Probably the director at the time, but I don't recall. [LR424]

SENATOR CHAMBERS: You don't know who signed what? [LR424]

DR. MARK WEILAGE: Like my hire letter. [LR424]

SENATOR CHAMBERS: And you didn't look at that paper to see whose signature was on it? [LR424]

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DR. MARK WEILAGE: I probably did at the time. [LR424]

SENATOR CHAMBERS: But you don't remember. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: Were you interviewed before you were hired? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Who interviewed you? [LR424]

DR. MARK WEILAGE: Well, when I was originally hired, it was a group of five or six people, including the then-mental health director, Dr. Bohn. [LR424]

SENATOR CHAMBERS: Doctor who? [LR424]

DR. MARK WEILAGE: Dr. Suzanne Bohn. [LR424]

SENATOR CHAMBERS: Is she still working for the state? [LR424]

DR. MARK WEILAGE: No. That was in '99 when I came on as psychologist (inaudible). [LR424]

SENATOR CHAMBERS: Okay, so I can see why you might not remember the people who were on the committee. But you were interviewed by several people. [LR424]

DR. MARK WEILAGE: Yes, yes. [LR424]

SENATOR CHAMBERS: And you were hired. Correct? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Why did they hire you? What was their reason in hiring you did they say? [LR424]

DR. MARK WEILAGE: To be a psychologist super...well, then it was to be a psychologist supervisor at the Omaha Correctional Center. [LR424]

SENATOR CHAMBERS: And did they expect you to perform certain duties that would be of value? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Why do you think Dr. Baker was hired? [LR424]

DR. MARK WEILAGE: To provide psychiatric services. [LR424]

SENATOR CHAMBERS: And she...how would she perform those services? What services...what would be included in the services that she was supposed to provide? [LR424]

DR. MARK WEILAGE: Assess and treat offenders who may be reporting certain symptoms or have mental illness. [LR424]

SENATOR CHAMBERS: She was supposed to do what? [LR424]

DR. MARK WEILAGE: Assess and treat offenders who may have had symptoms or mental illness. [LR424]

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SENATOR CHAMBERS: Assess and treat. Now, how did she go about assessing somebody, if you know? [LR424]

DR. MARK WEILAGE: Interview them. That's my understanding as how she did it. I don't...but I don't... [LR424]

SENATOR LATHROP: Doctor, I'm going to ask you to speak up just a little bit so that we get a good record. [LR424]

DR. MARK WEILAGE: Okay. I never sat in on any of hers, but I...well...so I don't know. [LR424]

SENATOR CHAMBERS: Do you assess people? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: How do you assess people? [LR424]

DR. MARK WEILAGE: I will go interview them. I'll review records. I will get collateral information, look at their institutional behaviors, incident reports. [LR424]

SENATOR CHAMBERS: Okay, now when you were contacted by...was it Dr. Geiger and Dr. Pearson to talk to Nikko Jenkins? Were you called in by them to review his case, because I think that's what you said? [LR424]

DR. MARK WEILAGE: I believe so, yes. [LR424]

SENATOR CHAMBERS: Why won't you answer when I ask you? Why do I have to go... [LR424]

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DR. MARK WEILAGE: Well, I wasn't sure if you were done. I'm sorry. [LR424]

SENATOR CHAMBERS: Oh, okay. Had you talked to Scott Moore before you talked to Nikko Jenkins? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Had you talked to Dr. Hartmann? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Had you read any reports? [LR424]

DR. MARK WEILAGE: Not of Hartmann or Moore. [LR424]

SENATOR CHAMBERS: So as far as what Nikko Jenkins was or may have been, your mind and experience would have been like a blank tablet on which nothing had been written relative to Nikko Jenkins before he came to you. Is that correct? [LR424]

DR. MARK WEILAGE: Basically. I tried to go in with an open mind, yes. [LR424]

SENATOR CHAMBERS: The reason I'm talking loud, I was hoping it would encourage you to do the same thing. [LR424]

DR. MARK WEILAGE: Oh. [LR424]

SENATOR CHAMBERS: Now, do you perform psychoanalysis? [LR424]

DR. MARK WEILAGE: Not psychoanalysis in the classic sense. [LR424]

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SENATOR CHAMBERS: I'm not talking...just yes or no. Do you perform psychoanalysis? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: What is psychoanalysis? [LR424]

DR. MARK WEILAGE: It's a way of approaching therapy that was originally pioneered by Freud and some of his... [LR424]

SENATOR CHAMBERS: So from the...oh. [LR424]

DR. MARK WEILAGE: ...contemporaries, but... [LR424]

SENATOR CHAMBERS: So has it been discredited? [LR424]

DR. MARK WEILAGE: No, I don't think so, it hasn't been. [LR424]

SENATOR CHAMBERS: Well, you spoke in the past tense. You said it "was."
It's...psychoanalysis is still a methodology. Is that correct? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: Do people with the degree that you have feel they're qualified to perform psychoanalysis? [LR424]

DR. MARK WEILAGE: It depends on your training as to whether or not you're... [LR424]

SENATOR CHAMBERS: You, are you qualified to perform psychoanalysis? [LR424]

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DR. MARK WEILAGE: Not psychoanalysis, no. [LR424]

SENATOR CHAMBERS: You did not test Nikko Jenkins, did you? [LR424]

DR. MARK WEILAGE: The testing was the PCL-R. [LR424]

SENATOR CHAMBERS: I'm asking you a question. Did you test Nikko Jenkins?
[LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You did? You did? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: When did you test him? [LR424]

DR. MARK WEILAGE: It was in February. I think I mentioned that in the report that the testing was the Psychopathy Checklist-Revised. [LR424]

SENATOR CHAMBERS: And when did you give your first assessment of him? It was before you tested him, wasn't it? [LR424]

DR. MARK WEILAGE: I'm trying to remember the exact dates, but... [LR424]

SENATOR LATHROP: I'm not sure you're communicating. He said he tested him, but that was an interview. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

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SENATOR LATHROP: There's not been a formal test or a standardized test administered. [LR424]

SENATOR CHAMBERS: So you don't know what the word "test" means. What does "test" mean in your mind? Does "test" mean an interview? [LR424]

DR. MARK WEILAGE: A test is an assessment that has some research backing, that has scoring criteria. [LR424]

SENATOR CHAMBERS: Well, wait a minute. Let's get this straight. Did you perform what's understood in common parlance as a test on Nikko Jenkins? You were asked by the Chairman, are you...do you perform tests? And you said, yes, you're qualified to perform them. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Did you say that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: What were you talking about when you answered his question relative to your qualification to perform a test? What did the word "test" mean when you and the Chairman were having a discussion? [LR424]

DR. MARK WEILAGE: Any type of assessment that...and you have to have some experience and training in the assessment or have training in similar assessment instruments to be able to administer them. And they can range from anything from pencil-and-paper tests to assessments that are... [LR424]

SENATOR CHAMBERS: Well, let me ask it like this, because we're not getting

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anywhere. In the trade, if people like you were talking to each other and you mentioned "test," would that carry to their mind the idea of an interview or something more formal? [LR424]

DR. MARK WEILAGE: It depends on how familiar they are with the instruments. [LR424]

SENATOR CHAMBERS: Then let me ask you this: Did you have any...did you administer any paper-and-pencil tests to Nikko Jenkins? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: All you had was an interview with him. That's correct then? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: And when you had that interview, it was the first time you had had any contact with Nikko Jenkins. Is that correct? [LR424]

DR. MARK WEILAGE: Yes, that was part of it. [LR424]

SENATOR CHAMBERS: And how long did that interview last? [LR424]

DR. MARK WEILAGE: I can't tell you off the top of my head. Probably...I think it occurred over more than one occasion and it was... [LR424]

SENATOR CHAMBERS: The first one. [LR424]

DR. MARK WEILAGE: Probably an hour, an hour and a half. [LR424]

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SENATOR CHAMBERS: What is the average length of time of a first interview? [LR424]

DR. MARK WEILAGE: It varies greatly. It could be half an hour, hour and a half, two hours, four hours. [LR424]

SENATOR CHAMBERS: What makes an interview stretch over a period of maybe an hour and a half, because you said that's how long this one could have been? Why would...what would there be about this man that would lead you to have a first interview that would span a period of an hour and a half? [LR424]

DR. MARK WEILAGE: Collecting more information about background; being able to collect enough information using a structured interview to score an assessment. All that takes a lot more time. [LR424]

SENATOR CHAMBERS: At what point were words expressed to you by Nikko Jenkins that you construed as a threat to you? [LR424]

DR. MARK WEILAGE: When I gave him feedback about that I didn't believe he was mentally ill. [LR424]

SENATOR CHAMBERS: Did you tell him you did not believe. Did you use the words "I don't believe you"? [LR424]

DR. MARK WEILAGE: I said I don't believe he's mentally ill. I don't think I said it like what you just said. [LR424]

SENATOR CHAMBERS: But you did, the words "I don't believe you," and then you put more to them. But those words were spoken by you to him. Is that correct? "I don't believe you are mentally ill." Did you tell him that? [LR424]

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DR. MARK WEILAGE: That may not have been the exact quote, but that was the message, yes, that I relayed to him. [LR424]

SENATOR CHAMBERS: Well, you know what you said. I'm just trying to stir your pure mind. You really don't remember what you told him, do you? [LR424]

DR. MARK WEILAGE: I remember what I wrote in the note. That's my best... [LR424]

SENATOR CHAMBERS: You have a Ph.D., correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: That's an advanced academic degree, correct? [LR424]

DR. MARK WEILAGE: Yes. Yes. [LR424]

SENATOR CHAMBERS: And you say things and don't remember what you said. [LR424]

DR. MARK WEILAGE: That's the purpose of writing notes though. [LR424]

SENATOR CHAMBERS: I listened to your testimony very carefully. I think when there's something that will benefit you, your brain...your recollection is like Velcro. When you think it might put you in a shaky situation, it becomes like Teflon--everything slides off and you don't remember. I want to tell you, frankly, I don't believe you. I think, not that you have misspoken, I think you have lied. And we're going to proceed and see what you think. Now I want to remind you that you're under oath. You're aware of that, correct? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Did you make some statements that on second thought may not really have been correct that you're aware of? [LR424]

DR. MARK WEILAGE: Not that I'm aware of. [LR424]

SENATOR CHAMBERS: I'm going to read you something from a recent Nebraska Supreme Court case. And for the record, it's State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court, Relator, v. Brenda J. Council, Respondent. It's a lawyer discipline case and it was handed down September 12, 2014. What is today's date? [LR424]

DR. MARK WEILAGE: September 18th. [LR424]

SENATOR CHAMBERS: That was six days ago, correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: So it's a very recent case, correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Well, if I turn, which I'm doing, to page 41, this is what the Supreme Court said: A partial and fragmentary disclosure accompanied with the willful concealment of material and qualifying facts is not a true statement and is as much a fraud as an actual misrepresentation, which in effect it is. You have given partial and fragmentary disclosures. You don't remember this; you don't remember that. And I think you do remember. And I'm going to see if maybe I can stir your mind by giving you a concrete example. Do you remember discussing a certain meeting with the Chairman?

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[LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And at that meeting, there were people...and you remembered the names of various people who were at that meeting. Is that correct? [LR424]

DR. MARK WEILAGE: I attempted to recall some of the people that were at the meeting, yes. [LR424]

SENATOR CHAMBERS: I'm not talking about what you attempted. Did you remember? Either you did or you didn't. Did you remember the names of some of the people who were there? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Why would you remember their names? [LR424]

DR. MARK WEILAGE: For some reason it stuck in my head. [LR424]

SENATOR CHAMBERS: Can you speak a little louder, please? [LR424]

DR. MARK WEILAGE: For some reason it stuck in my head. [LR424]

SENATOR CHAMBERS: Had you ever before that meeting talked to Director Houston? Do you know who Director Houston is? [LR424]

DR. MARK WEILAGE: Yes, I do. [LR424]

SENATOR CHAMBERS: Who is he? [LR424]

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DR. MARK WEILAGE: He was the director of the Department of Corrections. [LR424]

SENATOR CHAMBERS: Okay, I want to be sure we are talking about the same thing when I ask you about "director." Now, when you were asked was the director at that meeting, what did you say? [LR424]

DR. MARK WEILAGE: I said I didn't recall if he was at the meeting. I believe that's what I said. [LR424]

SENATOR CHAMBERS: Now I'm going to ask you again. You're under oath. Was the director at that meeting? Think now. Think. You are a Ph.D. You deal in psychology; you've taken courses in psychology, sociology, clinical psychology even. Now, you know methods by which you can recall things that you ought to recall when they were important. You can visualize the room. You can visualize the people whose names you remember. You can visualize important people who were at that meeting. Now while you're trying to convert your Teflon memory bank into Velcro, I want to ask you another question. Did you say that a deputy director was there? [LR424]

DR. MARK WEILAGE: My recollection was, yes, that Deputy Director Larry Wayne was at that meeting. [LR424]

SENATOR CHAMBERS: So you remembered the deputy, but you didn't remember the sheriff. Why would you remember the deputy but you would not remember the director? [LR424]

DR. MARK WEILAGE: Perhaps he was sitting closer to me; I don't know. I mean part of the... [LR424]

SENATOR CHAMBERS: Okay, you don't know. But you were able to make an

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assessment of a person and your assessment carries more validity than that of a psychiatrist. That's what you're telling me, with your faulty memory, your unsureness about things. But you recollect this assessment that you made. And you also did not share that report by Dr. Baker with anybody. Is that true? Well, let me ask it this way: With whom did you share Dr. Baker's report? [LR424]

DR. MARK WEILAGE: I don't recall specifically who I shared it with. [LR424]

SENATOR CHAMBERS: I know you don't recall. I know that's what you're going to say. So I'll ask a different way. Do you recall having shared it with anybody? [LR424]

DR. MARK WEILAGE: With the other mental health staff at TSCI. [LR424]

SENATOR CHAMBERS: I'm going to take my time and your time because you're here and you're under oath. You are not at this hearing going to answer anybody's question in the affirmative if they ask you, knowing what you know now would you have done differently, because that would mean you would acknowledge that what you did was incorrect and your assessment was not correct. You told Senator Schumacher you stand by what you did. Isn't that what you told him? [LR424]

DR. MARK WEILAGE: I stand by my assessment, yes. [LR424]

SENATOR CHAMBERS: And knowing what you know, you still stand by it. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: What does the term "learn" mean? [LR424]

DR. MARK WEILAGE: To gain and assimilate information and make it part of your working knowledge base. [LR424]

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SENATOR CHAMBERS: Well done. Have you learned anything between the time you made your evaluation and today? Have you learned anything since you made that evaluation? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: What have you learned? [LR424]

DR. MARK WEILAGE: That...all sorts of things. I learn stuff every day. I mean... [LR424]

SENATOR CHAMBERS: Okay. Did you learn that your evaluation was incorrect? [LR424]

DR. MARK WEILAGE: No one, specifically, has told me my evaluation is incorrect. [LR424]

SENATOR CHAMBERS: Have you learned by any means or through any source that Nikko Jenkins, indeed, is mentally ill? [LR424]

DR. MARK WEILAGE: I've learned that that is other people's opinion. [LR424]

SENATOR CHAMBERS: Have you learned that he is mentally ill? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: You haven't? [LR424]

DR. MARK WEILAGE: Not...I mean, I've learned that that's other people's opinion. [LR424]

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SENATOR CHAMBERS: Have you learned that a court declared him to be mentally ill after taking testimony from psychiatrists? [LR424]

DR. MARK WEILAGE: I be... [LR424]

SENATOR CHAMBERS: Have you learned that, yes or no? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Do you know that he has been declared mentally ill by a court? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: You're a psychologist? You're a head of the mental health department of the Department of Corrections. Is that true? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: And you've dealt with mental...with Nikko Jenkins yourself. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You know that people like you said that he had no mental illness. Is that true? [LR424]

DR. MARK WEILAGE: I know that I say that, yes. [LR424]

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SENATOR CHAMBERS: Did you know that he stated, when he got out, he was going to kill people? [LR424]

DR. MARK WEILAGE: Yes, I knew. [LR424]

SENATOR CHAMBERS: Did he kill people when he got out? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And that didn't have any bearing on what you had thought about him before. First of all, let's go back. You thought he was lying when he said he would go out and kill people, didn't you? [LR424]

DR. MARK WEILAGE: No, not necessarily. [LR424]

SENATOR CHAMBERS: You believed him? [LR424]

DR. MARK WEILAGE: I believed he had a... [LR424]

SENATOR CHAMBERS: No, no, did you believe him? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You see yourself being talked into a box, don't you? [LR424]

DR. MARK WEILAGE: Yes, I believed he was dangerous. [LR424]

SENATOR CHAMBERS: So then you did believe he had some mental illness, didn't you,... [LR424]

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DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: ...because you believe that part? [LR424]

DR. MARK WEILAGE: I believe the dangerousness part. [LR424]

SENATOR CHAMBERS: But you didn't believe he was mentally ill. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: Were you aware that he had been drinking his urine? [LR424]

DR. MARK WEILAGE: I was made aware of that, that information. [LR424]

SENATOR CHAMBERS: You say what? [LR424]

DR. MARK WEILAGE: I was made aware of that information, yes. [LR424]

SENATOR CHAMBERS: And ingesting his semen? You're aware of that? [LR424]

DR. MARK WEILAGE: Or I believe via snorting, I think, if I remember correctly. [LR424]

SENATOR CHAMBERS: And you were aware that he had cut himself on several occasions, seriously. [LR424]

DR. MARK WEILAGE: Yes, yes. [LR424]

SENATOR CHAMBERS: And that he was using his blood to write on the walls of his cell. [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And that did not bespeak mental illness to you? Let me ask it a different way. Is that the conduct of a normal, rational person? Yes or no. [LR424]

DR. MARK WEILAGE: No. No. [LR424]

SENATOR CHAMBERS: Okay. So it's the conduct...if it's not the conduct of a rational person, it's the conduct of an irrational person, isn't it? [LR424]

DR. MARK WEILAGE: It can be. [LR424]

SENATOR CHAMBERS: Is it or is it not? [LR424]

DR. MARK WEILAGE: Everybody does things for a different reason. [LR424]

SENATOR CHAMBERS: No, you're being evasive, Doctor. Now I'm going to hold your feet to the fire. You came here and you're under oath and you made certain representations. You said that to do the things that Nikko Jenkins did are not the things that a rational person would do. Isn't that what you said? [LR424]

DR. MARK WEILAGE: That's my interpretation, yes. [LR424]

SENATOR CHAMBERS: All right. Now, what kind of a person would do it if not a rational person? [LR424]

DR. MARK WEILAGE: One that's... [LR424]

SENATOR CHAMBERS: Irrational. Isn't that true? Isn't it true? [LR424]

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DR. MARK WEILAGE: That's one reason. Yes. [LR424]

SENATOR CHAMBERS: If you're not rational, if the act is not rational then it's irrational. Can it be rational and irrational at the same time? [LR424]

DR. MARK WEILAGE: Something may be rational in one person's mind and not in another. [LR424]

SENATOR CHAMBERS: I'm not talking about in somebody's mind. I'm talking to you, Doctor. Do you have proof that you're a Ph.D.? [LR424]

DR. MARK WEILAGE: Yes, I do. [LR424]

SENATOR CHAMBERS: Where did you graduate from? [LR424]

DR. MARK WEILAGE: University of Nebraska-Lincoln. [LR424]

SENATOR CHAMBERS: You graduated from UNL? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And you have documentary proof of it? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You stated that this conduct is not that of a rational person. If the person who did it is not rational, what is it? What is he? Is he irrational? Okay, everybody knows the answer. Your refusal to answer...I'm going to read you something: A partial and fragmentary disclosure accompanied with the willful concealment of material and qualifying facts is not a true statement and is as much a fraud as an actual

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misrepresentation, which in effect it is. You know that, that what he did was irrational, don't you? [LR424]

DR. MARK WEILAGE: I would label it as irrational. [LR424]

SENATOR CHAMBERS: You would not? [LR424]

DR. MARK WEILAGE: I would. [LR424]

SENATOR CHAMBERS: Is irrationality an indication of mental illness? [LR424]

DR. MARK WEILAGE: It could be. [LR424]

SENATOR CHAMBERS: Now this was not one act that we're talking about, is it? We're talking about a collection or series of irrational acts, aren't we? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Or we could call it a pattern, couldn't we? [LR424]

DR. MARK WEILAGE: Sure. [LR424]

SENATOR CHAMBERS: From the time that Nikko Jenkins came to your attention until they released him in July of last year, he never changed his expression of being mentally ill, did he, to your knowledge? [LR424]

DR. MARK WEILAGE: He expressed it quite differently and when I watch him in video visits and things like that. [LR424]

SENATOR CHAMBERS: Did he tell you, I'm cured; I'm not mentally ill anymore?

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[LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Was he saying right up to the end, I need mental health treatment? [LR424]

DR. MARK WEILAGE: Yes, he was requesting mental health. [LR424]

SENATOR CHAMBERS: So he was consistent all the way through. But you said you don't believe him. Correct? [LR424]

DR. MARK WEILAGE: I said I don't believe he is mentally ill. [LR424]

SENATOR CHAMBERS: You said you don't believe him. If you believe him, then you believe he's mentally ill because he said he's mentally ill. So if you say you don't believe he's mentally ill, you don't believe what he said. Isn't that true? [LR424]

DR. MARK WEILAGE: No, I don't think that's true. [LR424]

SENATOR CHAMBERS: It's so hard to get anything out of you. So if he said he's mentally ill, do you believe him when he said that? [LR424]

DR. MARK WEILAGE: I don't believe he's mentally ill, no. [LR424]

SENATOR CHAMBERS: Did you believe him when he said he is mentally ill? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: So then you said...you're saying you didn't believe him. Isn't

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that true? [LR424]

DR. MARK WEILAGE: In the context of his complaints about being mentally ill. [LR424]

SENATOR CHAMBERS: I'm glad these things are transcribed, because they're going to read what you say and wonder why in the world are the Nebraska taxpayers paying the salary of somebody who is so ignorant; who said that he understands English when he hears it spoken, but obviously he doesn't, and he doesn't understand English when he speaks it himself. You said you don't believe him. If you didn't say you don't believe him, does that mean you did believe him? [LR424]

DR. MARK WEILAGE: I believed he was interested in receiving services. [LR424]

SENATOR CHAMBERS: That's not what I'm asking you. You're jumping off the subject. That's what a child does. You are a Ph.D., Doctor. And you said you understand English when it's spoken. And I believe I speak English as well as anybody, not only in this room, but in this country because I did study it. And I do remember having studied it. And I remember the effort I had to put into learning it so that when I spoke around white people they could not pretend not to understand what I was saying in their language which I speak better than they do. So I'm going to presume that you do understand English and that I speak it well and you understand me. Did you ever tell Nikko Jenkins that you believed he was mentally ill? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: Did you tell him you believed he was not mentally ill? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: What did you say? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Okay, you had to pause on that... [LR424]

DR. MARK WEILAGE: (Inaudible) [LR424]

SENATOR CHAMBERS: ...to make sure you didn't put yourself in a box, huh? Was Nikko Jenkins prescribed psychotropic medicine? [LR424]

DR. MARK WEILAGE: I believe Dr. Baker testified to that, yes. [LR424]

SENATOR CHAMBERS: Psychoactive you call it? What did you call it? [LR424]

DR. MARK WEILAGE: I believe Dr. Baker prescribed that...or testified to that is what I said. [LR424]

SENATOR CHAMBERS: Were those drugs administered to him? [LR424]

DR. MARK WEILAGE: I can't speak to whether or not they were administered. That's... [LR424]

SENATOR CHAMBERS: Would it be malpractice to prescribe a medication which a person...there was no indication that the person should have that medication? [LR424]

DR. MARK WEILAGE: I can't speak to medical malpractice. [LR424]

SENATOR CHAMBERS: Do you think it is proper for a doctor to prescribe medication that is not needed by the person to whom it is prescribed? [LR424]

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DR. MARK WEILAGE: Can you say that one more time just so I'm clear as to what you're asking me? [LR424]

SENATOR CHAMBERS: Do you think that it is appropriate for a doctor to prescribe medication to a person whose condition would not justify or warrant that medication being prescribed? [LR424]

DR. MARK WEILAGE: No, I don't think it would. [LR424]

SENATOR CHAMBERS: Have you heard the Hippocratic oath which says, first do no harm? Have you heard that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Prescribing medicine which is not warranted could do harm. Is that correct? [LR424]

DR. MARK WEILAGE: That's out of my scope of practice, but, I mean, potentially I guess. [LR424]

SENATOR CHAMBERS: Have you heard of people taking drugs by mistake that they should not have taken and they had a very bad reaction from it? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: If a doctor knowingly prescribes a drug that is powerful and it's not needed by the patient, that could do harm, couldn't it? [LR424]

DR. MARK WEILAGE: Sure, I would assume. [LR424]

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SENATOR CHAMBERS: Did you think Dr. Baker knew what she was doing when she prescribed these drugs? [LR424]

DR. MARK WEILAGE: Yes. I have respect for Dr. Baker. [LR424]

SENATOR CHAMBERS: And did you know that these drugs were prescribed for the purpose of stabilizing a person's mental state? [LR424]

DR. MARK WEILAGE: That appeared to be what she was documenting, yes. [LR424]

SENATOR CHAMBERS: Were you aware that she diagnosed Nikko Jenkins as being mentally ill? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You disagreed with her diagnosis, correct? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Your training in diagnosing mental conditions was taken where? [LR424]

DR. MARK WEILAGE: I have...University of Nebraska-Lincoln as graduate school. And then I had placements in training at the Lincoln Regional Center as a student; at the VA in Leavenworth, Kansas, at the... [LR424]

SENATOR CHAMBERS: Did you take any courses at any medical school? [LR424]

DR. MARK WEILAGE: No. [LR424]

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SENATOR CHAMBERS: So yours is all just...just theoretical, really. Let me ask you this: Do you think...why do you think in order to be a psychiatrist you must first have a medical degree? Why? [LR424]

DR. MARK WEILAGE: Because of the...my assumption is since you're prescribing, you have to have a basic understanding of biology and the underpinnings of how... [LR424]

SENATOR CHAMBERS: And you think the only reason you have to have a medical degree is so that you can prescribe medication. You think that's the only connection between what you learn in medical school and the practice of psychiatry. [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: So there is a...there is more difference between you and a psychiatrist than just being able to prescribe medicine or not prescribe medicine. [LR424]

DR. MARK WEILAGE: Most definitely. [LR424]

SENATOR CHAMBERS: Do you think a person would learn more things about the mind, the brain, and the operation and working of the mind and the physical foundation of some of these things in medical school than you'd know going to these classes at UNL? [LR424]

DR. MARK WEILAGE: It would be different. [LR424]

SENATOR CHAMBERS: Do you think they would know more? [LR424]

DR. MARK WEILAGE: About the workings of the brain, yes. [LR424]

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SENATOR CHAMBERS: Do you think the knowledge of how the brain works might assist a person in evaluating mental conditions? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: I don't know how to correlate these pages to what you have, but I have a time line, and maybe our competent staff can help, because I didn't bring that big book with me. But on page 8 of what I'm looking at, and the date would be September 26. I don't know if you can find...can you tell him what...oh, page 70. Do you see something referring to September 26? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Now, look at the paragraph...I got to find where it might be. Do you see, about the middle of the paragraph, after the numbers 3:17 p.m. or the time given in about the middle of the paragraph? It says, at 3:17 p.m. Sherman responds. [LR424]

DR. MARK WEILAGE: This is page 70? [LR424]

SENATOR CHAMBERS: Pages 68 and 69. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR CHAMBERS: But anyway, I'll read what it says...what I have: Sherman responds that the only mental health programming recommendation for Nikko Jenkins is the Violence Reduction Program. Do you see any language like that? [LR424]

DR. MARK WEILAGE: Okay, yes, in that first paragraph to Mr. Wayne. [LR424]

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SENATOR CHAMBERS: Okay, and the only place where that program is offered is at NSP. Are you aware of that? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: And that's in Lincoln, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: And Nikko Jenkins was in Tecumseh, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: So when you say he was getting mental health treatment, what kind of treatment was he getting when this is the only program...the only mental health treatment that would be available...that's recommended? It's the only program recommended and it's not given at Tecumseh. So what mental health treatment was he getting that you were assuring the county attorney he was receiving? [LR424]

DR. MARK WEILAGE: Individual services are available at every institution. This in particular speaks to...we have a team that reviews cases and makes recommendations for... [LR424]

SENATOR CHAMBERS: I'm not talking about reviewing cases and making recommendations. I'm talking about direct interaction with him. That's what treatment is. Was he taken out of that cell to someplace where he was given treatment? Well, tell me what the treatment consists of. [LR424]

DR. MARK WEILAGE: Individual counseling is available at all the institutions. [LR424]

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SENATOR CHAMBERS: So he was receiving individual counseling? [LR424]

DR. MARK WEILAGE: I don't know the frequency or the context. I don't think... [LR424]

SENATOR CHAMBERS: No, listen, Doctor. You said that he was getting treatment. Now I'm asking you what the treatment was and you said counseling. I asked you is he...was he getting this counseling, yes or no? [LR424]

DR. MARK WEILAGE: I don't think he...no. [LR424]

SENATOR CHAMBERS: Did you lie to the county attorney? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: What did you tell the county attorney he was getting at your place so that he didn't need to get this kind of commitment? [LR424]

DR. MARK WEILAGE: I believe what I said to him was that we're going to continue to work with him to try and develop a discharge plan, transition plan, and that he would be monitored and reviewed prior to his discharge to see if a mental health... [LR424]

SENATOR CHAMBERS: Let's go back to that paragraph that you read. What does the last sentence say? It begins with "Pearson." [LR424]

DR. MARK WEILAGE: He is not recommended for other mental health programming at this time. [LR424]

SENATOR CHAMBERS: Okay, so he's not going to get that one. But they also say in there that he's not being denied mental healthcare. So he's not going to get that program. You say he's not getting the counseling. So how can you say he's not being

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denied mental healthcare when he's not getting into that program and he's not getting the counseling? How could you assure the county attorney that that's what he was getting? You misled him. That was not a completely true statement that you made, was it? [LR424]

DR. MARK WEILAGE: No, I believe it was. [LR424]

SENATOR CHAMBERS: Now you are lying because you know better than that, because our exchange indicates that...all right, let me back up. He was not in that Violence Reduction Program. He was not receiving the counseling. What was the mental healthcare that he was getting? [LR424]

DR. MARK WEILAGE: As with all offenders... [LR424]

SENATOR CHAMBERS: No, not all; what was he getting? [LR424]

DR. MARK WEILAGE: He was offered and declined some of the counseling that was being offered. The plan was... [LR424]

SENATOR CHAMBERS: No, not a plan. You said he was getting treatment. [LR424]

DR. MARK WEILAGE: Okay, maybe you can clarify the time frame you're talking about. [LR424]

SENATOR CHAMBERS: Let me read something: May 20, 2013, e-mails between Trudy Clark, administrative assistant with the Parole Board, Wayne Chandler and Mark Weilage. Clark writes: This e-mail is written from a personal level only. This is what the administrative assistant of the Parole Board sent. Why isn't Nikko Jenkins, number 59478, in the mental health unit? The board is getting letters from him that he is going to eat people, specifically Christians and Catholics. This is only one of many bizarre letters

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the board has gotten from him. Is he being evaluated for a mental health commitment? That's a question. As a taxpayer, this guy scares me to death. Weilage responds: We are aware of the things that Mr. Jenkins is saying and writing. We are working with them on issues related to his upcoming discharge. Feel free to forward the documents you are concerned with. You didn't tell her why he was not in the mental health unit, did you? [LR424]

DR. MARK WEILAGE: No, I did not. [LR424]

SENATOR CHAMBERS: You didn't answer that question. And when she asked is he being evaluated for a mental health commitment, you didn't answer that question either, did you? [LR424]

DR. MARK WEILAGE: No, I did not. [LR424]

SENATOR CHAMBERS: You didn't really respond to anything that she said directly, did you? [LR424]

DR. MARK WEILAGE: No, I did not. [LR424]

SENATOR CHAMBERS: Okay. And the failure to respond is as much a fraud. A partial and fragmentary disclosure accompanied with the willful concealment of material and qualifying facts is not a true statement and is as much a fraud as an actual misrepresentation, which in effect it is. That's from the Nebraska Supreme Court. Now, on February 25, 2013, there's an e-mail from Cameron White to Mark Weilage. White explains that the deputy county attorney from Johnson County, Richard Smith, contacted him regarding a civil commitment for Nikko. White assured Smith that they review cases of concern and make referrals when warranted. White was not aware that they were planning to make a referral for Nikko. White asked Weilage to call Smith. And did you call him? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And what did you say to Smith? [LR424]

DR. MARK WEILAGE: After...do you want to know what he said to me first? He started the conversation. [LR424]

SENATOR CHAMBERS: However way you want to get it. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR CHAMBERS: If you need to say something first, just...I want you to answer the way you feel you need to. [LR424]

DR. MARK WEILAGE: Okay. Okay. He had indicated that he had this referral from...or request from mental...civil commitment from the mother...Mr. Jenkins' mother. And I relayed to him that we normally will do these things as they get close to discharge. We would notify the county attorney if we had concerns. Sorry. Do you want me to start all over? [LR424]

SENATOR LATHROP: No, no, just speak up. [LR424]

DR. MARK WEILAGE: Okay. We notify...we do these things closer to discharge. We normally notify the county attorney if we're going to be filing and provide information, assessment, and that we...given the distance from his discharge that we weren't filing anything right now. [LR424]

SENATOR CHAMBERS: Let me read some more. February 27, 2013, e-mail from Richard Smith, Johnson County, County Attorney, to Mark Weilage. Smith sends

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Weilage a letter from Nikko. Nikko discusses his mental health, lack of treatment, and desire for civil commitment. Did you tell the county attorney that Jenkins was not telling the truth when he said...when he complained about a lack of treatment? [LR424]

DR. MARK WEILAGE: No, I did not say... [LR424]

SENATOR CHAMBERS: Because he was not getting treatment, was he? We've established that when you and I were talking. He was not receiving treatment, was he? [LR424]

DR. MARK WEILAGE: It depends on the time frame as to what services he was receiving. [LR424]

SENATOR CHAMBERS: February 27, 2013, when you were talking to the county attorney. He was not receiving any treatment at any time down there. But let me go on. Weilage then forwards Smith's e-mail to Cameron White, Kathy Blum, and George Green. Is that correct? You forwarded Smith's e-mail to those people. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: November 25, 2013, some months in the future: Jenkins filed a bar complaint against Richard Smith stating that Smith did not file a civil commitment in Johnson County. Smith spoke with Weilage at Tecumseh to determine if a petition was warranted. Dr. Weilage explained that staff would continue to monitor and treat Nikko and that the current treatment plan was sufficient. What was the treatment plan at this time when you were dealing with the county attorney? What was the treatment plan? It wasn't counseling. It wasn't the Violence Reduction Program because that was only in Lincoln. And that was the only recommendation made at that meeting for him, but he couldn't get it because it was in Lincoln and he was in Tecumseh. And you said that counseling comprises the treatment, but he was not getting the counseling. So

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when you said that he was receiving treatment, you misled that county attorney, didn't you? [LR424]

DR. MARK WEILAGE: I don't believe that those are the exact words that I said, but... [LR424]

SENATOR CHAMBERS: You don't think that's what you told him? If he wrote that in his response to the bar...or to the Counsel for Discipline, you'd say that he's mistaken and he didn't get right what you told him? [LR424]

DR. MARK WEILAGE: I think what I told him was what I had already testified to. [LR424]

SENATOR CHAMBERS: You never mentioned that he was receiving treatment though. [LR424]

DR. MARK WEILAGE: (Inaudible) that we were going to be working on... [LR424]

SENATOR CHAMBERS: No, no, I'm...just yes or no. [LR424]

DR. MARK WEILAGE: Oh. [LR424]

SENATOR CHAMBERS: You never told him, you never told the county attorney that Nikko Jenkins was receiving treatment, correct? Because I'm going to contact him when we get this transcribed and tell him I need him to go back and check his records to see what you told him; otherwise, he lied to the Counsel for Discipline. [LR424]

DR. MARK WEILAGE: I believe that I said that we'll continue to work with him. [LR424]

SENATOR CHAMBERS: But you didn't mention treatment. [LR424]

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DR. MARK WEILAGE: I don't recall. [LR424]

SENATOR CHAMBERS: I don't want to keep you here too long, but I'm enjoying this so much I want to keep you here a little longer. Do you believe--and now I'm asking for your opinion--that if you had told Mr. Smith that you had the report from the psychiatrist who was hired by the state of Nebraska to assess, evaluate, and treat inmates for mental-related problems and mental illness, and you had a report from her where she declared her diagnosis to be one of mental illness. You told...let's say you told him that. Next you told him that on several occasions he had cut himself seriously, mutilated his face. Then you told him...you wanted to say "snorting," whatever, he was snorting or sniffing but somehow ingesting his semen. Then you told him that he's drinking urine. Then you told him that he is writing with his blood on the wall. If you had told that, if you had told that to a county...to the deputy county attorney, do you think that he would have initiated steps to have a civil commitment for Nikko Jenkins when he was released from the institution? And I'm asking for your opinion. If you don't think he would have, just say no. You don't think that would have been enough information? [LR424]

DR. MARK WEILAGE: Given the time... [LR424]

SENATOR CHAMBERS: Just yes or no, and show people what you know. [LR424]

DR. MARK WEILAGE: Yeah, all right. [LR424]

SENATOR CHAMBERS: Okay, it would have been enough. And if in fact steps were taken and a rational review board said, this man is indeed mentally ill and we are going to commit him to the Lincoln Regional Center. That would have been what they would have said if they found him to be mentally ill, correct? [LR424]

DR. MARK WEILAGE: If they found him to be mentally ill, yes. [LR424]

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SENATOR CHAMBERS: And if they had found him mentally ill and committed him, he would not have been in Omaha, would he? He was released into Omaha on July 29. He would not have been released from custody to roam free on that date, would he?

[LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR CHAMBERS: And he would not have been cured within a month's time, would he? [LR424]

DR. MARK WEILAGE: I can't speak to that. [LR424]

SENATOR CHAMBERS: Then you think somebody can be cured of mental illness in one month, in 30 days--cured. You believe...now you're a psychologist. You have clinical psychology. You are a Ph.D. and you're going to sit there and tell me that you don't know whether or not a person can be cured of mental illness in 30 days? [LR424]

DR. MARK WEILAGE: Depends on the type of mental illness. [LR424]

SENATOR CHAMBERS: So you think there are some types of mental illness that can be cured in 30 days. [LR424]

DR. MARK WEILAGE: The symptoms alleviate where they don't... [LR424]

SENATOR CHAMBERS: I'm not talking about symptoms. Medication can do that. If you take medication and you're stabilized, is that the same as being cured? [LR424]

DR. MARK WEILAGE: No. [LR424]

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SENATOR CHAMBERS: Do you honestly believe, and you're under oath, that mental illness...let me build it up. Based on your training, your education, your experience in clinical psychology, is it your honest belief that mental illness can be cured in 30 days? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: All right. Now if he was committed, would there be an evaluation period they would go through to determine precisely what his situation is and maybe the kind of treatment that is warranted? [LR424]

DR. MARK WEILAGE: I'm not 100 percent familiar with their... [LR424]

SENATOR CHAMBERS: But they might do that. [LR424]

DR. MARK WEILAGE: Yes, that's... [LR424]

SENATOR CHAMBERS: That wouldn't be out of the question. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR CHAMBERS: So if he were held for just 30 days, any crimes committed during that period would not have been committed would they? [LR424]

DR. MARK WEILAGE: No, that would make sense. [LR424]

SENATOR CHAMBERS: If the four murders were committed during that period, they would not have been committed, would they? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

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SENATOR CHAMBERS: And we wouldn't be here today, would we? [LR424]

DR. MARK WEILAGE: I guess. [LR424]

SENATOR CHAMBERS: You and I are not dealing in theory. We are not playing cat and mouse. We are talking literally about life and death. Those deaths could have been prevented, couldn't they? It does not take a stretch of the imagination to show, based on our discussion here, that those deaths were reasonably preventable. [LR424]

DR. MARK WEILAGE: Based on the scenario you gave, yes. [LR424]

SENATOR CHAMBERS: And you still stand by what you did. [LR424]

DR. MARK WEILAGE: Specifically... [LR424]

SENATOR CHAMBERS: Okay, you already said it. I'm getting to the point where I can wrap it up because I got from you what I needed. There was no program available at Tecumseh for him. The only program recommended was Violence Reduction and that program was not available at Tecumseh. [LR424]

DR. MARK WEILAGE: Correct. [LR424]

SENATOR CHAMBERS: He was not receiving counseling. He was not receiving any treatment at all. And he was in segregation continuously. And "continuously" as opposed to "continually"--I understand and I know English--that means without interruption, without break, without cessation. He was continuously in segregation from the time he came to Tecumseh to the time he was transferred to NSP in Lincoln. And during all that time he received no treatment. But there were at least four serious self-inflicted injuries. There were at least 38 requests for mental health treatment. And

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the response that he always got...he reached the point where he would file these grievances and he wanted hospitalization. And the response was: Does not meet the criteria for an emergency grievance. Which to me means the grievance wouldn't even be entertained. He asked for a hospitalization. He asked for civil commitment. He asked you all, whose job it was to help, to help him, and you refused. You made an arrogant, erroneous diagnosis based on some conversation and used that to overrule what a psychiatrist had determined to be the case. And not only did you, in your mind, overrule what she said; you kept that report from people who should have gotten it. I'm going to take you through one more little exercise for the record. Dr. Baker was hired by the state of Nebraska to do the work of a psychiatrist. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And that work would be performed with and on behalf of and for the benefit of prisoners. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And when she made a diagnosis, that diagnosis could be considered her work product. Isn't that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And what the state of Nebraska hired her for and paid her with money contributed by all of us in this room and throughout the state, they paid for that work product. And that work product was to be put to use. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And putting it to use did not mean putting it in a folder and

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putting it on a shelf or in a drawer. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You had that work product, didn't you? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And you did not make it available to people who could have made use of it in arriving at decisions. Isn't that true? [LR424]

DR. MARK WEILAGE: I did not purposely withhold it. [LR424]

SENATOR CHAMBERS: I'm asking you what you did. You withheld that report from people who had decisions to make. And in making or informing that decision, the work product of the psychiatrist would be essential. So that for which the state paid, that which the one who was paid by the state had done, the product of all that was bottled up by you. And it was not made available to people who have to make decisions which would rest partly on or be influenced by that work product. The question now that I've given the context, you withheld that report from people whose decisions would have been affected and influenced by that report, didn't you? [LR424]

DR. MARK WEILAGE: Not purposely, no. [LR424]

SENATOR CHAMBERS: Can you answer "yes" or "no"? If you can't, then tell me. Is this a question you cannot answer "yes" or "no," or that you will not answer "yes" or "no." [LR424]

DR. MARK WEILAGE: Restate the question one more time, please, just so I'm clear. [LR424]

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SENATOR CHAMBERS: I'm going to do what it takes to get this done. [LR424]

DR. MARK WEILAGE: Okay. [LR424]

SENATOR CHAMBERS: If I'm a dentist and you have a bad tooth that has to be taken out, I'm going to take the time that's necessary to remove that tooth with the competency and skill demanded of a dentist licensed to practice. So I'm going to pull this tooth and you and I are going to stay here until we get it pulled. As you all say, we can do it the easy way or we can do it the hard way. I'm not being embarrassed by what I'm doing, but I'm sure if you read your testimony and you show it to people who care about you, they'll be embarrassed if you don't have sense enough to be. Here's the question: The psychiatrist made a diagnosis of mental illness with reference to Nikko Jenkins. You had that report. You withheld that report from individuals who had decisions to make; it was a part of their duty, their responsibility. You withheld that report from people whose decisions would have been affected, influenced by that report. Isn't that true? Did you give them the report? [LR424]

DR. MARK WEILAGE: I did not give copies of the report. [LR424]

SENATOR CHAMBERS: And when you didn't give it to them that's withholding, isn't it? [LR424]

DR. MARK WEILAGE: To withhold... [LR424]

SENATOR CHAMBERS: Let's try to make it simple. I forgot you're a Ph.D. You're not somebody who just works on the street like somebody who goes to somebody's, you know, fast-food store and works. If a person works at the fast-food store and gets a check, and there is a salary they're entitled to get, but they don't actually get in that check all the money that they should get based on the number of hours they work

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because some of that money is withheld. It's called withholding. Are you familiar with that? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: So when you get your check, has some of the money that you earned been withheld? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And it was withheld because they didn't give it to you. Is that true? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: You didn't give that report to these people that I've described, did you? [LR424]

DR. MARK WEILAGE: No. [LR424]

SENATOR CHAMBERS: So you withheld it, didn't you? [LR424]

DR. MARK WEILAGE: I withheld the report, yes. [LR424]

SENATOR CHAMBERS: Was that so difficult now that you've done it? Doctor, do the thing you fear and the death of fear is certain. The thing you fear to do is to tell the truth. And because you feared to tell the truth, you will obfuscate, you will vacillate when you don't even need to, because you think that if you say, like a syllogism, this major premise is true; this minor premise is true; the conclusion is inescapable. Like all men are mortal: Aristotle is a man, therefore, Aristotle is mortal. You know the truth, even if

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we're trying to get at it. We may suspect, but you know the truth. And you're in a position to determine in your mind, as Nikko Jenkins was delusional, it could be a delusion that if you answer this question then it's going to lead to what you consider to be the next question, because your desire not to tell the story is going to cause you to formulate in your mind all these questions in a series that you presume somebody is going to know to ask, just like a chess master can look and determine moves far in advance. So you know how you get out it? I don't remember. I don't recollect. I was at a meeting where I remembered the janitor; I remembered the doorman; I remembered the one who delivered from Jimmy John's; but I don't remember if the president of the company was at the meeting. Do you see how what you say may sound, even if you're telling the truth? Now I'm going to ask you a question, then I'm going to let you go. And this might have 15 parts to it. There are statements that you made which were not 100 percent forthcoming. Isn't that true? You were worried about where a straightforward complete answer might lead you. [LR424]

DR. MARK WEILAGE: No, I don't think so. [LR424]

SENATOR CHAMBERS: Okay. Are you aware that Nikko Jenkins on several occasions asked for a civil commitment himself, that he asked for it? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: With your training and your experience around inmates, have you come across any prisoner who had spent years in prison and he's going to get out--like that song (singing) "I'm getting married in the morning"--but I'm getting out of here tomorrow? How many inmates have, in your experience, you come across or heard described by your colleagues who have dealt with inmates say that they had this inmate who was due to be released and he said, I don't want to go, I want to stay here? How many inmates have you come across who had that attitude? [LR424]

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DR. MARK WEILAGE: Oh, at least a half dozen. [LR424]

SENATOR CHAMBERS: Have you had inmates who would try to get out earlier than they were supposed to get out? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And they were so eager to do it, they might try to climb over the fence or use some stratagem to get out? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: When Nikko Jenkins said that he wanted this psychiatric hospitalization, you and the Chairman were discussing it, and I try to remember things the best that I can, but sometime this old brain just won't retain everything, but I think you and he dealt with the term "secondary benefit." Was that term used in connection with... [LR424]

DR. MARK WEILAGE: Secondary gain, I think, was discussed. [LR424]

SENATOR CHAMBERS: Secondary what? [LR424]

DR. MARK WEILAGE: Gain. [LR424]

SENATOR CHAMBERS: Secondary gain. Now, the Chairman asked you, since Nikko Jenkins was so close to being released, what was the secondary gain that he might realize from being committed to the regional center and what was your response? First of all, did you see a secondary gain in that set of circumstances? [LR424]

DR. MARK WEILAGE: Well, it... [LR424]

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SENATOR CHAMBERS: Let me help your memory. I don't want you to tell another fib because you might be endangering your soul now and I don't want that to happen. Did you say that you overheard a conversation between Nikko Jenkins and his mother? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: And did that...what did that conversation consist of now that I have recollected what you were having trouble remembering? [LR424]

DR. MARK WEILAGE: That there was discussions about how he wanted to go to the regional center. There was a number of them. I don't know which one you are specifically referring to, but there were discussions about needing to be deemed mentally ill, that will help him to be deemed mentally ill so he can sue the department and... [LR424]

SENATOR CHAMBERS: Well, let me ask you this: Where was this conversation occurring? [LR424]

DR. MARK WEILAGE: At Tecumseh. [LR424]

SENATOR CHAMBERS: Where? [LR424]

DR. MARK WEILAGE: At Tecumseh State Correctional Institution during their video visit. [LR424]

SENATOR CHAMBERS: Was there...they were being videoed. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

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SENATOR CHAMBERS: And this conversation took place on the video. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: So that should be available, shouldn't it? [LR424]

DR. MARK WEILAGE: I don't know if they still have those or not. [LR424]

SENATOR CHAMBERS: How long ago did it take place? [LR424]

DR. MARK WEILAGE: Two thousand...oh, I don't know. I'd have to go back and look at my notes as to when. [LR424]

SENATOR CHAMBERS: But you don't know what the practice is? [LR424]

DR. MARK WEILAGE: No, I don't. [LR424]

SENATOR CHAMBERS: Do you remember the date when it occurred? [LR424]

DR. MARK WEILAGE: No, I think I referenced some of...viewing the video visits in the February... [LR424]

SENATOR CHAMBERS: Okay, it would be somewhere. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR CHAMBERS: But there would be a way to determine the date that that interview took place... [LR424]

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DR. MARK WEILAGE: Well, probably the best thing, if you were wanting to be able to view that is look at what dates visits occurred and then... [LR424]

SENATOR CHAMBERS: But I'm saying... [LR424]

DR. MARK WEILAGE: ...it would be around the time of when I did my report. [LR424]

SENATOR CHAMBERS: But I'm saying that there is a way to determine the date of her visit. Do they keep a record or a log of visitors that an inmate will have? [LR424]

DR. MARK WEILAGE: I don't know. [LR424]

SENATOR CHAMBERS: You don't know. [LR424]

DR. MARK WEILAGE: I'm assuming they do, but I don't know for sure. [LR424]

SENATOR CHAMBERS: But we could find out what that date is and find out whether or not this video is still in existence, correct? [LR424]

DR. MARK WEILAGE: Correct, I would assume. [LR424]

SENATOR CHAMBERS: And had Nikko Jenkins had any visitors during the time that he was at Tecumseh? [LR424]

DR. MARK WEILAGE: Yes, he did have numerous... [LR424]

SENATOR CHAMBERS: Were there visits in this room where he was located? [LR424]

DR. MARK WEILAGE: Not...not in the cell. They would bring a video visit booth.
[LR424]

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SENATOR CHAMBERS: Right, in this room, I said, where the video was taken. Had he had visitors in that room before? [LR424]

DR. MARK WEILAGE: It's...yeah, he's had lots of visits. [LR424]

SENATOR CHAMBERS: Would he be aware that it was being videoed? [LR424]

DR. MARK WEILAGE: I would assume so, but I don't know. [LR424]

SENATOR CHAMBERS: Because everybody said he was very intelligent. [LR424]

SENATOR LATHROP: A little louder if you don't mind. [LR424]

DR. MARK WEILAGE: I would assume so, but I don't know for sure what they tell them when they go to their video visits. [LR424]

SENATOR CHAMBERS: So if they were hatching this scheme and he is very intelligent, everybody said that, that's why you thought he was lying because he was so sharp. He would have...he and his mother would have discussed something on the video that would blow his scheme out of the water, that's what you're telling me. Isn't that what you're telling me? [LR424]

DR. MARK WEILAGE: No...ask the question again, because you kind of said two things there. [LR424]

SENATOR CHAMBERS: Okay, I'll do it one at a time. I see you're not a multitasker so I'm going to take it one word at a time. Nikko Jenkins has been credited by everybody who has dealt with him, whether the conclusion was he is insane or that he's not, is that he is very intelligent. Is that your opinion? [LR424]

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DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: If a person...oh, and you also felt that he manipulated because you said he would gleefully feign mental illness. Didn't you make a statement like that at one point? Gleefully. [LR424]

DR. MARK WEILAGE: That sounds familiar, yes. [LR424]

SENATOR CHAMBERS: Okay, you said that. [LR424]

DR. MARK WEILAGE: (Inaudible) [LR424]

SENATOR CHAMBERS: So if he is so shrewd that he's going to do that, you think at the same time he would be dumb enough to hatch this plot where it's being filmed and recorded? Just do you think? Do you think a sane person would do that? [LR424]

DR. MARK WEILAGE: I don't know what they...what he was thinking. [LR424]

SENATOR CHAMBERS: Do you think a sane person would do that? [LR424]

DR. MARK WEILAGE: Potentially. [LR424]

SENATOR CHAMBERS: Do you think a crazy person might do it? [LR424]

DR. MARK WEILAGE: Potentially. [LR424]

SENATOR CHAMBERS: If somebody did that, you'd probably say, man, that was crazy, whether you meant it in a clinical sense or not. I'm trying to show you how the things you say don't even hang together. And when Nikko didn't say the same thing in exactly

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the same words, they would say he was contradictory, he was inconsistent. You're being inconsistent. Doing what you said he did does not comport with him being intelligent. So now do you want to amend what you said--you thought he was intelligent, but he really wasn't, was he? [LR424]

DR. MARK WEILAGE: No, I'd... [LR424]

SENATOR CHAMBERS: He had tricked you, hadn't he? He had tricked a Ph.D. into thinking he's intelligent when he's really dumb. So in his dumbness he was smarter than the Ph.D. Isn't that correct? That's where you brought us. [LR424]

DR. MARK WEILAGE: I don't know if that's correct. [LR424]

SENATOR CHAMBERS: That's why you don't want to say you remember things because you're smart enough to know where it will take you. When Nikko Jenkins cut himself, are you aware that some of those cuts...that one of them for sure required 39 stitches? [LR424]

DR. MARK WEILAGE: I didn't recall that exact number, but I was aware he had a number of stitches. [LR424]

SENATOR CHAMBERS: Okay, but you know that they were serious, they were severe. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR CHAMBERS: Do you think that you would intentionally make a cut in your face like that? [LR424]

DR. MARK WEILAGE: No, I do not think I would. [LR424]

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SENATOR CHAMBERS: And you've already said it's irrational, so I'm not going to take you through all that. But I just want you to keep some of these things in mind as...after you go home and you think about how you withheld that report from the deputy county attorney. You knew the subject he was approaching; you knew what his intention was. You knew that the institution not only was not going to give Nikko Jenkins treatment; they didn't have any treatment for him. This would have been a way to take all of that liability off the state and turn it over to the county, and that should have been done. But when you shipped him up to Lincoln, you did not send any paperwork with him or notify them of this back and forth between you and the deputy county attorney about a civil commitment. So when he went up there, whatever the motivation was, and I think they knew, I think there was a scheme. You know why I think there was a scheme? I think you all are capable of anything, you all who work for the department. We've seen that their top lawyer is a liar. I believe you've shown yourself to be the same thing today. And I think you've shown great incompetency and I think you've cheated the state out of what it was entitled to receive and what it had paid good money for, namely, that report. And the use that it should have been put to by people making decisions was not possible because you withheld it. You could have, by doing that, interfered with a government operation. Are you aware of that? Interference with a governmental operation is a crime. And one of the operations of government is to properly handle these people who are mentally ill. And you knowingly withheld information the state had paid for that had a direct bearing on the resolution of that issue. And you're withholding it can be shown to be directly responsible for four people being killed, because had you not withheld it, without a stretch of the imagination, Doctor, we have demonstrated that Nikko Jenkins would not have been released. And while the public--because of what some politicians, namely the Governor and others, had said--we're looking at "good time" as to blame...as the blame, but he didn't get out because of good time. He did not get out early. He did not get out paroled. He served all the time he was supposed to. But they were fixated on good time because they never would have thought that somebody in your position would do what you did. They would not have even believed

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or imagined that all this was going on behind the scenes because I didn't imagine it when Director Houston had led me to believe that something was being done for Nikko Jenkins. And he was in solitary all of that time that Houston had indicated to me they were doing something. And the one program that they had, Violence Reduction, could not be taken by him due to his segregated status. There was no treatment that he got and none that he could receive. So we have been lied to. We've been misled. We've been duped. But as Chaucer wrote: Murder will out. And I know you're a Christian. I can tell by looking at you. Jesus said the things that are whispered in the closet shall be shouted from the housetops. And it looks like shouting time has come. And when you all, as this progresses, start blaming each other because nobody knows anything, but somebody had to know something, and you set up a firing squad, don't have them arranged in a circle. That's all that I have. Thank you, Mr. Chairman. [LR424]

SENATOR LATHROP: I do have one question for you, Doctor. In that March 4, 2013, hearing, when you met with the Ombudsman, you're in the office right next door to the director of the Department of Corrections, you have with you at least one person, maybe more, from the Ombudsman's Office and you have in that office Sharon Lindgren, one of the lawyers from Corrections, do you remember that? [LR424]

DR. MARK WEILAGE: Like I said, I don't recall which lawyer was there, but... [LR424]

SENATOR LATHROP: Okay. So you may not recall which lawyer, but do you recall the lawyer that was present from Corrections advising the Ombudsman that they would not discuss Jenkins' mental health in this meeting? Do you remember that statement made by one of the members of the Department of Corrections legal team? [LR424]

DR. MARK WEILAGE: I don't recall that, no. [LR424]

SENATOR LATHROP: Not saying it didn't happen; you just don't remember. [LR424]

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DR. MARK WEILAGE: No, I don't recall that. [LR424]

SENATOR LATHROP: Okay. Do you remember talking about his mental health at all? [LR424]

DR. MARK WEILAGE: The emphasis seemed to be, if I recall correctly, that it was on the transition plan. [LR424]

SENATOR LATHROP: The transition plan and... [LR424]

DR. MARK WEILAGE: Discharge plan. [LR424]

SENATOR LATHROP: Did you have any kind of a meeting that preceded that one? In other words, where you sat down with members of the Department of Corrections, individuals that work at the Department of Corrections and said, okay, the Ombudsman is going to be here in 20 minutes, this is how it's going down? [LR424]

DR. MARK WEILAGE: I probably met with Dr. White. I don't know if anybody else was there to talk about the case. [LR424]

SENATOR LATHROP: How it was going down. [LR424]

DR. MARK WEILAGE: (Inaudible) [LR424]

SENATOR LATHROP: How the meeting was going to be held and what we were...what the two of you would explain or say to the Ombudsman when that meeting rolled around. [LR424]

DR. MARK WEILAGE: I don't know if it was that directive. I think it was just a sharing of information with Dr. White. [LR424]

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SENATOR LATHROP: Okay. That didn't involve Dr. Baker's report. [LR424]

DR. MARK WEILAGE: It may have. I...it didn't...to go back to Mr. Chambers specifically talking about did I hand anybody the report, I did not hand anybody the report. [LR424]

SENATOR LATHROP: Including Dr. White. [LR424]

DR. MARK WEILAGE: Right. But... [LR424]

SENATOR LATHROP: You may have talked to him about it. [LR424]

DR. MARK WEILAGE: Yes. Yes. [LR424]

SENATOR LATHROP: Okay. So before you met with the Ombudsman, you think you had a conversation with Dr. White. In that conversation you would have shared with Dr. White the last report written by Baker in February of 2013. [LR424]

DR. MARK WEILAGE: I likely would have shared a lot of information from the past six months. [LR424]

SENATOR LATHROP: I'm sure you did. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR LATHROP: My question was, did you share with Dr. White the substance of Dr. Baker's February 2013 report? [LR424]

DR. MARK WEILAGE: I believe I did. [LR424]

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SENATOR LATHROP: Okay. That's all I got. Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Just a couple of clarifications: At some point you came to the conclusion that Nikko Jenkins was dangerous. And I think we discussed that. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR SCHUMACHER: Did you...when he was released, between then and the time of his release, did your opinion change? Did he become... [LR424]

DR. MARK WEILAGE: About him being dangerous? [LR424]

SENATOR SCHUMACHER: Yes. [LR424]

DR. MARK WEILAGE: I think...yeah, I think the dangerousness was, based on the reports I got from staff, that it was mitigated towards the time of his release. He was focusing on a lot of different things, at least in the interactions with, like, social work and... [LR424]

SENATOR SCHUMACHER: So you no longer were concerned at all about him when he left. [LR424]

DR. MARK WEILAGE: No, I was still concerned, but... [LR424]

SENATOR SCHUMACHER: You had concerns. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Okay. You had also diagnosed him as being narcissistic

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and antisocial personality disorder, and posttrauma experiences that developed and solidified. Is that accurate? [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Yes. And those two, narcissistic and antisocial personality disorders, are what are graded as an Axis II mental illness in the DSM-IV? [LR424]

DR. MARK WEILAGE: Axis II disorder, yes. [LR424]

SENATOR SCHUMACHER: Yes. And, in fact, that's what they call mental...the various mental illnesses, as disorders, right? [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR SCHUMACHER: Okay. And DSM-I, that's Diagnostic and Statistical Manual. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: That came out in about 1952. Would that be accurate? [LR424]

DR. MARK WEILAGE: Around there, yeah. That sounds right. [LR424]

SENATOR SCHUMACHER: DSM-II in '68, or about there. [LR424]

DR. MARK WEILAGE: That sounds right. [LR424]

SENATOR SCHUMACHER: Did those contain Axis...that concept of Axis ranking? That

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was, what, DSM-IV? [LR424]

DR. MARK WEILAGE: No, it was III. [LR424]

SENATOR SCHUMACHER: III, okay. [LR424]

DR. MARK WEILAGE: Yeah. [LR424]

SENATOR SCHUMACHER: So when we...when our law was introduced in our mental health language of mentally ill and dangerous in 1976, we've been running on DSM-II and we never would have heard about the words "Axis I" or "Axis II." Is that accurate? [LR424]

DR. MARK WEILAGE: I can't speak to what they heard of at that point, but... [LR424]

SENATOR SCHUMACHER: But our law does not require it to be an Axis I mental illness for a commitment to occur, does it? Axis I doesn't appear anywhere in the language. [LR424]

DR. MARK WEILAGE: That's correct. [LR424]

SENATOR SCHUMACHER: Right. So this guy was both mentally ill and dangerous. Correct? [LR424]

DR. MARK WEILAGE: Not in my...I mean... [LR424]

SENATOR SCHUMACHER: Well, you diagnosed him as narcissistic and those are mental illnesses. [LR424]

DR. MARK WEILAGE: No, those are personality disorders. [LR424]

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SENATOR SCHUMACHER: Those are mental illnesses listed in DSM-II. [LR424]

DR. MARK WEILAGE: Yes. [LR424]

SENATOR SCHUMACHER: Right? [LR424]

DR. MARK WEILAGE: They're listed as personality disorders. [LR424]

SENATOR SCHUMACHER: Okay? So we're splitting hairs whether mental illness...but they are mental illnesses. Now... [LR424]

DR. MARK WEILAGE: They're listed in the manual, yes. [LR424]

SENATOR SCHUMACHER: Okay, they are. So now, you said earlier, normally we will notify the county attorney if we have concerns as we get closer to discharge. Was the Lancaster County Attorney notified? [LR424]

DR. MARK WEILAGE: I don't believe so, no. [LR424]

SENATOR SCHUMACHER: You didn't have any concerns anymore. [LR424]

DR. MARK WEILAGE: Well, if we have concerns that equate to mentally ill and dangerous, that's when we notify them. [LR424]

SENATOR SCHUMACHER: This guy we just established was mentally ill and dangerous. [LR424]

DR. MARK WEILAGE: I didn't agree to that. That was your... [LR424]

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SENATOR SCHUMACHER: You're the one with diagnosis. And you're the one that sent a memo out saying this guy is dangerous. All that just went away. You didn't do in this case what you normally do. When you have this level of concern, you call the county attorney. [LR424]

DR. MARK WEILAGE: If there's a mental illness. [LR424]

SENATOR SCHUMACHER: Well, we just did that. Thank you. [LR424]

SENATOR LATHROP: Dr. Weilage, I think that's it. Next up is going to be Dr. Cameron White. And if you would, Doctor, come forward. Raise your right hand. Sir, do you swear the testimony you're about to give this Special Investigative Committee of the Legislature will be the truth, the whole truth, and nothing but the truth? [LR424]

DR. CAMERON WHITE: Yes, I do. [LR424]

SENATOR LATHROP: All right, have a seat, please. Please recite your name and spell your last name for us. [LR424]

DR. CAMERON WHITE: My name is Cameron White, C-a-m-e-r-o-n W-h-i-t-e. [LR424]

SENATOR LATHROP: And by whom are you employed, sir? [LR424]

DR. CAMERON WHITE: Nebraska Department of Correctional Services. [LR424]

SENATOR LATHROP: And how long have you been employed by the state of Nebraska at the Department of Corrections? [LR424]

DR. CAMERON WHITE: Since April of 1997. [LR424]

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SENATOR LATHROP: In what capacity are you employed? [LR424]

DR. CAMERON WHITE: My job at present is behavioral health administrator. [LR424]

SENATOR LATHROP: And you answer to whom? [LR424]

DR. CAMERON WHITE: My direct supervisor is Dr. Randy Kohl. [LR424]

SENATOR LATHROP: How long have you been behavioral health administrator?
[LR424]

DR. CAMERON WHITE: Since August of 2004, about...just over ten years. [LR424]

SENATOR LATHROP: Okay. You said you started in '97 and you became the behavioral health administrator in '04. What positions did you hold between the time you began and the time you were elevated to the position you hold today? [LR424]

DR. CAMERON WHITE: I was hired for a psychologist position at the Nebraska State Penitentiary in 1997. I held that position until I was...became behavioral health administrator. [LR424]

SENATOR LATHROP: So you went straight from...there was no interim or deputy or anything like that. You went from psychologist to behavioral health administrator?
[LR424]

DR. CAMERON WHITE: Yes, I was the supervisory psychologist, so I oversaw programs and whatnot, but I was at the penitentiary. [LR424]

SENATOR LATHROP: Your job at the penitentiary, were you involved as a psychologist with the day-to-day treatment of...assessment and treatment of inmates? [LR424]

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DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And you did that from '97 to '04 and then became administrator?
[LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Since you have become administrator, Doctor, have you been involved in the care and treatment and assessment of any inmates, or is your job all administration at this point? [LR424]

DR. CAMERON WHITE: At this point it is almost all administration. Early on, I was involved in some assessments when I first started as behavioral health administrator. But over time it became totally administrative...or nearly so. [LR424]

SENATOR LATHROP: Do you have access to patient files or inmate files? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: So from your desk, for example, you can pull up an inmate file and look through and observe or review the mental health records. [LR424]

DR. CAMERON WHITE: Yes, it's electronic since 2011. [LR424]

SENATOR LATHROP: Okay. And when you pull up an inmate's file, their mental health file, I suppose you can probably get to the entire file, including whatever health problems, general health concerns they have. [LR424]

DR. CAMERON WHITE: Yeah. There's some health information, but it's pretty minimal,

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really, that's electronic. [LR424]

SENATOR LATHROP: Okay. And all of the mental health information, in other words, if you have a social worker, a psychologist, or the psychiatrist, if they're making an entry into somebody's chart, it's available to you from your desktop. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Okay. The information that's available when you pull up the electronic file, does that go back to 2011 or does it go back further than that? [LR424]

DR. CAMERON WHITE: It's just 2011. I believe we implemented that in April. It was information since that time forward that the record reflects electronically. [LR424]

SENATOR LATHROP: Okay. You report to Dr. Kohl? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And Dr. Kohl reports to the director. [LR424]

DR. CAMERON WHITE: That's correct. [LR424]

SENATOR LATHROP: Tell us, in the time since 2004 when you became the behavioral health administrator, what access have you had to Director Houston? [LR424]

DR. CAMERON WHITE: Access, I don't know. If he needed something, a project done or something, he would contact me. He always had an open door. [LR424]

SENATOR LATHROP: He always had an open door. Was he there enough for you to catch him if you needed to? [LR424]

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DR. CAMERON WHITE: Yeah, he was very responsive. [LR424]

SENATOR LATHROP: Did you guys office in the same building? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: So if you had a concern or a question and you wanted to take it up with the director, you could walk down the hall and his door would be open and you could just visit with Director Houston. [LR424]

DR. CAMERON WHITE: Yes, or make an appointment to do so. [LR424]

SENATOR LATHROP: Okay. Now in addition to his open door and your ability to see him when you want to, did you participate in quarterly meetings? [LR424]

DR. CAMERON WHITE: I'm not sure I understand. Quarterly with him? [LR424]

SENATOR LATHROP: Yes, sir. [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR LATHROP: Okay. He did hold quarterly meetings, did he not, with the deputy directors? [LR424]

DR. CAMERON WHITE: No. He had central office meetings. Perhaps that's what's... [LR424]

SENATOR LATHROP: Okay. Did you participate in central office meetings? [LR424]

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DR. CAMERON WHITE: Yes, yes. These would be perhaps department head meetings. He had those monthly I believe. [LR424]

SENATOR LATHROP: Okay. So you would sit down in a room with the director on a monthly basis as a department head. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Is that true? And are these meetings something where you can...is there a set agenda or is it sort of an open mike where each of the department heads can have conversations or bring up topics and visit with the director? [LR424]

DR. CAMERON WHITE: Generally, the director would report information and then there would be roundtable. So people would be able to report. [LR424]

SENATOR LATHROP: Okay. So they go around the room and it would come to you and then you could share whatever behavioral health issue that you were concerned with, with those in attendance, including the director. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: We are, of course, here talking about a particular inmate: Nikko Jenkins. And I suspect that even in a place as big as the Nebraska Department of Corrections that some inmates stand out, become notorious. [LR424]

DR. CAMERON WHITE: Yes, yes. [LR424]

SENATOR LATHROP: And they do that by virtue of perhaps their crime but also how they conduct themselves inside the Department of Corrections. [LR424]

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DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Would you say that Nikko Jenkins was one of those people?
[LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: So, long before we get to February of 2013, when people begin to worry about this guy going out on the streets, folks at the Department of Corrections knew who he was. [LR424]

DR. CAMERON WHITE: I would say so, yes. [LR424]

SENATOR LATHROP: And how is that? What was his reputation or what did you know about him before February of 2013? [LR424]

DR. CAMERON WHITE: Gosh. I believe I was sent a letter from Judge Randall. I know that came my direction at one point regarding an order or some information that he brought back to us, so that crossed my radar screen. Incidents of self-harm, those would cross my desk oftentimes if something happened at the institution, you know, if he engaged in that behavior. I'm not sure if he did before 2013 or not. So unusual events like that would, I mean, that would come to my attention in some way generally. [LR424]

SENATOR LATHROP: Were there other reports that routinely crossed your desk? You said self-harm reports. So if I'm in the Nebraska Department of Corrections anywhere and I try to hurt myself--hang myself or cut myself, whatever it may be--are you telling me a report gets prepared and that report in turn runs across your desk? [LR424]

DR. CAMERON WHITE: There's different ways it could present to me. For example, it

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could be a report that's an OD report for the agency. I get those types of reports, or have. It could be something that the institutional staff send me as well. If there's a serious incident, I may...they may send me a heads-up on that or send me that information. [LR424]

SENATOR LATHROP: Okay. Are there any other reports like that, things that happen in the Department of Corrections that you get regular reports on with respect to the inmates? [LR424]

DR. CAMERON WHITE: Gosh, not that I think of. [LR424]

SENATOR LATHROP: Okay. Well, then let me go back and ask another question. You said that Mr. Jenkins might have shown up on your radar because at some point you got a letter from Judge Randall. Is that true? [LR424]

DR. CAMERON WHITE: Yes, or he had sent a letter or it had come to my attention. I'm not sure if it came to the director and then to me. [LR424]

SENATOR LATHROP: Okay. And when you got you say a letter, and of course we've all seen...I should say we all have on this panel at least, seen a copy of Judge Randall's order with respect to Jenkins. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And he indicates in his order that he's sentencing him to a period of time with the Nebraska Department of Corrections and that he expects or wants or is advising the mental health people at the Department of Corrections that this guy has a longstanding history of mental illness and needs some care when he gets there, right? [LR424]

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DR. CAMERON WHITE: Yes, I believe so. [LR424]

SENATOR LATHROP: Did you ever see that order? [LR424]

DR. CAMERON WHITE: I believe it was attached to the letter. [LR424]

SENATOR LATHROP: Okay. And that was kind of what I was driving at. So you got a copy of the order that we've all seen, but you also got a letter from Judge Randall. [LR424]

DR. CAMERON WHITE: Yes, or something was passed to me. Yes. [LR424]

SENATOR CHAMBERS: Excuse me. May I? Perhaps...see there was a letter that Houston had drafted to me. And he had gotten these people together. And then the e-mails were sent with a copy of Randall's order connected to it. So the letter was one that Houston had addressed to me and apparently... [LR424]

SENATOR LATHROP: Okay. [LR424]

SENATOR CHAMBERS: ...he sent a copy to people. [LR424]

SENATOR LATHROP: Okay. So is that your recollection, or do you think you got a letter directly from Judge Randall? [LR424]

DR. CAMERON WHITE: I don't believe I got anything from Judge Randall. I believe it was a letter either from the director or somebody that it came to in the department. [LR424]

SENATOR LATHROP: Okay. So back when he's coming back from Douglas County, which is July of 2011, you not only got a copy of Judge Randall's order but also some

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correspondence or some type of an e-mail. [LR424]

DR. CAMERON WHITE: I believe so, yeah. I think it was letter, yeah. [LR424]

SENATOR LATHROP: Okay. So did you know anything about Nikko Jenkins before that? Is that the first time he shows up on your radar screen, or do you know him because he's notorious long before he assaulted a guard visiting his grandmother's funeral? [LR424]

DR. CAMERON WHITE: I don't know exactly when he first appeared on my radar screen. I'm not sure if he did anything at the youth facility. I may have heard something when he was there at the beginning of his sentence. I definitely heard about the incident that involved the travel order with the funeral. [LR424]

SENATOR LATHROP: Okay. So he was kind of a notorious guy. [LR424]

DR. CAMERON WHITE: Yeah. You would recognize his name. Yeah. [LR424]

SENATOR LATHROP: Did that ever prompt you to, like, pull up his file and look in it as the administrator of behavioral health? [LR424]

DR. CAMERON WHITE: Not that I recall. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. CAMERON WHITE: I don't believe I did. [LR424]

SENATOR LATHROP: You did become aware in February of 2013 that he was about to...that he was sort of in his last five months. [LR424]

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DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Right? That, for a notorious guy, would show up on your radar screen, true? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: That and you were getting communications from two different places. [LR424]

DR. CAMERON WHITE: Right. [LR424]

SENATOR LATHROP: Right? One is, you've got the Ombudsman's Office concerned about Nikko Jenkins, who has spent a long time in administrative confinement and they're concerned that he's going to be released into his...into the community without ever having spent any time getting any treatment, violence reduction, or even spending time in general population. [LR424]

DR. CAMERON WHITE: Right. Correct. [LR424]

SENATOR LATHROP: Right? That would be the first concern you would have had. And the other is that you have, even on the very same day, February 25, and actually within about 20 minutes of each other you get these two communications. And the other comes from the county attorney in Johnson County. [LR424]

DR. CAMERON WHITE: Yes, I believe so. Yes. [LR424]

SENATOR LATHROP: Okay. So when I looked at the information in the file that we have, this book, it looks like you actually picked the phone up and had a conversation with the county attorney before you ever talked to Weilage. [LR424]

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DR. CAMERON WHITE: I don't recall if he called me or I called him but, yes...or if he left a message. But we did have a phone conversation, yes. [LR424]

SENATOR LATHROP: Okay. Before you called him, did you pull up that file of Nikko Jenkins on your laptop or on your computer and look at his medical or his mental health records before you talked to the county attorney in Johnson County? [LR424]

DR. CAMERON WHITE: I don't remember doing that, no. [LR424]

SENATOR LATHROP: Does it sound...you may not remember it. Does it sound like something you'd do? [LR424]

DR. CAMERON WHITE: I don't know. It depends on the case. I mean, I try and be responsive to county attorneys. So I may have just phoned him just to make sure. [LR424]

SENATOR LATHROP: Do you remember what was said in that exchange? [LR424]

DR. CAMERON WHITE: Some of it. I recall telling him...I believe he had a letter from either the inmate or a family member of Nikko Jenkins requesting a mental health board hearing. So I believe that's what spurred the communication. I think he probably called me. That's what I would guess. [LR424]

SENATOR LATHROP: Okay. So just to set the stage, and I want to know if you knew any of this stuff before you called the county attorney, but this guy has cut himself twice, right? He's written with blood from his own wounds, self-inflicted wounds, on the walls of his cell. He's consumed his own semen. Drank his own urine. He's writing letters to anybody that will accept them, from the warden through mental health people, regularly asking for mental healthcare. And he's also writing communications that say he's going

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to get out and kill people--not just kill them, he's chosen Christians, Catholics, Jews, women, and children, and he's going to tear the heart out of people. Okay? Those seem like, even for the penitentiary or the penal system, the Department of Corrections, to be pretty significant resume problems. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Okay. Did you know about those before you called the county attorney back? [LR424]

DR. CAMERON WHITE: I don't know that I knew the full picture. [LR424]

SENATOR LATHROP: You might not have known the full picture which would mean that you'd have to know every single thing. But did you have an idea that he was in his segregated solitary confinement, if you will, in his cell saying and doing these things before you called the county attorney back? [LR424]

DR. CAMERON WHITE: It's hard to say exactly what I knew at that point. I've reviewed the file since then. And that kind of is an overlay for me. So it's hard for me to recall exactly what I knew when without knowing what was sent to me beforehand. I think if I would have had concerns I would have noted those to the county attorney. I think he asked me about the process of civil commitment with this case or how it runs, how we do that. I'm sure I explained that to him, that we evaluate, that we evaluate close to discharge, at least to make that final determination. I would guess, although I don't recall specifically saying that he's on our radar screen. I mean, he's someone that, you know, we know Nikko Jenkins. He's in our system. He's someone who's... [LR424]

SENATOR LATHROP: And notorious. [LR424]

DR. CAMERON WHITE: Yeah, known. [LR424]

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SENATOR LATHROP: So he is...the first communication from the county attorney, isn't that coming to you in the form of an e-mail? [LR424]

DR. CAMERON WHITE: I don't recall. It may have. [LR424]

SENATOR LATHROP: Yeah. It's kind of important because I think it came in the form of an e-mail and it came with attachments and the attachments were Nikko Jenkins' letters to the county attorney. Does that sound familiar to you? [LR424]

DR. CAMERON WHITE: The letter may have been scanned. I don't know when I saw that. Do you have that in attachments? [LR424]

SENATOR LATHROP: I'm going to try to find it for you. So perhaps that was sent to you by Weilage after your first conversation with the county attorney. [LR424]

DR. CAMERON WHITE: Yes. Are you looking at page 201? [LR424]

SENATOR LATHROP: Yeah. [LR424]

DR. CAMERON WHITE: Yeah, if I could review that. [LR424]

SENATOR LATHROP: Sure. [LR424]

DR. CAMERON WHITE: Yes. It looks Mark Weilage...pardon me, Mark Weilage sent this to myself, George Green, Kathy Blum on February 27. It looks like actually it was originally e-mailed from Richard Smith to Dr. Weilage. [LR424]

SENATOR LATHROP: Okay. So I'm mistaken in the sequence of events. You talk to the county attorney and then you bring Weilage in to...I think you send him a text or an

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e-mail or something that said I want you to follow up with the county attorney. [LR424]

DR. CAMERON WHITE: Yeah. I believe that's the sequence, yes. [LR424]

SENATOR LATHROP: So tell me if you had a conversation with the county attorney and you told him, oh, this is something we normally do at the end of a sentence, what was left to discuss? What did you want Weilage to accomplish when he called the county attorney or followed up with him? [LR424]

DR. CAMERON WHITE: I wouldn't have the detailed information about the case or the working knowledge of having met with that person. So it would make sense that the head of mental health would follow up with that as the direct responsibility. [LR424]

SENATOR LATHROP: So the fact that we were still five months from the end of the sentence didn't mean that talking to county attorney was immaterial or irrelevant. It was still important to contact the county attorney and provide him with information regarding Jenkins. [LR424]

DR. CAMERON WHITE: Yeah, or follow up with him. Yeah, just to... [LR424]

SENATOR LATHROP: Did you know at that point in time that Jenkins was asking the Johnson County Attorney to commit him? [LR424]

DR. CAMERON WHITE: That may have been the letter. I'm not sure what was in the letter. [LR424]

SENATOR LATHROP: At some point do you pull up Jenkins' file, his mental health file? [LR424]

DR. CAMERON WHITE: I don't believe I did. [LR424]

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SENATOR LATHROP: So you send Weilage off to deal with the county attorney and you don't remember if you ever looked at his file. [LR424]

DR. CAMERON WHITE: That's correct. [LR424]

SENATOR LATHROP: Did you expect Weilage to provide relevant information to the Johnson County Attorney concerning Jenkins and whether he is a suitable candidate for a civil commitment? [LR424]

DR. CAMERON WHITE: I think it was premature to make that determination five months out. But I think it was good to have a contact with Dr. Weilage. [LR424]

SENATOR LATHROP: Okay. Good to have a contact, but did you expect that he would share with the county attorney, the person charged with civil commitments in Johnson County, did you expect that Weilage would provide information to the county attorney that was relevant to the subject of whether Jenkins was the proper object of a civil commitment? [LR424]

DR. CAMERON WHITE: Yeah, I would expect that something like that would come up in conversation. [LR424]

SENATOR LATHROP: Okay, and so you might have thought it through, but even looking back in hindsight you can agree that it would have been Weilage's responsibility, given that you had delegated this job to him, to provide to the Johnson County Attorney all relevant information concerning Jenkins' mental status and his dangerousness. [LR424]

DR. CAMERON WHITE: Or at least an initial conversation, what could be shared. [LR424]

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SENATOR LATHROP: Okay. You didn't expect him to give him a nonanswer. [LR424]

DR. CAMERON WHITE: No, I would expect some real conversation. [LR424]

SENATOR LATHROP: And you would expect him to share the information in the mental health file. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: To include a report that was only three weeks old prepared by...and an assessment done by Dr. Baker that was only three weeks old. That would have been what you would expect Weilage to share with the Johnson County Attorney when he returned the call you directed him to return. [LR424]

DR. CAMERON WHITE: That would have been in the file. [LR424]

SENATOR LATHROP: And you would have expected him to disclose that to the Johnson County Attorney. Is that true? [LR424]

DR. CAMERON WHITE: At that point, I don't know that he would disclose the report if there were... [LR424]

SENATOR LATHROP: Well, let me put it differently. The report that was only three weeks old at the time you asked Dr. Weilage to get back to the county attorney...look, you didn't expect him to call the Johnson County Attorney and repeat what you just told him, right? [LR424]

DR. CAMERON WHITE: Right. [LR424]

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SENATOR LATHROP: You expected him to do something. [LR424]

DR. CAMERON WHITE: Sure. [LR424]

SENATOR LATHROP: And the "do something" would be: call, get yourself informed, and call and share whatever information might be relevant to a civil commitment. [LR424]

DR. CAMERON WHITE: Yeah. Report the status, yeah, in general terms, yeah. [LR424]

SENATOR LATHROP: Okay, and a report that's three weeks old by Jenkins' psychiatrist that says he is mentally ill, imminently dangerous, and should have a civil commitment, that would be something you would expect Weilage to report to the Johnson County Attorney. Isn't that true? [LR424]

DR. CAMERON WHITE: Yes, or if we were considering pursuing a commitment, something like that. [LR424]

SENATOR LATHROP: Okay, but he should share it and then maybe they can coordinate the when and the how, but he should at least share that with the chief law enforcement officer in Johnson County. [LR424]

DR. CAMERON WHITE: Yes, the direction we're heading on the case, if there's those concerns, yeah. [LR424]

SENATOR LATHROP: Including the latest mental health medical. [LR424]

DR. CAMERON WHITE: Yes, that seems relevant. [LR424]

SENATOR LATHROP: Okay. Did you follow up with Weilage or did he ever come back

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to you and say, let me tell you what I just told the county attorney? [LR424]

DR. CAMERON WHITE: I don't recall that I did follow up. [LR424]

SENATOR LATHROP: Okay. So you have no knowledge about whether...did you ever hear from the county attorney again in Johnson County? [LR424]

DR. CAMERON WHITE: I don't believe so. [LR424]

SENATOR LATHROP: And you had no follow-up with Weilage when it came to the county attorney's concern or inquiries regarding a civil commitment. Is that also true? [LR424]

DR. CAMERON WHITE: That's correct. [LR424]

SENATOR LATHROP: Okay. So now you have another...on the other front you have the Ombudsman's Office trying to get a hold of you. Is that right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And that actually starts out in a series of e-mails with an inquiry from James Davis to Dr. Kohl on or about February 25 of 2013. [LR424]

DR. CAMERON WHITE: Yes. I think there was...I thought there was maybe even a letter. I don't...maybe not, but some communication. [LR424]

SENATOR LATHROP: That letter from Dr. Kohl, or that e-mail, whether it was a letter or an e-mail, was then forwarded to you by Dr. Kohl. [LR424]

DR. CAMERON WHITE: Yes. I noticed on page 200 there's... [LR424]

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SENATOR SEILER: 220. [LR424]

SENATOR LATHROP: Okay, on page 200, that's the beginning of the sequence of events that leads to the Ombudsman's concern landing on your doorstep, right? [LR424]

DR. CAMERON WHITE: Yes, I believe so. [LR424]

SENATOR LATHROP: So Kohl gets a letter from James Davis, which is found on page 200, and then he sends an e-mail, does he not? [LR424]

DR. CAMERON WHITE: Pardon me, which... [LR424]

SENATOR LATHROP: Or perhaps he...perhaps Davis is sending it to...I'm looking. [LR424]

DR. CAMERON WHITE: I think it's coming to Dr. Kohl, the one on page 200. [LR424]

SENATOR LATHROP: Okay. He sends it to Kohl. [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR LATHROP: And does Kohl forward that to you? [LR424]

DR. CAMERON WHITE: I'm sure he did, yes. [LR424]

SENATOR LATHROP: Okay, because it looks like, on... [LR424]

DR. CAMERON WHITE: Yeah, that was in the e-mail chain, it looks like. [LR424]

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SENATOR LATHROP: It would have to be on the 25th of February, to the 26th, sometime in between you're provided with a copy and some inquiry from Dr. Kohl. [LR424]

DR. CAMERON WHITE: Um-hum, yes. [LR424]

SENATOR LATHROP: And you in turn direct that Dr. Weilage gather up a summary of prior behavioral health activity on this case, including contacts and treatment plans. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Okay. Now I've got my first question for you. If you can, on your desktop computer, pull up Nikko Jenkins' mental health records, why would you send Weilage or send anybody off to do what you could do with a couple of keystrokes? [LR424]

DR. CAMERON WHITE: I probably had a million things going on and it was probably easier for me to delegate that. [LR424]

SENATOR LATHROP: Did you expect him to bring you documents? [LR424]

DR. CAMERON WHITE: Oh, if I could review the e-mail quickly. [LR424]

SENATOR LATHROP: Certainly. That's on 199. [LR424]

DR. CAMERON WHITE: Yes. In response to your question, it looks like what I asked for and my intention there was a summary, not necessarily an original document,... [LR424]

SENATOR LATHROP: Okay. [LR424]

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DR. CAMERON WHITE: ...looking for a summative document. [LR424]

SENATOR LATHROP: Okay. And you also indicate there, I know you have done assessment and met with him over time. So you already knew that before the Ombudsman has tried to get a hold of you. [LR424]

DR. CAMERON WHITE: Yes, I must have. [LR424]

SENATOR LATHROP: How did you know that? [LR424]

DR. CAMERON WHITE: I'm not sure actually. [LR424]

SENATOR LATHROP: He's a notorious guy and you stayed in touch with Weilage from time to time. [LR424]

DR. CAMERON WHITE: Yeah, we would meet. I mean, we meet regularly. We might meet every three weeks, something like that. [LR424]

SENATOR LATHROP: Did you know Dr. Baker was doing assessments? [LR424]

DR. CAMERON WHITE: I assumed that she was meeting with him. I don't know that I knew she...her work with him. As a case at Tecumseh, I know Dr. Baker likes to...well, would meet with people who made a suicide attempt. So he would certainly be on her watch list. So I would assume that. [LR424]

SENATOR LATHROP: Okay. Well, you had an idea that this guy was doing some strange things over in his cell. Am I right? [LR424]

DR. CAMERON WHITE: Yeah, I'm sure I was aware of some of that. [LR424]

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SENATOR LATHROP: Did you get any of his letters where he was pleading for a commitment and some mental healthcare? [LR424]

DR. CAMERON WHITE: Only the one that was e-mailed that I'm aware of. [LR424]

SENATOR LATHROP: Okay. So does Weilage provide you with some kind of a summary? [LR424]

DR. CAMERON WHITE: When we meet we discuss what's going on, yes. [LR424]

SENATOR LATHROP: How often did you meet with Mark Weilage? [LR424]

DR. CAMERON WHITE: Like I was saying, it could be every three weeks, something like that. [LR424]

SENATOR LATHROP: Do you guys office in the same building? [LR424]

DR. CAMERON WHITE: No, we don't. [LR424]

SENATOR LATHROP: You are in Lincoln at the penitentiary in the central office, is that what you call it? [LR424]

DR. CAMERON WHITE: Yeah, we're...the Department of Corrections central office is a building at the Regional Center campus. And that's where Dr. Kohl is located, myself, the director, central... [LR424]

SENATOR LATHROP: But not Weilage. [LR424]

DR. CAMERON WHITE: That's correct. He's officed at the penitentiary but covers a lot

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of different areas and locations. [LR424]

SENATOR LATHROP: Okay. So there's a meeting on March 4 of 2013, right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And sometime prior to that you get a summary from Weilage.
[LR424]

DR. CAMERON WHITE: I must have. I'm sure he did it, yes. [LR424]

SENATOR LATHROP: Before you went into that meeting, did you pull up the file on
your desktop and look to see if there was a report from a psychiatrist? [LR424]

DR. CAMERON WHITE: Not that I recall. [LR424]

SENATOR LATHROP: Do you remember going to this meeting? [LR424]

DR. CAMERON WHITE: I remember that it was scheduled. I remember the intention of
the meeting. [LR424]

SENATOR LATHROP: What do you remember the intention to be? [LR424]

DR. CAMERON WHITE: To discuss of the plan for Mr. Jenkins, kind of where we were
at. I remember social work was invited to that meeting to talk about the social work
perspective. [LR424]

SENATOR LATHROP: You remember inviting some lawyers? [LR424]

DR. CAMERON WHITE: No, but they very well could have been at the meeting.

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[LR424]

SENATOR LATHROP: Do you remember them being at the meeting? [LR424]

DR. CAMERON WHITE: No, I don't. [LR424]

SENATOR LATHROP: Do you remember having a conversation with Dr. Weilage before you went into that meeting? You were here just a couple minutes ago when he talked about having a meeting with you before the meeting. [LR424]

DR. CAMERON WHITE: No, I don't. [LR424]

SENATOR LATHROP: You don't. [LR424]

DR. CAMERON WHITE: And I don't know that I would. I mean... [LR424]

SENATOR LATHROP: Not saying it didn't happen. [LR424]

DR. CAMERON WHITE: No, I'm not saying it didn't happen. [LR424]

SENATOR LATHROP: Well, he also just told us a few moments ago that he shared with you that Baker had written a report that was only three weeks old and that she concluded in that report that Jenkins was mentally ill, that he was an imminent danger, and she said he possibly should be civilly committed in that report. Do you remember having a conversation with him about that? [LR424]

DR. CAMERON WHITE: No, I don't. [LR424]

SENATOR LATHROP: Do you remember reading it before you met with the Ombudsman or members of the Ombudsman's Office on March 4, 2013? [LR424]

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DR. CAMERON WHITE: No, I don't. [LR424]

SENATOR LATHROP: Did you attend that meeting? [LR424]

DR. CAMERON WHITE: I believe I did. To be honest with you, I don't recall that meeting clearly. [LR424]

SENATOR LATHROP: Do you know if Bob Houston was there, the director? [LR424]

DR. CAMERON WHITE: I don't recall. I would assume he would have been there. [LR424]

SENATOR LATHROP: Do you remember one of the lawyers in the room, whoever came over from Corrections, one of the lawyers coming into the room and saying we're not talking about Nikko Jenkins' mental health? [LR424]

DR. CAMERON WHITE: No, I don't recall that. [LR424]

SENATOR LATHROP: Do you remember what was discussed? [LR424]

DR. CAMERON WHITE: I remember that some social work, that bringing Kathy Foster in to meet with Mr. Jenkins was discussed as part of the plan. That's what I remember from the meeting, that there would be follow-up with Kathy Foster; the director of social work would meet with Nikko Jenkins to see what his social work needs were. That's what I remember from the meeting. I don't remember specific conversations. [LR424]

SENATOR LATHROP: Dr. White, do you remember reading the report of Dr. Baker, the psychiatrist who wrote a report in February of 2013? [LR424]

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DR. CAMERON WHITE: When I reviewed the file later, I saw her notes and reports. [LR424]

SENATOR LATHROP: I'm sure you did. When was...when you say, when I reviewed the file later, what date are we talking about, or time frame? [LR424]

DR. CAMERON WHITE: That would have been probably September of 2013. [LR424]

SENATOR LATHROP: After some homicides? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: So after four murders in Omaha and Nikko Jenkins gets charged with them, you pulled his file up and read the report of Dr. Baker. [LR424]

DR. CAMERON WHITE: I read everything in the file. I believe the file was put together and it was sent to central office, so it was complete. [LR424]

SENATOR LATHROP: Well, it had always been available to you, at least everything from 2011 on, had always been available to you on your desktop, right? [LR424]

DR. CAMERON WHITE: Yes, I just mean the complete file that included the paper copies. [LR424]

SENATOR LATHROP: Okay. So you testified that you later looked at it and saw it at a later time. Is that the first time that you saw Dr. Baker's report or is there another opportunity before the homicides in Omaha where you would have seen Dr. Baker's February 2013 report? [LR424]

DR. CAMERON WHITE: I don't recall seeing it before. [LR424]

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SENATOR LATHROP: Do you remember anybody talking to you about it? [LR424]

DR. CAMERON WHITE: No, I don't. [LR424]

SENATOR LATHROP: So when Weilage, who was here just a moment ago, said that he talked to you about it and told you about it, that's not true. [LR424]

DR. CAMERON WHITE: I don't recall that conversation. [LR424]

SENATOR LATHROP: Okay, then it could have happened but you don't remember it. [LR424]

DR. CAMERON WHITE: It could have. I think I would have remembered that, but. [LR424]

SENATOR LATHROP: Now we run into a problem when somebody doesn't remember something. You know, it's kind of hard to...it's one of those things that's kind of hard to cross-examine, you know? I have to take you at your word, I think, when you tell me you don't remember. But Weilage clearly knew about Baker's report. [LR424]

DR. CAMERON WHITE: Sounds like it, yes. [LR424]

SENATOR LATHROP: Okay. And when he met with the ombudsmen who were trying to figure out what to do with this guy who had spent the last couple years in segregation, isolated for 23 hours a day, okay, and Senator Chambers, the Ombudsman's Office, and others are expressing concern and now we're going to have a meeting about it. And the Ombudsman is there and some other people from Corrections and Weilage knows about Baker's report. He may have a different conclusion, but he knows about it. And he knows the report says he's dangerous, he's mentally ill, and the guy probably should be

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committed. Do you think he had a responsibility to disclose that in the meeting on March 4, 2013? [LR424]

DR. CAMERON WHITE: Yes, that would make sense. [LR424]

SENATOR LATHROP: And similarly, if you knew about it, you would have had the same duty. [LR424]

DR. CAMERON WHITE: Yes, if that's... [LR424]

SENATOR LATHROP: Okay. In other words, what are messing around trying to figure out how to get him over to violence prevention at the state pen when the guy need to be committed because he's doing crazy things and the psychiatrist thinks he should be committed. [LR424]

DR. CAMERON WHITE: Or at least all view points should be represented. [LR424]

SENATOR LATHROP: Right. [LR424]

DR. CAMERON WHITE: I think that's the fair... [LR424]

SENATOR LATHROP: And we're talking about the wrong thing if we're not talking about Baker's report and her conclusions that are only a few weeks old. [LR424]

DR. CAMERON WHITE: That's very current, yes. [LR424]

SENATOR LATHROP: And you're telling me you didn't know about it. [LR424]

DR. CAMERON WHITE: I don't recall. I don't recall seeing that report. [LR424]

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SENATOR LATHROP: Can you turn in that book to 222? And I genuinely appreciate that meetings can happen. They don't seem like they're something you need to remember. You go to many of them... [LR424]

DR. CAMERON WHITE: Yep. [LR424]

SENATOR LATHROP: ...and that you may not be able to remember everything today. But I do want to...this seems to be a follow-up to the March 4 meeting. You would agree with that? [LR424]

DR. CAMERON WHITE: Yeah, this looks like this was done on March 12. If I could just review this momentarily. [LR424]

SENATOR LATHROP: Certainly. And you can review the response, too, where you forward it on to Weilage. [LR424]

DR. CAMERON WHITE: Yeah, it looks like I sent an e-mail to Mark, which is the bottom one. [LR424]

SENATOR LATHROP: It's kind of hard because it looks like it was sent from your Verizon Wireless 4G DROID. [LR424]

DR. CAMERON WHITE: Well, that was I think Larry Wayne's response sent from the wireless there. [LR424]

SENATOR LATHROP: Okay. So can you tell who you were...obviously you're sending something to Mark, which would be Mark Weilage? [LR424]

DR. CAMERON WHITE: Yes, I'm sure that's Mark Weilage. [LR424]

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SENATOR LATHROP: And did you copy Larry Wayne? [LR424]

DR. CAMERON WHITE: Yeah, on top there. Yeah. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. CAMERON WHITE: Or wait a minute. No, that's Mark copied Larry Wayne on top it looks like. I guess I'm referring to the bottom half of the page where I see Mark, write Mark. I don't...can't tell the copy from that. [LR424]

SENATOR LATHROP: Okay. In any case, you write to Weilage. And can you... [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR LATHROP: Do we know the date? This looks like March 12, to me. But I can't tell. [LR424]

DR. CAMERON WHITE: I'm unable to tell the date. I'm sure it was somewhere around then. The record doesn't reflect when the e-mail was sent. It looks like Larry, I'm sure that's referring to Larry Wayne... [LR424]

SENATOR LATHROP: ...is fielding questions from the Ombudsman on Jenkins' case and his discharge planning. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: He's also getting questions such as: If he has a prior diagnosis of schizophrenia, why isn't he considered MI, mentally ill, now? [LR424]

DR. CAMERON WHITE: Uh-huh. [LR424]

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SENATOR LATHROP: This is you writing? [LR424]

DR. CAMERON WHITE: Yes, that's correct. [LR424]

SENATOR LATHROP: My view is that we need to treat the symptoms that are currently presenting as opposed to those seen in the past. Please respond back to this e-mail or phone Larry with the latest details. Thanks. [LR424]

DR. CAMERON WHITE: Uh-huh. [LR424]

SENATOR LATHROP: When you said to Mark, please phone Larry with the latest details, who's the "Larry" we're talking about? [LR424]

DR. CAMERON WHITE: I believe that's probably Larry Wayne, deputy director. [LR424]

SENATOR LATHROP: Okay, and what did you expect that Weilage would do after having been given this task by you? The latest details, would that be the latest mental health details of Nikko Jenkins? [LR424]

DR. CAMERON WHITE: Yes, yes. [LR424]

SENATOR LATHROP: So that would have been an instruction to Mark to report to Larry Wayne, a deputy director, about the latest mental health status of Nikko Jenkins. [LR424]

DR. CAMERON WHITE: Uh-huh. [LR424]

SENATOR LATHROP: Yes? [LR424]

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DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Okay. I'm just trying to make a good record, no...yeah. [LR424]

DR. CAMERON WHITE: Pardon me. Yes, correct. [LR424]

SENATOR LATHROP: And so that would have necessarily involved Weilage advising Larry Wayne, the deputy director, that there is a report prepared by the psychiatrist at Tecumseh only a month old by the time this happens, or barely over a month old, that says he is mentally ill, imminent danger, and probably should be committed, yes? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: You would have expected, after instructing Weilage to advise Larry Wayne on the latest, that he would have shared that report and the information from Baker's assessment with Larry Wayne. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Do you know if he ever did? [LR424]

DR. CAMERON WHITE: I don't know. [LR424]

SENATOR LATHROP: Did Larry Wayne ever come down the hall or otherwise approach you and say, I just got something from Weilage. Did you know that Baker did a, you know, wrote this report about the things that Jenkins is doing in his cell, concluded that he's mentally ill, that he's dangerous to...that he's dangerous, and that probably should be committed? Did Larry Wayne ever talk to you about that? [LR424]

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DR. CAMERON WHITE: No. [LR424]

SENATOR LATHROP: When did...pardon me. Did Mark Weilage, whatever he sent to Larry Wayne, did he copy you? Is that what this is up above? [LR424]

DR. CAMERON WHITE: It looks like Mark responded back to Larry and copied me and Kathy Foster. That's all I know is what's here. [LR424]

SENATOR LATHROP: Okay. [LR424]

DR. CAMERON WHITE: I mean, I don't see any attachment. [LR424]

SENATOR LATHROP: Yeah, you don't. So it would appear from the document on page 222 that even though you told him to give him the latest, he gives him some paragraph that I'll talk about in just a second, not information about Baker's assessment that's like a month old. [LR424]

DR. CAMERON WHITE: This looks like the follow-up, yes. [LR424]

SENATOR LATHROP: Okay. And he says in here, and I'm going to talk to you or ask you a question about it, the same records from Douglas County basically said schizophrenia or malingering. I got to tell you, we had Dr. Oliveto in here and I think you sat through it. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Did Dr. Oliveto ever say it's one or the other? No, he didn't. [LR424]

DR. CAMERON WHITE: No. No, he didn't. [LR424]

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SENATOR LATHROP: He was solid that it was a mental illness and not malingering. Would you agree with that? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: So this statement is a misstatement of the Dr. Oliveto records from the Department of Corrections...or, pardon me, from Douglas County Corrections. [LR424]

DR. CAMERON WHITE: Yes, from the testimony. [LR424]

SENATOR LATHROP: Dr. Baker even considered a malingering diagnosis. I'm just going to tell you. That might have been a consideration at one point, that perhaps he was saying some things and he had some access to diagnoses in addition to his psychosis. But the fact that the statement that Baker even considered it, it's an opportunity to tell you what Baker's conclusions are and he's focused on something Baker considered at one time and not her last report. [LR424]

DR. CAMERON WHITE: Yes. Uh-huh. [LR424]

SENATOR LATHROP: When he says, I do not consider him to be majorly mentally ill, is "majorly" a term that is often accompanied by mentally ill, or is he suggesting that he might be mentally ill, just not real bad? [LR424]

DR. CAMERON WHITE: Majorly mentally ill, or maybe even more correctly, major mental illness, is considered, generally speaking, more severe than other forms or conditions, so. [LR424]

SENATOR LATHROP: But you can have a mental illness without...and you might

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describe somebody as having a mental illness and not use the term or the word "major" in front of it. [LR424]

DR. CAMERON WHITE: That's right. [LR424]

SENATOR LATHROP: So is he telling us that this guy doesn't have a mental illness, or is telling us he might have a mental illness but it doesn't seem to me to be a big deal? [LR424]

DR. CAMERON WHITE: I think what Mark is saying there is that he does not consider him to have a major mental illness. And generally people think of that as schizophrenia, serious depression, major depression, something like that. [LR424]

SENATOR LATHROP: Then after you asked him to update...this is just mind-boggling to me. I mean, he's got a report. He knows there's a report that's a month old and he says, he appears focused on getting disability so he does not have to work and is suing the department for maltreatment. You know, did you ever go through and look at all of the things that he wrote asking for help? [LR424]

DR. CAMERON WHITE: Yes, I've reviewed his full file. [LR424]

SENATOR LATHROP: And you know what, for somebody who is involved in his care or at least involved in the people who are involved in his care or at least he looked at the file, for him to say that was Jenkins' focus. I mean, we could go through these. I've got them all right here. But he's like, I don't know, a good 25 of these notes coming out of his cell that are like: emergency, help me. I need mental healthcare. I'm going to get out and kill people. Wouldn't that have been his focus if he's got 25 of those letters in his file? [LR424]

DR. CAMERON WHITE: That's significant, yeah. [LR424]

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SENATOR LATHROP: It seems a little ridiculous to say he's focused on getting disability, wouldn't you think? [LR424]

DR. CAMERON WHITE: Mr. Jenkins may have said that at some point. I don't know what the basis of that was. [LR424]

SENATOR LATHROP: Okay. So this sounds a little bit like our hearing a couple weeks ago where we were trying to figure out when somebody read the case, you know? When did you read the Castillas decision? And George Green comes in and says, I never read it until the World-Herald made a story out of this. And now I'm asking you when did you first read Baker's report. You're the head administrator of behavioral health and you're telling me you read it after you realized that Jenkins had murdered four people in Omaha. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Never before. [LR424]

DR. CAMERON WHITE: Not that I recall. [LR424]

SENATOR LATHROP: Then it's kind of perhaps a silly question, but I'm going to ask it anyway because I want you to tell me. Did you ever go to Bob Houston and say, jeez, Mr. Director, I've got to tell you. We've got a problem over in Tecumseh. We've got a guy over there, Nikko Jenkins, and Dr. Baker thinks he's dangerous and mentally ill and probably ought to be committed. [LR424]

DR. CAMERON WHITE: No, I never had that conversation with... [LR424]

SENATOR LATHROP: You wouldn't have had that conversation with Larry Wayne?

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[LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR LATHROP: Dr. Kohl? [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR LATHROP: So you run behavioral health. I'm going to tell you something. I'm sitting here listening to all this stuff today. And I have as witnesses, Dr. Baker comes in. Now this is the time line that I'm getting from it, okay? And I'm going to give you a chance to respond to this. But we have Jenkins going over to Douglas County Corrections because he's charged with escape or whatever he's charged with. And we have Oliveto that sees him three times and each time he's adamant this guy has a mental illness, right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: He says each time that he sees him he writes on the note, guy needs to be seen at Lincoln Regional Center for a forensic examination, right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Then he goes back to Tecumseh where we run into Dr. Baker. Dr. Baker says at least five times, when she does a full assessment of Jenkins, she says he's psychotic and all these other Axis I diagnoses. And as I watched those things come out from Dr. Baker, we have Pearson and Geiger over here who are trying to simmer down because they've just read this--simmer down because they've just read a diagnosis from a psychiatrist they're supposed to be working with. They need to simmer down. They need to simmer down. And then your next guy, the guy that you presumably

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trust, Weilage, when people ask him what's going on, he won't tell them about Baker. He won't tell them at a critical time when Jenkins is five months from being done, the report is less than a month old and people are going, what are we doing with this guy? And he keeps it from them--keeps it from them, doesn't tell a county attorney, doesn't tell the Ombudsman, doesn't tell you, doesn't tell anybody that Baker has written a report. And guess what? Baker doesn't get invited to any of the meetings. We're not e-mailing her. We're not texting her. We're not bringing her in the loop so she can say wait a minute. We're cutting her out of the deal. So now all of the information is coming from Weilage. He's screening it and only allowing some of it out, by the way, not Baker's opinion. It doesn't come out to the people that need to know. And then we have Wetzel, the third psychiatrist that sees him, and he says mental illness. And that doesn't make a bit of difference to anybody. He's transferred over to Corrections. And now I'm going to ask you because you are the behavioral health administrator. What is going on at Tecumseh? What is going on at behavioral health when the psychiatrist makes a diagnosis and the psychologists say, we're not letting this information out of this place; this guy is getting out of Corrections and I don't care if he ever gets any treatment or goes to the Lincoln Regional Center, which is why anybody would care about that, Doctor, I can't understand. Help me. Why are the psychologists that work for you, why is Weilage not letting a psychiatrist's diagnosis out of the office? Why did he put a lid on it? [LR424]

DR. CAMERON WHITE: I don't know. [LR424]

SENATOR LATHROP: Did you ever look into that since the murders happened and you looked at the whole file? You had to come to the same conclusion I did. [LR424]

DR. CAMERON WHITE: No, I haven't asked him about that. [LR424]

SENATOR LATHROP: Did you...after you realized that Jenkins had murdered four people, did you conduct any kind of an internal investigation to determine what in the

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hell happened here in mental health? [LR424]

DR. CAMERON WHITE: No, we didn't conduct an internal investigation. I requested that we formalize our civil commitment review procedures. [LR424]

SENATOR LATHROP: Okay. But I think this process demonstrates it's hard to move forward until you understand the old screwups, right? [LR424]

DR. CAMERON WHITE: Sure. [LR424]

SENATOR LATHROP: Is the administration, I mean the Governor or anybody in the Attorney General's Office, engaged in any kind of an investigation to determine how this happened? [LR424]

DR. CAMERON WHITE: Not that I'm aware of. [LR424]

SENATOR LATHROP: The only investigation that's going on is this group right here. [LR424]

DR. CAMERON WHITE: The Legislative Performance Audit Committee is inquiring on issues as well. [LR424]

SENATOR LATHROP: On programming primarily. [LR424]

DR. CAMERON WHITE: And civil commitments as well. [LR424]

SENATOR LATHROP: Well, can you offer an explanation for why Weilage would put a lid on and not share with the Ombudsman or the county attorney the report of Dr. Baker that was everything in one report, everything either one of those two groups needed to know? [LR424]

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DR. CAMERON WHITE: No. [LR424]

SENATOR LATHROP: Do you think you've got a problem over there? [LR424]

DR. CAMERON WHITE: I think we...yes. [LR424]

SENATOR LATHROP: Is it a turf battle, the psychologists don't want to listen to the psychiatrists? [LR424]

DR. CAMERON WHITE: I don't know. You know, I don't see that at other institutions honestly. I think part of it in Tecumseh, perhaps, is that the only difference I can see is that we have a contract vendor for medical services down there and psychiatric services. [LR424]

SENATOR LATHROP: Would you agree...you've sat here through the whole day, and the record should reflect that. You've heard all the testimony... [LR424]

DR. CAMERON WHITE: Yes, correct. [LR424]

SENATOR LATHROP: ...that this panel has heard all day long, true? [LR424]

DR. CAMERON WHITE: Yes, that's correct. [LR424]

SENATOR LATHROP: Okay. So you've listened to the dysfunction, and you've listened to Dr. Baker express her concerns about how she was not supported by the psychologists. And I'm grouping them together because we're not really concerned about the social workers because they weren't really involved in Nikko Jenkins. [LR424]

DR. CAMERON WHITE: Uh-huh. [LR424]

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SENATOR LATHROP: It's Pearson and Geiger and Weilage, right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: And she talked to you about that before, too, didn't she? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: You heard us go through that e-mail exchange. She e-mailed you and said, you know what, I'm really concerned because some of these people I think need some follow-up and I can't get them to do it. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: Do you think part of the problem is that the way it's set up with a vendor psychiatrist, that your psychologists feel like they don't have to listen to her? [LR424]

DR. CAMERON WHITE: I think...I don't know exactly what the problem is. But the only thing I can conclude is that that's one difference between Tecumseh and other places where it seems to work more smoothly. Also...I guess that's the only difference really. I tried to...or have met with staff down there and Dr. Baker and got a face-to-face meeting going with Dr. Baker and the person in charge of mental health to try and improve things. But it's... [LR424]

SENATOR LATHROP: You know what? I think you've got the wrong people there. Because if a psychiatrist says, this is what I want done and she comes in here and tells this group that she can't be sure they're going to do anything but do the medication that she prescribes and everything else is just a request and not an order coming from the

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medical doctor. And then when she's asking for things, testing that doesn't happen, because that happened, testing that doesn't happen, things that don't happen, it's a turf war. It's a turf war and the final battle is over letting Baker's report out to people outside of Corrections: the Ombudsman and the county attorney. And you know what? I agree with Senator Chambers. It's not much of a stretch to believe that if that report had gone to the county attorney like it should have, you agree it should have, and Weilage admitted that he withheld, probably four people don't get murdered. I mean it's life and death stuff. And the casualties of a turf battle inside of a behavioral health organization over at Tecumseh that you're in charge of has just had a tragic result. And I'll tell you, shoring up the civil commitment thing seems like rearranging the chairs on the Titanic as it's sinking. I think you go through there and clean house honestly. And I have to say, as long as I'm at it, I'm surprised that you don't know more. And maybe that's state government and I don't come from state government other than eight years in the Legislature. But the records you ask people to summarize and to talk to you about were two mouse clicks away and you're into Nikko Jenkins' file and you got Baker's report right in front of you. And it is not a stretch; it is not a stretch. This is not a stretch that the turf battle going on at Tecumseh had Baker's conclusions bottled up and we missed two good opportunities to have a different trajectory on this. And that's not even going into, we're going to leave you in the hole. And I have to tell you I'm pretty darn suspicious about that too. And now I may be preaching instead of asking questions. But I am very suspicious, very suspicious that the decision by the three psychologists that are looking at him over at Tecumseh was motivated by a desire to keep him in the hole because as soon as we get to Axis I, that's his ticket to some care. And by God, you can't do that while he's sitting in the hole. Then you've got to make a choice. And we want to teach him a lesson. He hit one of our guards and he's going to spend the rest of his time in solitary. I may be wrong about that but I'm going to tell you it is suspicious to me that these three people were so adamant about following behind the reports of Dr. Baker and putting the MIRT together so that they could come up with their own conclusion that said he wasn't on Axis I, leave him in there, and we don't have to do anything for him until he goes into the community. [LR424]

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DR. CAMERON WHITE: Can I make one comment? [LR424]

SENATOR LATHROP: You may. That's fair. Go ahead. [LR424]

DR. CAMERON WHITE: With the...I don't think staff act punitively like that. I would hope they wouldn't do that. I don't believe they do that. And just a comment on the MIRT, the Mental Illness Review Team, on the review form you'll notice that Dr. Wetzel was a part of that committee and signed that form and reviewed that information as well. [LR424]

SENATOR LATHROP: You know what I noticed about it? The thing that struck me the most is that it's not all mental health professionals. You've got security guys on there voting about what should happen with somebody or whether they are or not. If you're going to take Dr. Baker's opinions and run them through a MIRT...I'm not going to find it fast enough but I saw on there it says who's on the committee. It's like security and there's housing and some people that have no mental health training. And they're taking Baker's opinions and distilling them and distorting them and coming up with their own judgment. And you have people sitting on that committee. They're not all mental health professionals. There's a housing guy and a security guy. What do they have to do and what authority do they have to second-guess the opinion of anybody in the mental health field? [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR LATHROP: Seems messed up to me. [LR424]

DR. CAMERON WHITE: They don't have...the security staff wouldn't have the training. They may have information, though, related to the case. I think that's probably the intention. And just in fairness to MIRT, that was created so you didn't have one person making a decision about cases coming on to the mental health unit. So the idea was to

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have more professionals looking at it as just opposed to one person at the mental health unit. [LR424]

SENATOR LATHROP: Right. I get the theory and I appreciate your comment. [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR LATHROP: I have to say that in the end, we kind of ended up having one guy in charge, you know? The idea may have been to spread it around so that a whole bunch of people have an opportunity to speak up. But in the end, no one spoke up and Mark Weilage bottled up the information and Baker's opinions never got out. That would be a fair conclusion, wouldn't it? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR LATHROP: That's all I got. We'll start down at this end. Senator Krist. [LR424]

DR. CAMERON WHITE: Can I get just a cup of water perhaps? [LR424]

SENATOR LATHROP: Yes, yes. Would you provide the witness with a cup of water? [LR424]

SENATOR CHAMBERS: And a pair of asbestos britches by the time we get to me. (Laughter) [LR424]

SENATOR KRIST: Dr. White, I'm going to start and I want you to relax and take a drink. I have a couple of questions for you. First of all, when the Chairman was asking you questions about whether or not you were in the meeting, you were not specific that you remembered being in the meeting, yet as the testimony went on you knew specifics

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about what was being talked about in the meeting. Were you physically in the room or were you someplace else listening to what was going on or did you get such a great report that you had all the specifics of the meeting and how it went down? [LR424]

DR. CAMERON WHITE: I believe I was at the meeting. I recall the intention of the meeting. [LR424]

SENATOR KRIST: Okay, I want you to be very careful how you answer... [LR424]

DR. CAMERON WHITE: Okay. [LR424]

SENATOR KRIST: ...because I have enough information from another source. I want you to be very specific. Were you in the meeting or were you listening from an outside location? [LR424]

DR. CAMERON WHITE: I was not listening from an outside location. [LR424]

SENATOR KRIST: So you were physically in the room. [LR424]

DR. CAMERON WHITE: I believe I was, yes. [LR424]

SENATOR KRIST: Okay. What's the significance, when we talk about reduction of the folks in the prison system which comes back to good time--so I'm going to take a little different tack here with this question--in order to qualify to get early release or to be in a community release program, what's the significance of the designation of inpatient versus outpatient? And again, be careful how you answer this because I think I have enough information that...I want you to be clear. What is the significance of that designation? [LR424]

DR. CAMERON WHITE: Could you rephrase that? I'm not sure I'm following that.

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[LR424]

SENATOR KRIST: Sure. If I'm a prisoner who wants to be released into the community and I want that good time law to apply and I want to get out of prison, if I'm an inpatient or an outpatient, does that make a difference if I qualify for that program? [LR424]

DR. CAMERON WHITE: Which program are you referring to? [LR424]

SENATOR KRIST: Doctor, the community release program. [LR424]

DR. CAMERON WHITE: For community release. [LR424]

SENATOR KRIST: Right. [LR424]

DR. CAMERON WHITE: In good time laws you're saying? [LR424]

SENATOR KRIST: With regard to the community release program that you oversaw in part, okay, does a designation inpatient or outpatient on a particular prisoner make a difference? [LR424]

DR. CAMERON WHITE: In community release program, if you would clarify that. [LR424]

SENATOR KRIST: Yes. [LR424]

DR. CAMERON WHITE: I'm not sure what you're referring to. [LR424]

SENATOR KRIST: Yes, yes. [LR424]

DR. CAMERON WHITE: What type of community release? I'm not sure I'm following.

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[LR424]

SENATOR KRIST: What does the designation mean when you are an inpatient and you're in the system? Does that make you eligible for an early release program of any kind? [LR424]

DR. CAMERON WHITE: If you're in an inpatient program, if a prisoner... [LR424]

SENATOR KRIST: Right, right. [LR424]

DR. CAMERON WHITE: You could. You could be paroled, for example. There's many people from the mental health unit who are inpatient. [LR424]

SENATOR KRIST: Okay. So there was never a conversation between Director Houston and you to change a designation from an inpatient to outpatient on a number of records. You never had that conversation with Director Houston? [LR424]

DR. CAMERON WHITE: Oh, you're talking about recommendations? [LR424]

SENATOR KRIST: Right. [LR424]

DR. CAMERON WHITE: At one point the director wanted staff to review recommendations. [LR424]

SENATOR KRIST: And did you say, Director, I can't do that, we shouldn't do that? And he said, you will do that or I'll find somebody who will to change inpatient to outpatient. Do you recall that conversation? [LR424]

DR. CAMERON WHITE: I don't recall a specific conversation that I had. I do recall that we reviewed recommendations in light of sentence structure. [LR424]

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SENATOR KRIST: So if we brought someone up and subpoenaed someone to say that they had a conversation with you and you said it was a difficult position for you to be put in, you wouldn't recall that either? [LR424]

DR. CAMERON WHITE: I wouldn't recall that, no. [LR424]

SENATOR KRIST: Okay, so you never had a conversation with Bob Houston to change the designation on any prisoner from inpatient to outpatient to make them more accessible to get them out of the prison system. [LR424]

DR. CAMERON WHITE: Like I was saying, we in behavioral health reviewed recommendations. We had many meetings in probably 2010 and '11 when, as we were getting more and more crowded, to make programming recommendations in alignment with sentence structure. [LR424]

SENATOR KRIST: So the noncost reduction of prisoners was a direct result of you looking closer at whether a person is inpatient or outpatient or would qualify for those. And that direction came from above. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR KRIST: So you did have a conversation with Bob Houston with regard to those designations. [LR424]

DR. CAMERON WHITE: I'm sure it came out of one of the meetings. I don't recall a specific conversation with Mr. Houston. [LR424]

SENATOR KRIST: Okay. Thank you. [LR424]

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DR. CAMERON WHITE: Uh-huh. [LR424]

SENATOR LATHROP: Senator Mello. [LR424]

SENATOR MELLO: Thank you, Chairman Lathrop. And thank you, Dr. White. I really only have one follow-up to get a little bit better understanding, I guess, of what kind of you did from a period of time. If you could turn to page 197, I'll read it through here. It's at the bottom of the page. There's an e-mail from Director Houston to Mark Weilage and Kathy Foster but it's entitled essentially to you and Kathy Foster. It says: Thanks, folks. Kathy and Cameron, would you two mind taking the lead in gathering information on how we care for Mr. Jenkins? Thanks. This will help us do two things. First, we can help others understand what assistance we can and will provide for inmate Jenkins. But secondly, we can draft policy and best practices for future cases. This multidisciplinary team you are assembling is not only awesome but will be a model we can be proud of as we continually strive to protect the public one inmate at a time. Can you give us a little background on, first, did you draft any policy in respects to developing a best practice based off of Nikko Jenkins and his release and the services that he was given prior to him being released from Department of Corrections? [LR424]

DR. CAMERON WHITE: No, I didn't draft any best practice. [LR424]

SENATOR MELLO: Did Kathy Foster? [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR MELLO: Did you talk with Kathy Foster about this at all? I mean, Director Houston listed you and Kathy Foster as the point people in this process. [LR424]

DR. CAMERON WHITE: Well, I think at this point this was related to gathering information for that meeting on 3/4. That was, the request was delegated to Dr.

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Weilage. I think that's the first part of the e-mail. Secondly, I think what's being referred to is just the multidisciplinary process is being a good practice. [LR424]

SENATOR MELLO: I don't want to correct you, but it specifically lists you and Kathy Foster as the point people. You may have delegated it to... [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR MELLO: ...Dr. Weilage, but it lists the two of you. And it specifically says you can draft policy and best practices for future cases, which you're saying that you did not draft any new policies. [LR424]

DR. CAMERON WHITE: That's correct. [LR424]

SENATOR MELLO: You created no best practices in regards to dealing with inmate Jenkins. [LR424]

DR. CAMERON WHITE: That's correct. [LR424]

SENATOR MELLO: And then it talks about this multidisciplinary team. Who is that team? [LR424]

DR. CAMERON WHITE: Well, I think what he's talking about is...I'm not sure actually. I assume...I know... [LR424]

SENATOR MELLO: Because it lists it that Director Houston obviously knows who it is because he calls you not only awesome but will be a model to be proud of in the future. [LR424]

DR. CAMERON WHITE: Uh-huh. [LR424]

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SENATOR MELLO: So who internally is part of this multidisciplinary team that you and Kathy Foster, in theory, have assembled? [LR424]

DR. CAMERON WHITE: I think what he's talking about is the multidisciplinary process that occurs at the institutions. I think that came up in earlier testimony, that cases are reviewed at an institution and there's a multidisciplinary process that involves unit staff, administration, medical, behavioral health. I'm guessing that's what he was referring to. [LR424]

SENATOR MELLO But...I can appreciate that's what you believe he's referring to. But in this same vein, apparently there was an expectation that this team that you assembled was to develop policy and best practices to be used for future inmates. So this was, in theory, supposed to be a test case, so to speak, of inmate Jenkins, of showing the department as a whole, maybe the state as a whole, what the department can do in respects to dealing with an inmate who needs services as they prepare to leave the department. Get it? I mean, am I not fully understanding it? I mean, I don't think this e-mail is very complicated. It seems like the director is giving a fairly clear directive to you and Ms. Foster... [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR MELLO: ...as well as laying out what the expectations are. [LR424]

DR. CAMERON WHITE: We didn't draft any policy. [LR424]

SENATOR MELLO: Was there any follow-up at all? Did you ever follow up with the director? I mean, I don't see any e-mails here, so to speak, between you and Director Houston. But was there a follow-up with him at all of, I'm delegating to Dr. Weilage? He's going to be the point person. He's going to lead this charge on our behalf and...

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[LR424]

DR. CAMERON WHITE: No. No, there wasn't. [LR424]

SENATOR MELLO: Does that normally happen, when a director gives you a directive, that no one follows up with it or they just choose to kind of let other people interpret what needs to be done? [LR424]

DR. CAMERON WHITE: No, it wouldn't be typical. I don't know why I didn't follow up with that. [LR424]

SENATOR MELLO: Does Kathy Foster...no recollection of a conversation with Kathy Foster at all in regards to: Kathy, what are we going to do about this? The director wants us to be innovative here and figure out maybe some new processes we can use moving forward. No recollection at all of a conversation with Kathy Foster? Or Dr. Weilage never came back to you and said, I met with Kathy and this is what we came up with? [LR424]

DR. CAMERON WHITE: No, I don't recall that. [LR424]

SENATOR MELLO: Okay. That's all I have for right now. Thank you, Mr. Chairman. [LR424]

SENATOR LATHROP: Senator Seiler. [LR424]

SENATOR SEILER: Thank you. Doctor, you were present while other people were testifying, especially Dr. Weilage. I was concerned with the February 25 information that Mr. Jenkins sent to the county attorney and his mother sent the information. And it's kind of stirred up the deputy county attorney into calling you and going through the investigation. Almost four days later, five days, you have the meeting--3/4. And ten days

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later, you snapped off and jurisdiction is lost in Johnson County and sent to Lancaster County. So the county attorney's efforts and work that was being done there was just lost. Now turn to page 244. You may not have seen this letter but I think it's a really important letter. [LR424]

DR. CAMERON WHITE: Okay. [LR424]

SENATOR SEILER: Smith versus Smith...or Smith and Smith, is that your title on 244? [LR424]

DR. CAMERON WHITE: Let's see. I've got Larry Wayne on top, something dated 4/23/13. [LR424]

SENATOR SEILER: Two sixty-four, I'm sorry. I misread the number. [LR424]

DR. CAMERON WHITE: Oh, pardon me. Two sixty-four. [LR424]

SENATOR SEILER: Their sixes and their fours look alike at the bottom of the page. [LR424]

DR. CAMERON WHITE: Yep. Yes, I see his letter: Smith and Smith on page... [LR424]

SENATOR SEILER: Okay. Have you ever seen this letter before? [LR424]

DR. CAMERON WHITE: I need to review it. I don't believe... [LR424]

SENATOR SEILER: Please do. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

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SENATOR SEILER: And I don't believe you would have seen it. [LR424]

DR. CAMERON WHITE: I don't recall ever reading this until...or seeing this. [LR424]

SENATOR SEILER: Okay, I want to take you through a couple paragraphs at the top of 265 that I think does apply to you. Basically, this is a letter of complaint by Nikko Jenkins against the deputy county attorney filed with the Counsel on Discipline to have him disbarred, pretty serious charges. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR SEILER: Even a letter that doesn't go anywhere, I will tell you, lawyers take it pretty damn personal. And it says up here at the top that the test, which you were present when we were talking about it, mentally ill and dangerous, and whether the means of treatment, and I don't think we've talked about this, is less restrictive than committed...of the commitment by the mental health boards were available. You have to have that less restrictive part on the commitment. That's the third leg of the commitment. We've only talked about the top two legs. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR SEILER: And then, Doctor, I'd like you to read the next two paragraphs because I think they directly apply to you. [LR424]

DR. CAMERON WHITE: Yes, I've read that. [LR424]

SENATOR SEILER: Okay. This is the response of Richard R. Smith, the deputy county attorney to the Counsel on Discipline, explaining why he didn't file a commitment. And he says that Dr. Weilage informed him that the staff would continue to monitor and evaluate and that they felt the current treatment plan was sufficient and less restrictive

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than commitment. We're talking about a guy that's in the hole. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR SEILER: How can it be less restrictive? [LR424]

DR. CAMERON WHITE: I'm not sure. I don't know. [LR424]

SENATOR SEILER: Doesn't make sense to me either and I've sat on a lot of these mental health hearings. Then it goes on to...and he testified here today that he wasn't mentally ill so he wouldn't...he flunked the first question. And in this letter of response by the attorney, he flunked the second question. That's totally different than what your psychiatrist said, right? [LR424]

DR. CAMERON WHITE: Yes, yes. That's correct. [LR424]

SENATOR SEILER: And here's what I'm telling you, that if I was...and then just before Bob Houston said that he transferred him from Johnson on the 13th or 14th of March, I believe, to Lancaster County, jerking the case right out from under this county attorney. If I was this county attorney, the next time your organization needed help, the fickle finger would be in the air. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR SEILER: You'd better go down and talk to this guy and get it smoothed over because your guy really messed it up. Thank you. [LR424]

SENATOR LATHROP: Senator Schumacher. [LR424]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. [LR424]

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SENATOR LATHROP: In the tradition of having Senator Chambers go last, which I think he appreciates, I don't want anybody who's watching to think that I overlooked my colleague from District 11. [LR424]

SENATOR SCHUMACHER: He saves the best for last all the time. [LR424]

SENATOR LATHROP: Yes. [LR424]

SENATOR SCHUMACHER: Just a few questions, first one Mr. Weilage couldn't answer. When you send somebody over to the Lincoln Regional Center, is the Department of Corrections billed for that service by the regional center? Does it have a budgetary impact on the department? [LR424]

DR. CAMERON WHITE: No, I don't believe so. We do not send...just to clarify, we send for civil commitments, postincarceration... [LR424]

SENATOR SCHUMACHER: No, this is somebody just went stark-raving mad in Tecumseh and you've got to send them there. Do you get a bill? [LR424]

DR. CAMERON WHITE: No, we don't get a bill. [LR424]

SENATOR SCHUMACHER: There's no cross billing? It seems traditional between state departments that everybody shuffles money back and forth on the budgets. [LR424]

DR. CAMERON WHITE: Okay. Not that I'm aware of. [LR424]

SENATOR SCHUMACHER: Not that you're aware of. [LR424]

DR. CAMERON WHITE: I may not... [LR424]

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SENATOR SCHUMACHER: Would you be aware of that? [LR424]

DR. CAMERON WHITE: Maybe, maybe not. [LR424]

SENATOR SCHUMACHER: Okay. Another area: We talked about how extreme Mr. Jenkins' behavior was with the self-mutilation, the sniffing of semen, the drinking of urine. And Dr. Weilage seemed to indicate, oh, that wasn't so extreme. That's kind of commonplace. Is that true? [LR424]

DR. CAMERON WHITE: We've seen other cases of people smearing feces, for example, some pretty extreme behavior. Was it common? I don't know that I would say it was common but it wasn't something that never occurred either. [LR424]

SENATOR SCHUMACHER: Well, even in the atmosphere of the penitentiary, this is pretty extreme behavior what we were seeing. [LR424]

DR. CAMERON WHITE: Yes. Yeah, that's correct. [LR424]

SENATOR SCHUMACHER: Very rarely admitted by people. [LR424]

DR. CAMERON WHITE: Correct. You don't see this combination much, correct. [LR424]

SENATOR SCHUMACHER: No. You probably even have a hard time seeing it done on the Internet, pretty extreme. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR SCHUMACHER: The...you...Dr. Baker contacted you in an e-mail, I believe, and said that she had concerns about some procedural things and also she had real

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concerns about Jenkins. I think this was like the end of January or so. And you indicated, well, maybe we should get together and talk about it with Dr. Weilage. And, you know, we just need to reset our expectations. What did you mean by that? [LR424]

DR. CAMERON WHITE: When I sent that e-mail, I believe what I was referring to was resetting the expectations about the interactions between the two disciplines. I'm thinking that my intention there was...that there would be more communication, there would be more direct interaction, that the two areas would talk more and work things out. So that would involve making sure that everyone is being respectful, being those types of things. [LR424]

SENATOR SCHUMACHER: So you took her concerns about Jenkins to more be concerns about, the psychiatrist isn't getting along with the two psychologists and we just need to do a little kumbaya over this thing. Is that what was going on there? [LR424]

DR. CAMERON WHITE: Well, yeah. I think there needed to be more communication. I think there were frictions in Tecumseh with medical and mental health and that was one of the ways in which it surfaced. [LR424]

SENATOR SCHUMACHER: And Dr. Baker indicated at the end of January that she was going to do another evaluation of Nikko Jenkins. And then a week or so later did in fact do the evaluation. Did you and her ever have any conversations about the substance of her concerns? [LR424]

DR. CAMERON WHITE: Not that I recall. [LR424]

SENATOR SCHUMACHER: You got this notorious character who's doing all these weird things. That should be a question you can answer yes or no, because you would recall if you had a discussion about a guy doing these weird things and her being very,

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very concerned. It'd almost be impossible not to recall. [LR424]

DR. CAMERON WHITE: If she had told me that she had concerns like that and wanted to commit him, I would have recalled that. [LR424]

SENATOR SCHUMACHER: Was there a follow-up to the e-mail exchange in which you told her we needed to kind of reassess our expectations? I mean, here you've got your chief shrink and you, you know, the head of the behavioral health unit, I mean, you have concerns. Was there ever a meeting in which you sat down with Dr. Baker and said, you know, what gives here? [LR424]

DR. CAMERON WHITE: At one point, we pulled mental health and psychiatry together, I did. I don't know exactly when that was. I'd have to look to see when that meeting occurred because I don't know if that was January, February, March. [LR424]

SENATOR SCHUMACHER: What strikes me is the great similarities about what we've heard today and what we heard a week or two ago in which it looks like a decision is made by some mid-management personnel, and everybody above them can claim, you know, nobody told me, I didn't know. And yet if this were private business, the top guys would know what's going on because they'd be broke and out of business very, very quick if they didn't know. And how come it is that you, who are charged with the administration of this area and the folks above you, you know, have got this character who all kinds of controversy about, all kinds of terribly weird behavior, talking about cutting people's hearts out and killing kids, and it just kind of simmers at this mid-level and everybody has got this magnificent plausible deniability. Isn't it your job to know what's going and not just kind of...and even the director's job to know what's going on below them? And when you have a situation where conceivably people are going to get murdered, it just isn't passed off as, oh, we think he's okay now. Our concerns of earlier this year that he was dangerous, you know, they've passed now and what the heck. You know, give him a toothbrush and turn him loose. Do they at least get a toothbrush?

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[LR424]

DR. CAMERON WHITE: No, I don't believe so. [LR424]

SENATOR SCHUMACHER: Okay. Thank you. That's all. [LR424]

SENATOR LATHROP: Senator Bolz. [LR424]

SENATOR BOLZ: You heard the conversation with Dr. Weilage earlier today. And I want to ask you about the issue he raised around flagging dangerous people for evaluation prior to their release. Is that now the practice? Are you now flagging dangerous inmates for evaluation prior to their release? [LR424]

DR. CAMERON WHITE: Yes, we have a more formalized process for that. We developed a process called the Discharge Review Team where there's a formal tracking process if people have potential concerns about an inmate prior to discharge. [LR424]

SENATOR BOLZ: So when someone is flagged or identified as concerning prior to discharge, what happens then? [LR424]

DR. CAMERON WHITE: We have a group of mental health staff who review the case and determine discharge planning. [LR424]

SENATOR BOLZ: And what will happen if, once again, you have a dangerous individual who is scheduled for release but doesn't have a mental health diagnosis? What is your plan now? [LR424]

DR. CAMERON WHITE: I don't know that we've encountered that at this point. I mean, what we do is look at each case individually. It could involve warning police in the community, for example. It could involve whatever is particular to that case. I mean,

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there's cases of people who are not mentally ill who may be seen as dangerous that aren't committable. [LR424]

SENATOR BOLZ: Well, I'd like to hear ongoing updates about your progress with that. I think the only thing more tragic than what we saw with the Jenkins' case is to see it repeated. So I would hope we find a solution to that problem of not knowing what to do with a dangerous person who we can't get our act together on keeping us protected. My next question for you is some of the statistics that are in front of me say that you've got a pretty dramatic mental health staff-to-inmate ratio--40:1 in some facilities. Do you feel like you have the capacity to address all the mental health needs with that caseload? [LR424]

DR. CAMERON WHITE: We can always do more. I mean, in my latest budget request we put in for additional staff, or I did. So I think I would like to see more staff. [LR424]

SENATOR BOLZ: Uh-huh. What is your...what is a current average caseload for LMHP, for example? [LR424]

DR. CAMERON WHITE: Well, it depends on the institution. It'd be much different at NCYF, where there's approximately 70 inmates, versus the penitentiary, where there's 1,300. And it depends on the program that they're in and the work that they're doing, so. [LR424]

SENATOR BOLZ: Do you think that any of the challenges with miscommunication and lack of taking responsibility or initiative in some of what we talked about today has to do with the pressures that are on the current mental health staff? [LR424]

DR. CAMERON WHITE: I think everybody is exceedingly busy. There's...I think we have a large mental population, behaviorally disordered population in Corrections and it's a challenge to provide treatment to those folks. [LR424]

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SENATOR BOLZ: Okay. Thank you. [LR424]

SENATOR LATHROP: Senator Chambers, you're recognized. [LR424]

SENATOR CHAMBERS: Thank you. And, Mr. Chairman, I don't think you were preaching. I think you were laying it down factually like it ought to laid down. So it's going to give me a little relief in terms of having to say all of those things. But, Doctor, I have to find out first of all, are you an M.D. or just a Ph.D.? [LR424]

DR. CAMERON WHITE: I am a Ph.D. [LR424]

SENATOR CHAMBERS: The only doctor in all of this was Dr. Baker, is that correct, the only one with a medical doctorate, medical degree? [LR424]

DR. CAMERON WHITE: The only physicians were Dr. Baker and Dr. Wetzel, Dr. Moore. [LR424]

SENATOR CHAMBERS: But the ones who were involved in the transactions and all of this that we've been talking about, there was only medically trained person and that was Dr. Baker. And all of these other people are like...now, an academic degree is all right. But you probably got...that's probably...the job you're holding now is probably the only job you could get and make as much money as you're making with the degree you got. What is your degree in? You're a doctor of what? [LR424]

DR. CAMERON WHITE: Clinical psychology. [LR424]

SENATOR CHAMBERS: And so is Dr. Weegull (phonetically)...I can't even remember his name. [LR424]

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SENATOR LATHROP: Weilage. [LR424]

DR. CAMERON WHITE: Weilage, yes. [LR424]

SENATOR CHAMBERS: Dr. Weilage. He's got the same kind of degree you've got, right? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: Did you get hired before he did? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: And were you one of those who interviewed him for the job? [LR424]

DR. CAMERON WHITE: I interviewed him in 2005 when he...for the... [LR424]

SENATOR CHAMBERS: But all I want to know is, were you one of those who interviewed him? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: Did you listen to his testimony today? [LR424]

DR. CAMERON WHITE: Yes, I did. [LR424]

SENATOR CHAMBERS: Did he...was it sterling and uplifting and a model of the way somebody with a Ph.D. ought to comport himself when asked questions about subjects he was involved in? [LR424]

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DR. CAMERON WHITE: No. [LR424]

SENATOR CHAMBERS: And when indicated that there was some exchange between you and him and you don't have...you didn't remember it at all, you were actually trying to give your colleague a break, weren't you? That never happened which he said happened, did it? [LR424]

DR. CAMERON WHITE: Please clarify, that he told me about... [LR424]

SENATOR CHAMBERS: Yes, when the Chairman was questioning you and you kept saying, I don't have any recollection of that. And the Chairman said, he said that he told you this. Mr. Chairman, could you restate what that was that Dr. Weege (phonetically) said that he... [LR424]

SENATOR LATHROP: Dr. Weilage testified that he told you before the March 4 hearing...or meeting in the conference room next door to the director's office, before that meeting, that Weilage said he told you about the Baker report. [LR424]

DR. CAMERON WHITE: He did not. [LR424]

SENATOR CHAMBERS: Right. So he lied. He stated... [LR424]

DR. CAMERON WHITE: His... [LR424]

SENATOR CHAMBERS: He said something that was not true. He was willing to sacrifice you and use you, hoping, I think, to go along with him, because he and these other people around here apparently play fast and loose with the truth all the time. But you happened to have been here so you could point out that what he said happened didn't really happen. Was the term that was being discussed about majorly mental

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illness, was "majorly" the word that was in front of mental illness that was being discussed back and forth? [LR424]

DR. CAMERON WHITE: Yes, earlier, yes, "majorly." [LR424]

SENATOR CHAMBERS: Now isn't it true that either you're mentally ill or you're not? [LR424]

DR. CAMERON WHITE: Yes. It's one of those binary issues. [LR424]

SENATOR CHAMBERS: It's just like you...well, the old cliché is you can't be a little bit pregnant. Either you are or you're not. [LR424]

DR. CAMERON WHITE: True, correct. [LR424]

SENATOR CHAMBERS: Was that term "majorly" mentally ill something that Dr. Wei...I can't remember... [LR424]

SENATOR LATHROP: Weilage. [LR424]

SENATOR CHAMBERS: ...Dr. Weilage had utilized, that he wasn't majorly mentally ill? Was that his term? [LR424]

DR. CAMERON WHITE: Yes. "Majorly" was referenced in the... [LR424]

SENATOR CHAMBERS: And he should know that either you are or you're not. So for him to say majorly, he's trying to hedge his bet. He was in fact acknowledging that mental illness was there, wasn't he? [LR424]

DR. CAMERON WHITE: Yes. I believe so because the nuance in mental illness is...

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[LR424]

SENATOR CHAMBERS: And who was he applying that term to? [LR424]

DR. CAMERON WHITE: I believe Nikko Jenkins. [LR424]

SENATOR CHAMBERS: So he did acknowledge that Nikko Jenkins was mentally ill and it's right there in that record, isn't it? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: So he should have just acknowledged that here, even if he didn't want to do it before, when he's under oath. And there is so much questioning focusing on that very point. And he in fact had acknowledged it before. He was not forthcoming. But here I have only a couple of things I want to ask of you. And the Chairman did a good job. But because I've been writing this down, I have to ask something, even if it's repeating what he did. Maybe some of these things that were mentioned that Senator Schumacher outlined again that Nikko Jenkins was actually doing, you said, well, it may have happened before but not all of them by the same person in that brief period of time. Have you ever heard of a situation where a man mutilated himself four times? [LR424]

DR. CAMERON WHITE: Yes. We've had inmates who were self-mutilators that repeatedly do that. [LR424]

SENATOR CHAMBERS: And what kind of mutilation was it? [LR424]

DR. CAMERON WHITE: What I'm recalling is we've had people who were cutters who may cut on an arm or a body part. [LR424]

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SENATOR CHAMBERS: Were they serious cuts? Were any of the cuts requiring of 39 stitches that you can remember? [LR424]

DR. CAMERON WHITE: I don't believe so. [LR424]

SENATOR CHAMBERS: Whether he had one like that. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: And he had others very disfiguring. [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: You haven't had any where one person did that kind of disfigurement and serious harm to himself, did you? [LR424]

DR. CAMERON WHITE: Not like that exactly. [LR424]

SENATOR CHAMBERS: And did your cutters then take their blood and write on the wall with it? [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR CHAMBERS: Did they ingest their semen? [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR CHAMBERS: And drink the urine? [LR424]

DR. CAMERON WHITE: No. [LR424]

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SENATOR CHAMBERS: So when we have all of this being done by one man, how in the world is somebody who is not crazy himself going to say, that man has no mental illness? Were you sitting there listening to your protege testifying? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: Did it disturb you that with all of these things being said he claimed that a person can do all this and not have any mental illness? Did that trouble you to hear your protege say that, the man you hired? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: They say that the power to tax is the power to destroy. The power to hire is also the power to fire, isn't it? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: If when you interviewed him, and you gave this scenario and asked you, would that comprise mental illness in your view, and he said no, would you have hired him? [LR424]

DR. CAMERON WHITE: Would you restate that? I apologize. [LR424]

SENATOR CHAMBERS: Okay. I better slow down. [LR424]

DR. CAMERON WHITE: It's getting late. I apologize. [LR424]

SENATOR CHAMBERS: See, the longer it goes the more energy I have. [LR424]

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DR. CAMERON WHITE: Okay. [LR424]

SENATOR CHAMBERS: See, I'm 77 years old. And we don't have that kind of metabolism like you youngsters. And the more hours we're awake, the more energy we have. We don't get tired, or, well, at least this one doesn't. But I'm going to slow down, sonny, and talk to you a little more slowly. [LR424]

DR. CAMERON WHITE: Thank you. [LR424]

SENATOR CHAMBERS: If when you were interviewing the man who now is your protege and you wanted to get an idea of how he views mental illness and you asked him because, and this is the way you put it, you're going to be working in an environment where you have prisoners of all types and varieties and there's no telling what might surface, so let me give you an example. Let's say we have one inmate who seriously mutilates himself on four different occasions, he ingests his semen, he drinks his urine, and he takes his blood and he writes on the wall. Would you say that man is mentally ill? And with a straight face he says, no, there's no mental illness there at all. Would you agree to hire him? [LR424]

DR. CAMERON WHITE: With that alone, no, without some explanation for... [LR424]

SENATOR CHAMBERS: That would be enough though if he's that far off the beam. But you probably were not anticipating that he would testify the way he did today in view of the kind of things that were presented to him. You would not have envisioned that happening without having seen it, would you? [LR424]

DR. CAMERON WHITE: I didn't really give thought to what he was going to say. [LR424]

SENATOR CHAMBERS: And you were disappointed, weren't you? If not disappointed,

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you were surprised. If not surprised, you were bemused, not amused, but bemused. You were...you looked at it quizzically. You know, you raised one eyebrow like Mr. Spock. What in the world is going on here? Now as Senator Schumacher alluded to what had happened during our previous hearing with some Corrections people, Senator Krist and others had touched on it, nobody knows anything; nobody is responsible for anything. There was a song called "The Flying Dutchman." And it went "The Flying Dutchman was a phantom ship" and it had a phantom crew. Everything was unreal. This is like "The Flying Dutchman" what you're doing. There is no crew at all. There are passengers or there are people on board, but there are no crew members. Nobody is responsible for anything. And the person who should be at the tiller, which would be you, doesn't know anything. The one who should be up in the crow's nest trying to tell you what's going on was there and saw the rocks and warned that the ship is going to run aground. And nobody paid attention. The one who heard that warning and who is going to be listened to by everybody else said, if this were on the desert what you're observing would be a mirage. Here it is an optical illusion. There are no rocks in this channel. There are no rocks. Crunch! And water is coming in. What Weilage did is worse than that because at least people on that boat had a chance to jump and swim for shore. In this case, four innocent people going about their affairs, not knowing that that morning when they woke up was the start of the last day they would have on this earth. And the husband, the brother, the children of that woman who was killed would never have known and could not have known that when she left the house that morning she was on her final voyage. And when the man who had served time with Nikko Jenkins, and they were like what is called in the street "homies," like brothers, closer than brothers, had no idea that this man was going to be instrumental in erasing him. And those two Latinos doing what a lot of men would do, maybe even you did it when you were younger or maybe you didn't do it when you were younger, you do it now before you check out of here, they were going to have a rendezvous, an assignation. And it resulted in their doom. If you start right here at this point and you're to draw a line from here to that door and you aim at the doorknob, and they say in order to be able to see it we're going to have a pencil over here and draw the line, we're going to have a

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pencil over here and draw the line. But both of these are slightly off. Then the farther you go from the starting point the more off they become. I don't care how wide that net was spread. The four people who were in it, the others who were caught up as aiders and abettor, if you trace it all back to where it originated, it would come back to this point. And when Dr. Baker's mother met Dr. Baker's mother's husband and they had a child and she was born, nobody would have known that that little baby was going to write a report which ultimately, because of the ripples that spread from it, four innocent people would die who didn't have to die. And after what I've heard, nobody can convince me otherwise. These were preventable deaths. It's not even quite the same as in the military where you say these people were killed by friendly fire. People say in wartime that happens. They were preventable in a way, but you're in that set of circumstances where it could happen and it's regrettable. But nobody said, gee, I never thought such a thing possibly could have happened. But we're not talking about anything as random as that, as happenstance, as chancy. There was a deliberate decision consciously taken by your protege, and that's why we're here today. Otherwise, you never would have been in the same room with me, you wouldn't have had to be. We never would have had an exchange. If I say anything that makes you uncomfortable, it wouldn't have happened--none of this. So let me ask you a couple of the questions that I have, then I will let you go. How long have you held the job that you've got now?

[LR424]

DR. CAMERON WHITE: Since August of 2004. [LR424]

SENATOR CHAMBERS: And how long do you expect to hold it before this happened?

[LR424]

DR. CAMERON WHITE: I hadn't really thought about it. [LR424]

SENATOR CHAMBERS: Think about it. [LR424]

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DR. CAMERON WHITE: I anticipate to continue. [LR424]

SENATOR CHAMBERS: Think about it and speculate. If you're in private business and a fiasco such as this occurred, there would be a housecleaning, wouldn't there? You've got various branches to your company, and every other branch is prospering. And over here we're deep in the hole. You'd clean house, wouldn't you? [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR CHAMBERS: And if you happen to be in that house, you have to be cleaned out along with it, don't you? The expression is, they all got to go when the wagon comes. In view of the way this has been handled and there are numerous paper trails, there is no way that anybody can say their fingerprints don't show up in this thing. And the only way to make it right is to clean house. Now I don't think the current director is because he's going to go when there's a new Governor. And the warden should go of every institution in this state. There should be a national search to find some competent people because Nebraska-grown whatever it is, is inferior. And every time a Governor or a politician says this is the Nebraska way, you know it's going to be the butt end of the sickle and never on the cutting end. It's always going to be looking backward and saying we are more backward than everybody else. We discriminate more than anybody else. We're more hateful than anybody else. We take more rights away than anybody else. We hurt those who are already hurting more than anybody else. And when it comes to compassion, we don't even know the meaning of the term. And compared to us, Scrooge would indeed before he changed be the soul of generosity. I am outraged. I am disgusted. And I had said when we were introducing ourselves "Jack the Ripper" and added, is who I am not. I'm worse based on the way I feel than anything he could have felt when he was killing people. And I don't mean it's a feeling that makes me want to kill people. It's a feeling that makes me want to call people to account and hold them responsible for what they knew to do and should have done but they didn't do. And then somebody is going to sit up here and lie through his teeth like Weilage.

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And I told him to his face I thought he was lying and he was. And everybody in this room knew he was lying. And we listened to that. We're the lawmakers. And I would not shield people in the Legislature who would have done something like this. I had a colleague who had a drunk driving charge, and I filed a grievance against him with the Counsel for Discipline. And people said, well, you're in the Legislature with him. I said, all the more reason I should act. We're supposed to set the example. He's a lawmaker and he shouldn't be a lawbreaker. But lawyers look out for each other because every lawyer gets a free bite from the apple when it comes to drunk driving. That is not a violation of lawyer ethics. So they take care of each other. And maybe people thought I should be like that in the Legislature. But I don't owe anything to anybody in this Legislature. What I owe is a duty to the public, not just the people in my district. We get elected by way of a district, but our title says state senator. And every person in this state is one of our constituents. And people view me that way because I get more mail from all over the state than even the Governor. And people are asking me for help, and they expect to get it from me. They don't even expect to get a response from the Governor. And here's why I'm saying that. Some of us take our duties seriously. Nobody will work harder than I work. Nobody could put a standard on me as harsh as the one that I put on myself because I don't give myself any excuses. If I see something that ought to be done, I don't care if nobody is doing it. What I tell myself is that maybe nobody else sees it. But since I see it, I have an obligation to do something about it. And I don't care how noble or good anybody else may think I am. I know whether I'm doing what I ought to do. And in this case, I have to do what I can to see that there's a housecleaning. And that's why I wanted to be sure some things were on the record to let these people dig a hole for themselves. And they say, when you find yourself in a hole, stop digging. Weilage didn't do that. These people get accustomed when they're in an institution or working in one like a prison where they can dog people any way they want to, nobody dares to talk back to them, they become imperious and think they're untouchable, unaccountable, and above the law. And somebody has to return them to earth and put their feet back on the ground. You seem like a nice enough fellow. But what did...I started to say Guy Lombardo...what did Vince Lombardi say? Nice guys finish where? [LR424]

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DR. CAMERON WHITE: Last. [LR424]

SENATOR CHAMBERS: That was kind of weak. Where? [LR424]

DR. CAMERON WHITE: Last. Pardon me. [LR424]

SENATOR CHAMBERS: Thank you. That was a very strong, forthright statement. And overall, Dr. White, I would say that you've been more or less forthcoming. But I don't think you can be excused in view of all these bad things that happened and four innocent people are dead. And even if they were guilty of something, your life can be taken in this state, backward as it is, only after due process of law has been extended. And to send somebody out who you know is crazy to kill people is not due process of law. Even cops don't have the right to execute people, but they do. So since we're lawmakers, we have to set the tone and we have to formulate policy. And we can see that things have not been done as they should at the Department of Corrections. I hate that Senator Lathrop is leaving. If I was the Secretary of State and could treat him like he treated his Republican buddies, Senator Lathrop could run again; and I'll tell you why I say that. With the knowledge that he has and the ability he has to operate these kind of investigative committees, I'm sure his legal training plays a part, he's gone. He cannot be here next session to help us consolidate the land that has been acquired through this battle. And we're going to have to make due and struggle and get along without him because we have no choice. But what we're doing with reference to the Department of Corrections is something that shouldn't have to be done. I think from the Governor on down through the director, these deputy directors, people holding positions like yours, the one holding the position like your protege, all these underlings who got the idea from the slapdash, slipshod, careless, irresponsible culture making jokes about patients, thinking that they can overrule with their lack of knowledge and ignorance a medical action by somebody trained in medicine and think they can get away with it and they would have if Senator Lathrop hadn't offered the resolution now known as LR424.

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We wouldn't even be here and now he's gone. And you know why he has to go? Because people of your complexion hated me so much that they were willing to wipe everybody else out of the Legislature, to gut this branch of government to get rid of me. I was saying to these white people even before this guy in England who is trying to get Scotland not to go away, he said, if you don't like me, I'm not going to be in office all the time. If you don't like the people in Parliament, they're not going to be there all the time. But he's talking about something less serious than what I'm talking about. The Legislature can never be restored to the status it should have as a coequal branch of government, in my mind the most powerful of them. Because as soon as people learn what's going on, they're gone. They're victimized. They'll be victimized again by the Department of Corrections because they won't believe there could be so much venality. So we have to do the best we can, put the ship on the right course, give it enough momentum so that some things instead of existing only while we're here to watch it, will become a part of the system itself and carry on after we're no longer here. It's like if you have an idea, and when you die the idea dies with you, it was great while you were here. But if you could build a system and the idea was genuinely good, then it takes on a life of its own. It draws people who will keep it going. And something is done that benefits society and it really makes the world a better place. So in order to make the world a better place, I have to sometimes do things that I wish I didn't--I don't mean crimes; I meant nice people like you--say that he's got to go too. But I'm not the one who will fire you. I'm the one who will advocate firing you and all the rest of them, just like I didn't even want Kenney to get the job as director. I don't want the Governor to be the president of the university. But I don't just say it and whisper it behind my hand. If I can get on a housetop, I shout it as loud as I can. I do everything I can to bring it about. And if I'm the most hated person in this state, then I whip everybody who hates me because hatred is like the poison that a person drinks and thinks that I will die. Hate will kill that hater. And what these white fools do is carry me with them everywhere they go. They are upset and offended. I'm not even thinking about them, but I own them so they need to wake up. And I try to tell them, don't destroy your entire government to get one black man. Think of all the people you put in office for whom you have respect. Look at

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what they have done that is of value and you're willing to throw that all away to get rid of one person you don't like? And then I was hoping--this is the clincher--if there was one white guy in our black state and we make up more than 95 percent of the population and one white guy is going to dominate our government to such an extent that people are saying he owns it, I'm not going to be mad at that white guy. I'm going to go to the other black men and women and say, we've got to do something about this, not change the laws, not change the rules. We don't need to get even with him by trying to hurt him. We need to get as smart as he is. But white people are not like that, and white people as a whole are not called to account. They want to say, and I'm going to say these things because I get put in a position where I have to help bail out white people and correct white people's mess when they run everything. The Chief Justice is white; the judges are white; Secretary of State is white; Attorney General is white; all of the prosecutors are white. And then one black man who they hate is the one they run to and send people to. And every one of those that I identified by category has sent people to me to handle problems that are in their bailiwick. And then they want to say, well, now we're in a postracial circumstance because a black man is President and black people shouldn't have any problems. And I ask them, how many Presidents have there been? I won't give you the answer because most people won't know, and I'm not going to tell you. Look it up. I see one guy in here who could tell you, but he's not paying attention. What I say, every President before President Obama was white. Then white people should have no problem, should they? If him being a black man, a member of a miniscule minority, is supposed to make everything right for those people because he's in the White House, why do white people still have problems when every President has been white? They change the rules on us all the time. We have to run faster, we have to run farther, we have to jump higher, we have to speak better, we have to learn their rules better than they know them. We're always outnumbered, we're always outgunned. Then when we learn their rules and beat them at their own game, they blame us. And they say, to fix you, we will destroy this Legislature. And that's why I believe these small-minded people would corrupt their system to teach one black man a lesson who assaulted some guard. And that's what all of this is about. They cannot find another

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inmate who was treated and handled the way Nikko Jenkins has been treated. And I'm not excusing anything that he did. That's not what I'm talking about here. They cannot find any circumstance where one person could do all of the things that Nikko Jenkins did and white people say with a straight face, he's not mentally ill. What do they say every time somebody go and shoot up a bunch of kids? He's got to be crazy, and he'll take an insanity plea, always. But on one hand where they look at me because I'm effective, they say, well, he's crazy. Then you take a man who is as loony as he can be and they say, there's no insanity there. White people can make things the way they want them by calling them that. But I'm different. I will not be what they call me. And I will not take low and I will not apologize and I will not back away from what I believe. And because I think the law has to be fair for everybody, then I have to do what I can to see that the law does apply across the board, even to people that I like. Because if I'm going to say the law should fall this way on somebody I don't like, then it's got to fall that way on everybody because the law is supposed to be equally applied to all. And I know that's not true. It's aspirational for us. White people demand things and expect things because they've been coddled and spoiled and privileged all of their life. Now that the economy has turned and husbands can't work and the wife has to work for both of them, I don't hear any more of them saying, well, if you weren't sinful, then you wouldn't be poor. I hear them crying now, we can't make ends meet. My husband can't get a job. Well, that's because he's lazy. No, he's not lazy. They won't hire him. Well, they won't hire him because he doesn't know how to do the job. Well, yes, he does. He's experienced in it. For them, that obtains; for us, it doesn't. They criminalize, not just what we do; they criminalize us. You know what my crime is? L-w-b, living while black. And when I get these opportunities, I put stuff in that record because someday, somebody may read it. Some black child may read it and say there was a black man who wasn't afraid. And he didn't just say it in the community; he said it in the white people's nest. And unfortunately, Dr. White, why don't you make it easy on both of us? How far are you away from retirement? [LR424]

DR. CAMERON WHITE: I don't know. I'm 47. [LR424]

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SENATOR CHAMBERS: Hmm. I'll tell you what. Why don't you resign and I will write you a recommendation? Think about it. That's all I have. [LR424]

SENATOR LATHROP: Okay. I think we have 1 question from Senator Mello... [LR424]

SENATOR MELLO: Thank you. [LR424]

SENATOR LATHROP: ...that may have 12 parts. [LR424]

SENATOR MELLO: It will be as brief as possible, Chairman Lathrop. Thank you. [LR424]

SENATOR LATHROP: It should be, hopefully, given the late hour. [LR424]

SENATOR MELLO: Dr. White, you discussed earlier that you received an e-mail from Director Houston saying that you and Kathy Foster were to be the point people in regards to dealing with inmate Jenkins, moving forward as he was to be discharged. I've had a tough time still getting my head wrapped around page 222, which was a follow-up meeting e-mail from the March 4 meeting that was held in the Department of Corrections. Were...I know Senator Krist and Lathrop asked about Director Houston being present at that March 4 meeting. Do you remember maybe Director Houston being at that meeting briefly, that maybe Director Houston popped in for a bit and said he had to go and then was...? [LR424]

DR. CAMERON WHITE: I think he was there. You know what? I go to so many meetings honestly. My days are filled with those things. [LR424]

SENATOR MELLO: Was Larry Wayne there? [LR424]

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DR. CAMERON WHITE: I don't recall that he was. [LR424]

SENATOR MELLO: You don't recall sitting next to Larry Wayne? [LR424]

DR. CAMERON WHITE: No. [LR424]

SENATOR MELLO: Okay. Well, Larry Wayne apparently sent you an e-mail or called you, talked to you somehow after this meeting. If you look at page 222... [LR424]

DR. CAMERON WHITE: Um-hum. [LR424]

SENATOR MELLO: ...it gives the appearance that Larry Wayne had contacted you... [LR424]

DR. CAMERON WHITE: Yes. [LR424]

SENATOR MELLO: ...because he was taking questions from the Ombudsman's Office regarding the Nikko Jenkins case and his discharge planning. He's also getting questions that says, as if he has a prior diagnosis of schizophrenia, why isn't he being considered mentally ill now? Your next sentence I keep trying to...I ask myself...I just don't...I need you to explain what your next sentence means. You say, my view is that we need to treat the symptoms that are currently presenting as opposed to those seen in the past. It makes it sound like you know there was past diagnoses of Nikko Jenkins. That you were aware that he was diagnosed before and yet we need to consider services now that are currently...in regards to our current diagnosis of him. Am I misinterpreting what you mean by that sentence? [LR424]

DR. CAMERON WHITE: Well, here's what I was thinking with that is that I believe... [LR424]

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SENATOR MELLO: Because he did have past diagnoses... [LR424]

DR. CAMERON WHITE: Yeah. [LR424]

SENATOR MELLO: ...both from Douglas County Corrections and Dr. Baker. [LR424]

DR. CAMERON WHITE: Because my thought is with a case, if there's something that's presenting, you need to provide treatment for it. I guess that's what I'm trying to get across. That's kind of my...one of my philosophies that if an inmate presents with symptoms, signs, you provide treatment. I mean someone can have a diagnosis of adjustment disorder; it goes away after six months, three months. You have to think about what's in the present. That's all I'm meaning by that. [LR424]

SENATOR MELLO: Okay. That's all I have. [LR424]

SENATOR LATHROP: Senator Krist is on the fence. Can you formulate a question for us? [LR424]

SENATOR KRIST: No. [LR424]

SENATOR LATHROP: Oh. [LR424]

SENATOR KRIST: I will make a statement. I'm following up with Senator Chambers in this late hour and I'm just going to say this. Several times during your testimony you made a differentiation between medical and mental health. I think what I have surmised, what I have gathered from these hearings is we need a psychiatrist in your position who looks out for the culture of modern medicine and psychiatry and uses psychology as the therapy if it's appropriate. That's my point. And I just honestly believe that anytime that psychiatrist opened her mouth they blew her off. And I think it would have been your responsibility to make sure that the two were balanced because the culture that you

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built is the way that you're talking--medical versus mental health. And I think check the records and that's exactly what you said at least two or three times. That's all I have. [LR424]

SENATOR LATHROP: Okay. Senator Schumacher. [LR424]

SENATOR SCHUMACHER: One quick follow-up: You just got done responding to Senator Mello that your philosophy was when there's a problem presenting itself, you provide treatment then and there. When Jenkins is cutting his face, sniffing his sperm, drinking his urine, what was the treatment besides sit in the hole? [LR424]

DR. CAMERON WHITE: For a case like this, typically it's monitoring. I mean if someone goes on suicide watch, which I think he did, staff meet with him every day while he's on watch, talking about what's going on, assessing symptoms so that would have been the treatment plan. [LR424]

SENATOR SCHUMACHER: We didn't see any record here of staff meetings every day. What we heard about is shoving a tray underneath the door and the shrinks or somebody standing on the outside talking through the door at points. I mean, we didn't hear any treatment like that. This guy has clearly got an issue of some sort and there was none. And that responsibility cannot just be shoveled off to a lower-level management person saying, oh, he didn't tell me about the report. There was no treatment except the hole. [LR424]

DR. CAMERON WHITE: Right. I didn't see any active treatment other than psychiatry intervention. [LR424]

SENATOR CHAMBERS: Just one thing. [LR424]

SENATOR LATHROP: Okay. [LR424]

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SENATOR CHAMBERS: The treatment after the fourth time that Nikko Jenkins cut himself on May 22, the following day he was in five-point restraints, continuing to request to be seen by mental health. Is that what you mean by the treatment you told Senator Schumacher is given to people with his problem, put them in five-point restraints and they're even then asking for help and they didn't get it? Can you see why I think there should be a housecleaning? Some of this stuff to my way of thinking was criminal. [LR424]

DR. CAMERON WHITE: Can I make one comment? [LR424]

SENATOR CHAMBERS: Oh, sure. [LR424]

DR. CAMERON WHITE: Just to clarify: If an inmate goes on suicide watch, whether it's a plan of some type, A or B or restraints, per policy they're seen daily. I don't know if he was put on a plan, but that's all I was referring to. I wasn't saying that he should be put in restraints for that. [LR424]

SENATOR CHAMBERS: Oh, okay. [LR424]

SENATOR LATHROP: Senator Mello has one question. [LR424]

SENATOR MELLO: One final question. Thank you, Chairman Lathrop. Dr. White, you've been here all day and listened to the testimony throughout the day. And it's something I hadn't heard you answer Senator Lathrop during his questioning which is do you feel the department should be held responsible for what's happened because of Nikko Jenkins? [LR424]

DR. CAMERON WHITE: I don't know. I'd have to think about that. I think this is a very complex issue so I don't know that I have any comments on that. [LR424]

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SENATOR MELLO: After all the testimony today and even the acknowledgement you just made through Senator Chambers, Senator Schumacher, Krist, Lathrop, Bolz, and Seiler, myself, the questions we just asked you; you still don't believe the department is responsible for the aftermath of what happened post July 30, 2013? [LR424]

DR. CAMERON WHITE: Like I say, that's a very complex question. Certainly I think anybody would not want to see what happened happen. [LR424]

SENATOR MELLO: Do you essentially stand by then Dr. Weilage's medical diagnosis then? [LR424]

DR. CAMERON WHITE: Hearing what I heard today and knowing all of it, I think I'd want to think about that after all the testimony today. [LR424]

SENATOR MELLO: Thank you. [LR424]

SENATOR CHAMBERS: One question: Is it complicated because you want to keep your job and if you gave an honest answer, you might really be out of here? If your job was not on the line and you were on this side of the table or sitting out there in the audience, it would be very easy for you to see where responsibility lies, wouldn't it? And if the department is not responsible, nobody is. Nobody bears responsibility. And that's the problem that I've got to address. [LR424]

SENATOR LATHROP: That's it. We're done with your testimony. We appreciate you coming in today. We will release the two witnesses from subpoena. They are not going to be called. Yeah, they're not...I don't see a point in calling them at this point. And I think we've taken the testimony we need to. For the members of the committee, we'll put something together. I think it's time to go home or go find dinner somewhere. [LR424]

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SENATOR CHAMBERS: Or go finish some work like I have to do. [LR424]

SENATOR LATHROP: I appreciate everyone's patience. It was a good day of work, a good day of work. [LR424]

SENATOR CHAMBERS: I've still got work to do, Senator Lathrop. [LR424]

SENATOR SCHUMACHER: You're just getting started. [LR424]