

## **LR127 Nebraska Justice System Special Oversight Committee**

**October 19, 2018 Room 1510**

### **Rough Draft**

**EBKE:** [00:00:04] Well, we've got an almost full contingent here. So good afternoon and welcome to the Nebraska Justice System Special Oversight Committee. My name is Laura Ebke, from Crete, representing Legislative District 32 and I chair this committee. I'd like to start off by having the members of the committee introduce themselves starting with Senator Hilgers. Mike Hilgers, represent District 21, northwest Lincoln and Lancaster County.

**GEIST:** [00:00:27] Suzanne Geist. I represent District 25 in the east side of Lincoln, Walton, and Waverly.

**BOLZ:** [00:00:33] Senator Kate Bolz. I represent District 29 in south-central Lincoln.

**HUGHES:** [00:00:37] Dan Hughes, District 44, ten counties in southwest Nebraska.

**BREWER:** [00:00:41] Tom Brewer, 43rd District, 13 counties of western Nebraska.

**EBKE:** [00:00:46] And Senator Wayne may or may not join us. I think it depends on his court schedule today. Assisting our committee today are Laurie Vollertsen, our committee clerk, and Tim Hruza, our legal counsel. Committee pages today are Grady and Heather. I don't see Grady but he's around. If you're planning on testifying today please fill out one of the yellow testifier sheets on the table and hand it to the page when you come up to testify. We will begin today with invited testimony from the Department of Corrections, Board of Parole, Probation Administration, Ombudsman's Office, and the Inspector General. And then we'll then hear any public testimony

from anyone else who wishes to testify. Please begin your testimony by giving us your first and last name and spell them for the record. If you have any handouts, please bring up 12 copies and give them to the page. If you do not have enough copies, the page can help you make more. We'll be using a five-minute light system today. When you begin your testimony the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on we ask you to wrap up your final thought and stop. Senators will probably have questions of some of our testifiers and we will proceed accordingly. I want to tell you just a little bit about LR127 which created this committee. It was introduced by Senator Bob Krist in 2017 and is the third iteration of the Nebraska Legislature's special committee established to oversee the various aspects of the state's criminal justice system. By its terms, LR127 tasks the Nebraska Justice System Special Oversight Committee--this committee--with the important work of studying the programs and policies relating to the adult justice system implemented and followed by the state agencies that oversee the various aspects of the justice system. The seven members of the LR127 Committee spent last summer, 2017, the interim session, reviewing the state of Nebraska's criminal justice system. Last year the committee visited all ten facilities operated by the Nebraska Department of Correctional Services, visited probation services-- services offices in both Omaha and Lincoln, and toured the Lincoln offices of the Nebraska Board of Parole. During these visits committee members saw firsthand the day-to-day operations of our criminal justice system. The committee's 2017 report was published on December 15, 2017, and is available on-line at the Nebraska Legislature's Web site. That report details the committee's observations and recommendations from its work last year. Today's hearing is the next step in the committee's work-- in the committee's work during this interim session. Over the past several months the committee has held informal informational sessions with representatives from the Department of Corrections, Probation, Parole, the Ombudsman's Office, and the Inspector General of the Department of Corrections. Today's hearing is meant to provide Nebraskans an opportunity to hear from stakeholders about the challenges they face in effectuating Nebraska's criminal justice system and to highlight some of the efforts they have made to meet those

challenges. The committee has invited represent-- rep-- representatives, as I noted before, from the Department of Correctional Services, the Board of Parole, the Office of Probation Administration, the Office of Inspector General, and the Ombudsman to provide information related to their efforts and to assist the committee in its task. The committee would like to express its thanks to all of the various state agencies for their continued willingness to accommodate the committee and assist in its endeavor. With that the committee would invite Director--- Department of Corrections Director Scott Frakes to begin our hearing. Before you start, let me just remind everybody to silence your cell phones just in case. Director.

**FRAKES:** [00:04:40] Good afternoon, Chairperson Ebke, members of the Nebraska Justice System Special Oversight Committee. My name is Scott Frakes, spelled F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. I'm here today at your request to provide an update on NDCS and the hard work of our dedicated team as we continue our efforts to transform corrections in Nebraska. I've spent most of my adult life doing this work. I came to corrections planning to stay a short while and move on. But the work became a calling. Among the agency's executive leadership are similar stories with a collective 175 years of experience. The wardens add another 200 years to that. We are experienced, committed, and tenacious. We're dedicated to creating a safe environment in our prisons, effecting change and rehabilitation, and keeping people safe. I listen to my team and stakeholders. I research best practices which include work being done across the country and throughout the world. I regularly talk to my peers and participate in valuable exchanges of information. I use all of that, along with my experience, to make decisions. Timing is key. Nearly every decision must include careful consideration of how it will impact the safe operation of our prisons. The pace at which change is implemented is of equal importance. This year a key focus for us has been consistent implementation of the initiatives we started over the last three years. Progress in these areas takes time as we're addressing human behavior and attitudes to increase the re-entry success rate of our population. I've included a handout in your packet that

identifies the re-entry success rate, or the recidivism rate, over the last several years. I will briefly address three key areas that are opportunities for growth: safety, capacity, and staffing. Safety remains the number-one priority for our agency. Safe and secure-- safe and secure prisons are necessary to incarcerate individuals and maintain an environment conducive to rehabilitation. Included in your packet is a graph showing the decrease in inmate-on-staff assaults over this last year. The right number is always zero. The reality of prisons and the population we house makes that difficult to attain. Nevertheless, we continue to look for new ways to keep our teams safe and the 40-percent reduction shows significant progress. Inmate-on-inmate violence continues to be an issue for correctional systems and we are no different. As I have previously said, the majority of our population are doing their time appropriately and do not engage in violence. Capacity Is another priority area. Our population continues to hover around 5,300 people. We have all been anticipating the effects of LB605 and have not seen the population reduction that was predicted. Projections calculated prior to the Justice Reinvestment--JRI--Initiative would have put us at an average daily population of 5,433 had we not undertaken the JRI work--sorry--would have put us-- prior-- prior calculations would have put us at 5,433. Had we not undertaken the JRI work, the population would be higher. Since 2015 Governor Ricketts and the Legislature invested significantly in NDCS and I thank you for your role in that. We've increased our capacity by adding the 100-bed unit at the Community Corrections Center in Lincoln and we're constructing an additional 160 beds at that facility to be completed in the spring of 2019. We've received approval to reinvest savings from that project into building a 100-bed dormitory at the Nebraska State Penitentiary. The Reception and Treatment Center project at the Lincoln Corrections Center is on schedule and moving forward. The department has continued efforts to recruit and retain members. So far this year we've participated in 102 recruiting events across Nebraska and in Iowa, Kansas, and Missouri. Staffing remains a challenge at the Tecumseh State Correctional Institution where we have implemented numerous strategies to decrease vacancies and turnover. Moving positions from TSCI to the Omaha Corrections Center to fill posts at TSCI has been very successful with over 50 officers hired.

Because of the required travel, these positions do not provide the same amount of coverage as a full-time staff member assigned to TSCI. However-- however, it has positively impacted the amount of overtime TSCI staff members must-- must work. Efforts continue to recruit and retain team members throughout the agency, particularly at NSP where we have increased supervisory oversight, improved the field training officer program, and enlisted the help of existing staff to creatively address staffing challenges. Last month we submitted our budget proposal which included the 2019 to 2023 strategic plan. The outcomes we seek to accomplish in the next five years build upon the work we began in 2015. Expected outcomes include maximizing capacity, reducing workplace injuries, and recruiting and retaining staff. These outcomes are critical to meeting the expectations and needs of our team, the inmates, and Nebraska taxpayers. In addition to staffing requests, my budget proposes \$15.2 million to expand infrastructure at NSP for food preparation and dining needs plus additional programming space. Also included are agency IT, security and infrastructure upgrades, and \$500,000 to expand core risk-reducing programming. Thank you for the opportunity to testify today, and I'm happy to answer any questions you may have.

**EBKE:** [00:10:30] Thank you, Director. Are there questions for the director? I have a couple. Did you receive a copy of the Inspector General's supplemental report on State Penitentiary, NSP?

**FRAKES:** [00:10:46] I did. I did.

**EBKE:** [00:10:49] Okay. There are a couple things in there that are concerning and I would be interested if you have anything to kind of counteract or to contradict some of the things that he suggested. On page-- do you have a copy with you?

**FRAKES:** [00:34:12] I don't.

**EBKE:** [00:34:12] Okay. We can get you a copy, a copy. We've got extras someplace? Okay.

**FRAKES:** [00:34:13] Thank you.

**EBKE:** [00:34:13] Specifically in the staff surveys, do you do-- this starts on page 7 and 8, I think.

**FRAKES:** [00:34:17] Okay.

**EBKE:** [00:34:17] Do you do any sort of internal surveys that-- or any data that would contradict some of the findings in the survey? You know, during the past month I've felt-- and I realize this isn't a scientific survey. Okay?

**FRAKES:** [00:34:25] Right.

**EBKE:** [00:34:25] This is whoever answered, so by-- by the very nature, those who answer may be those who are most disgruntled. Okay? So I will preface it with that. But do you have any data-- data that would contradict the general findings that, you know, 24 percent, only 24 percent feel safe?

**FRAKES:** [00:34:33] We have not done any additional survey since culture survey that we did in 2016. And I don't think there's anything here that's drastically inconsistent with what we found.

**EBKE:** [00:34:41] Okay. Are we-- I-- you know, that-- that-- this-- these results, it seems to me, point to a problem that's going to be ongoing in terms of staffing and maintaining staff, retaining staff. Is there a plan in-- I mean I'm just trying to figure out if there's a plan in place to-- to address these issues kind of comprehensively because any addition to-- to-- to space is going to be

complicated, right? So you-- we're building 100 more beds but if we can't get staff to stay around, where are we going to, you know--

**FRAKES:** [00:34:58] Okay. Short term, it is some of the things that I just said in testimony around making sure that our supervisors have the tools they need. So we started a Leadership Academy now well over a year ago and that is I believe showing some good results. We have increased supervisory capacity and we're in the process of bringing on some additional supervisory positions at the facility. Probably be about another two months before those are in place and deployed. We're going-- there-- NSP is going to be the first facility that will have unit sergeants and they'll go first of all in the two most challenging living units that we have at that facility right now. And then as part of the staffing audit and the staffing model, as we roll that out across the agency, that will become part of our practice. We took two positions and turned them into field training officer supervisors so that we had some on-the-ground supervision of that program. And we're seeing some good results from that in terms of level of engagement from our new staff. We know in particular NSP, Tecumseh, where we've seen the highest level of first-year turnover, 50 percent, and so we're really aggressively trying to attack that in both locations. We've engaged staff. And I just got notes just-- I want to say just this week from a staff meeting where line-level staff, midmanagement, and upper management came together and worked, looked at possible solutions and different approaches to helping these new staff feel safe, feel engaged. And then, you know, with these numbers, though, it's not just about new staff. It's the staff across the board, so it's those pieces. It's continuing to make sure that if there's anything in terms of our practices or our physical plant or the tools that we give people or don't give people, we identify those needs, find ways to roll those out. The longer-term solutions, though, include trying to ease the capacity issues. And while we're adding 100 beds, it is not my intent to add 100 inmates to that facility. My goal remains to keep it at 1,350.

**EBKE:** [00:36:27] Spread them out?

**FRAKES:** [00:36:27] Spread them out. And in concert with that is the two projects that I'll be requesting in this coming biennium that would then help increase the-- improve the quality of life and the support services need to make that a facility that can house 1,350 people well.

**EBKE:** [00:36:37] So-- so help me out. If you spread out the existing inmate population in, you know-- do you-- what does that do to the staffing requirements? I mean are you-- you're just-- you're going to have to have more staff in order to--.

**FRAKES:** [00:36:43] It does. It does drive more staff. You open another living unit and you're going to add ten staff probably for that custody level.

**EBKE:** [00:36:46] Okay.

**FRAKES:** [00:36:46] So that's a trade-off.

**EBKE:** [00:36:47] Right.

**FRAKES:** [00:36:47] But we would hope that, again, if we take some of the pressure off of the minimum units so that they are not presenting as many challenges as we see there, which you really shouldn't at minimum custody, that we can, by reducing the turnover, you know, we can get the offset that we need.

**EBKE:** [00:36:58] How do you-- how do you address some of the points raised in the report about inmates not having adequate yard time, not enough things to do, that sort of thing? I mean that's--

that's-- intuitively that would seem like, you know, a dangerous situation if-- you know, kind of the Idle hands are the, you know, devil's workshop, or whatever the term is. What-- you know, how do we address that? Is that-- Is that wrapped up into the whole staffing thing too?

**FRAKES:** [00:37:11] To some degree, although I have to give NSP credit for becoming incredible-- incredibly creative in terms of figuring out how to staff activities, programs, volunteer events, etcetera. We've seen a huge, in my opinion, a huge increase in the club activity and the number of different seminars that you and I both get invited to on a regular basis.

**EBKE:** [00:37:27] Right.

**FRAKES:** [00:37:27] So there's a couple dynamics. It is a-- you have half the population is maximum custody. It's a high-security population, houses some of our most violent people that are in general population. Time and time again--less so than a year ago but still just recently we had another incident--those incidents are disruptive, sometimes lead to restricted movement for that facility for a day or two and for certain parts of the facility sometimes for a week or even a couple of weeks. So those create a lingering memory and a perception that, you know, that nothing happens and that we never are allowed out of our cell. If we were to actually dissect that and look at it, it really is a small part of the 365 days in a year. But if I were in my cell and not able to come out for even three days, I'd see that as pretty restrictive. Combined with that is because it's a maximum-custody population, despite the call for and the inmates' repeated expressed belief that they could manage an open yard, as they refer to it--it's basically, you know, at 6:30 in the morning we'd open the doors and open the cells and at 9:00 at night we'd make sure everybody was back in--it doesn't work, it won't work, it didn't work. That's why they moved away from it in 2012 and rightfully so. And we have to have controlled movement. You have to have pretty significantly controlled movement at maximum custody and you need controlled movement at medium. Only at minimum

custody can you have a fairly open campus and even then you still have to have control. So we see that time and time again, the call for this open yard. We are in the process. We just did a deep-dive kaizen event a couple of weeks ago at NSP where they brought in line-level staff, midmanagement, a little bit of the executive leadership as well, and in two days dissected what the needs were, how movement was currently being done, and how could it be improved in ways that would ensure that people could get out and get to where they need to be and do that in a way that's safe for everybody involved. So now they're working on, you know, what are the next steps, you know, and how to make sure that whatever the plan is we know it's going to work and how is it going to be implemented, communicated. And so early in the process, but that was just a-- a really effective way to come and look at one of the challenges there. And then it is space. You know, we-- we have inadequate programming space and I'm excited and I'll be working very hard to get the funding for that. It is-- and the dining halls--the dining hall, excuse me, for maximum custody, again, built to house or built to feed a population of 400 at the most and feeding 700 three times a day, so what should take 90 minutes or even a little less--75 minutes is really an ideal time period for meals-- typically takes two hours. And then if there's problems, and the longer you have people sitting around bored the greater the chance that there's problems--so sometimes our meal periods take three hours to feed--all of that eats into then the opportunities to go to the yard, to get to work, to get to where they need to be. So those two projects are central to the long-term health of that facility. In the short term we just continue to work with-- work with process improvement and finding ways to both make the movement work, provide safe, meaningful opportunities for people to be out of their cells. I can't fix the day room problem. Here, again, the living units were built to house 80-- house 80 and the day rooms weren't big enough for 80 in my opinion. They're just-- they're just rooms. They're not day rooms.

**EBKE:** [00:40:00] Right.

**FRAKES:** [00:40:00] You know, they're a room with a TV and a room for about 15 or 20 people to sit in chairs, way, way too small. I can't fix that. What we can do, though, is make sure that we've got every opportunity to get people out, keep them busy. Then we're going to continue to expand programming opportunities. Correctional Industries-- Cornhusker State Industries is getting ready to figure out how Lean Six Sigma and that process will work not just for the staff that run CSI but how we bring that to that population as well, get them engaged in process improvement. So those are the things.

**EBKE:** [00:40:23] I appreciate that. You talk a lot about how you've had several meetings recently with both line staff and, you know, upper management, executive staff, and so forth. And that's probably happened since or, you know, as this report was being written. But if you'll look on page 16 there is, based on some staff interviews, I think, of the-- from the accreditation-- Corrections Accreditation and they say that front-line staff feels that they're not supported by administration, that administration doesn't come out. Administrative staff report that they come out weekly to the unions. How do you-- how do-- how do we reconcile that and make sure that-- I mean it seems like there's a communications problem or something here.

**FRAKES:** [00:40:49] It's age old. It was no different in the world I left behind. And I would have been that voice in 1983 or 1984 because, you know, I never saw management, except then we celebrated that.

**EBKE:** [00:40:58] [LAUGH] Yeah.

**FRAKES:** [00:40:58] That's why it was good to work weekends. One of the challenges in our business is we're 24/7 and management represents a small percentage of the staff in a facility and I expect them to work-- typically, especially with executive management, 45 hours would be a short

week and 50 is kind of the standard. And there's a lot of weeks where they're doing more like 60 and that's even without a serious incident happening-- happening. But even so, they can only cover so much ground and see so many people. And so if they don't get out on the right days, if their patterns are such that they're not getting out on Tuesdays or Monday-- Mondays and Tuesdays, as an example, then those people that have those days off never see management and believe that management never comes. Challenging for the shifts that are-- especially the graveyard are the-- for us, the third-shift staff, always a challenge for management to rearrange and get out there. But short of that, it's-- and then you know NSP. It's a big place. So I know my warden and deputy warden and the people on their team are out there but if they're covering, you know, a quarter of the facility on any given day and still trying to do what they do, that means three quarters of the people didn't see them and don't believe that they're present. It does come back, though, to communication. A piece that we continue to work on is how do we pull people in. So we have our EPIC meetings which are an opportunity for line-level staff to come and sit down with executive-level staff, talk through things. That was the meeting I referenced where they-- oh, can't believe it's going to go right out of my head. It did.

**EBKE:** [00:42:04] It did? That happens sometimes.

**FRAKES:** [00:42:04] So just a recent meeting that may-- it kind of at that moment in time filled me with some promise because I saw exactly what I was hoping for where line-level staff would have a venue and believe it was a venue to bring issues forward and be heard and then actually see results from it. One of our efforts that's just getting motion, getting off the ground but is in the strategic plan, is we want staff to be bringing forward at least a third of the process improvement-- improvement ideas. And that will be a measured goal that we're working on and that would be another way where we can not only ensure that line-level staff are engaged but that we can demonstrate it, prove it. They'll be able to see it themselves. So this event that I talked about a

couple weeks ago, that kaizen event, is a great example. It's just tough. It's tough at NSP. It's tough, equally tough at Tecumseh because to grab ten staff off the grounds to have a one-hour meeting either means there's ten posts that aren't being staffed like they should be or we're holding ten people over for, you know, the previous shifts and then-- which is one of the strategies. And sometimes we reduce activities so that we can not need as many staff to run the facility and that burdens the inmate population. In a world where we had our vacancies filled and we had-- and didn't have the level of overtime we have, it would be so much easier, just-- I used to bring in groups of 20 and 30 staff at a time because I knew that it wasn't-- I could communicate to the population and tell them, look, we're going to keep you in your cells after lunch for the afternoon because we're going to do some staff activities and we'd feed them and, you know, and that happened once or twice a year and it was no big deal. And the same thing: I could say to staff, look, I need 20 or 30 of you to stay for a couple hours so that we can-- no, but that's just really tough for us to do.

**EBKE:** [00:43:23] How do we get to that point?

**FRAKES:** [00:43:24] It comes back around to we've got to-- we've got to turn the tide on the turnover. Here in Lincoln it still is-- it's a combination of turnover and filling vacancies because of this really tight, tight job market. Well, that's true at Tecumseh. That's-- I'm sorry. It's those two locations in particular. But more than anything--I've said it before--it's the turnover piece. We slow down the turnover. We build the institutional memory. We get people confident and comfortable in the work. They will be better suited then to help the new staff that come on. You know, we know we've seen situations where staff that have less than a year on the job, maybe even in some cases six months, are the one that's available to training the person who just graduated from academy and, you know, that happens but it shouldn't be-- you should-- you'd always hope that you'd have somebody with three, four, six, ten years that was in the wings.

**EBKE:** [00:44:01] The IG's report referred to sort of a mentorship, trying to-- you know, recommended some sort of a mentorship program. Has there been thought to-- you talked about your Leadership Academy. Or what did you call it? Is that what you call it?

**FRAKES:** [00:44:06] Yes.

**EBKE:** [00:44:06] Yeah.

**FRAKES:** [00:44:06] So the first step of that for us was putting more formal structure to our field training officers, so creating those two field training officer supervisor positions. And that's a move in the right direction. No, we haven't pursued a staff mentor program yet there because, again, of the same challenges of, you know, people are tired, people are-- you know, I-- it is-- if we get to the right place, it is absolutely something that we should do.

**EBKE:** [00:44:26] Okay. And then, you know, part of the problem it seems to me with-- with the-- with the staffing, you know, kind of it's a circular problem because if you-- if you don't feel safe you're not going to stick around and-- but if you don't-- if people don't stick around, people aren't going to feel safe. So I mean-- I mean that's the-- that's one of the problems. The IG pointed out, at the top of page 17, you know, that the-- the problem the contraband. And I've heard about this from a number of employees at NSP who are quite concerned about the-- the contraband problem. And, you know, do we have some means of tracking? You know, maybe there's not just one place but if there's-- you know, if there-- if there are-- are places where it tends to be more dominant it would seem like-- I'm not law enforcement but it seems like that-- that there would be some hints as to where, you know, where it might be coming from.

**FRAKES:** [00:44:52] So between the time that Mr. Koebernick first raised this issue and then this report, we had looked at the issue, had been looking at the issue, and had initiated some changes. So in the past we documented. But there's a difference between documenting and tracking.

**EBKE:** [00:45:03] Right.

**FRAKES:** [00:45:03] So we kept good documentation but we didn't have a system where we were somehow, you know, bringing all that together and using that information except anecdotally. We knew anecdotally there was, you know, more cell phones or there was-- whatever the issue was. So in the spring--I'm going to say it was April or May--we directed the facilities to start tracking cell phones, drugs, weapons. They were doing it in different ways and people were doing different things so we got some continuity, same expectations, and so now we are gathering that information in something that more resembles tracking. It's just unfortunately we lack good systems for a lot of this stuff that we want to do, whether it's violence against staff, violence against inmates, the contraband pieces. We have really good documentation and we do really good storage of the documentation but the way that documentation occurs, usually on paper then has to be entered into something, doesn't lead-- entered in NICaMS--I'm sorry--doesn't lead to the kind of retrievable database approach that we really need, so someday.

**EBKE:** [00:45:50] Okay. Someday, huh?

**FRAKES:** [00:45:50] Yeah.

**EBKE:** [00:45:51] Okay. I have some other questions that I might submit to you in written format and you can send them back and we'll make it part of the record. One last question and I think this needs to be addressed. On page 21 there's a rather extended footnote. It deals with an assessment, an

internal assessment I think that was directed, and the suggestion seems to be that-- that work product or-- you know, wasn't backed up or wasn't saved. What do you know about that?

**FRAKES:** [00:46:08] Well I can share my version of the story.

**EBKE:** [00:46:09] Okay. That's fine.

**FRAKES:** [00:46:09] So I'd be glad to do that. I did not send Mr. Wooten to NSP to produce an assessment. I sent him over there-- well, assessment in the term of go assess the temperature, go assess the, you know, what you hear from staff. The mission that I sent Mr. Wooten on was to go insert himself into the facility, talk to staff, talk to inmates, and just get a sense of, you know, what their issues were. And the most important part of that mission was to be present as a representative of the agency at the executive level to staff, responsive to the very issues they raise. He did that to some degree but not to the degree that I hoped. I found out that that really wasn't one of his strengths and I did not ask for him to go over and do a written report, did not want a written report. I really wanted him to just go talk to staff and have them feel listened to and validated and then if he found issues that we thought we should put more-- you know, explore to more depth, we would have gone that direction. So he did that. He met with myself and Diane Sabatka-Rine. He had some notes that he spoke from. There was no report presented to us. Again, didn't ask for a report and, in fact, there's an e-mail that says, no, I don't want a report, I just want you to go, you know, talk to staff. And so, you know, we took that information. He didn't bring back anything that we weren't already aware of. But, you know, to the degree that he did sit in a control room or, you know, sit with staff in some location and listen to what they had to say, that was the main mission that I put him on. So then we parted ways, you know, and I-- you know, he resigned. We might have gone a different direction had he not chose to do that but he did resign. And we do what we always do. We end their access to the systems of e-mail, etcetera. We lock down the files. The only person that

could access what he had within-- stored on his computer or stored, you know, on the-- as we'd talk, the N drive, the Q drive, our different network drives was Mr. Wooten with his password and his information or IT. So those are the only two that could do that. Didn't think anything more about it than anybody else that we do. At some point he and Mr. Koebernick connected and he described something. The initial description was different than where we ended up in this report. But he said that there was something out there. So then Doug requested to see all of his files and see all the stuff and that was provided and it was obvious that there was more file-- and I mean I'm working from memory, so what I remember was there was more files in say January than there was in February, or in February than there was in March, and it wasn't clear what happened there. Also, Mr. Wooten had said that there should be a document somewhere out there, you know, that could be referenced. And so I gave Mr. Koebernick all the access that I could, told IT, please, you know, let him see. They did repeated searches and different ways to see what might be there or not be there. The only explanation they could provide for why there would be a difference would be that the backups are monthly. They're done on a monthly basis and so things that were present in the January backup and then removed in February, which would have had to have been removed by Mr. Wooten or present in February, removed in March, again, would have had to have been removed by him. Then those wouldn't show up in the next backup. And then later Doug came to me with another question about, you know, that he had talked some more with IT and they said, well, we could do one other kind of search--I think basically a word search--and just see if there's anything out there in the void. So I authorized that, paid for it, and had that done. It produced a couple of documents that were not in any way related to this. And that's where we ended up. So I understand that from Doug's perspective and his interactions with Mr. Wooten that he believes there should be a document out there somewhere and somehow it disappeared. I have no evidence to support that there was ever a document. I did anything-- everything within our power and I talked to top-- you know, IT to the top--

**EBKE:** [00:48:56] Okay.

**FRAKES:** [00:48:56] --- to make sure that I covered every base because I don't-- I don't have anything to hide on this one. And, you know, if there was a report out there, I'd be glad to turn it over.

**EBKE:** [00:49:03] Okay. Okay. Senator Bolz.

**BOLZ:** [00:49:03] Thank you, Senator Ebke. I want-- I want to put a couple of things on the record and-- and ask a couple of questions. And I want to preface my comments for the record by saying I think you and your agency have worked very hard on recruitment and retention. You've-- you've done a lot of good work. I was particularly pleased to hear the update provided this summer about how you're changing some of your on-the-job training strategies. So it is not-- this is not intended to-- to be-- to be aggravating but, nonetheless, this-- this is the official transcript of the LR127 hearing. So it's important to say that your total turnover rate is 30.8 percent, according to the Inspector General's report, that we have a corrections officer turnover rate of 59 percent, corporal at 33 percent, lieutenant at 23 percent, unit caseworker at 41 percent. And we have overtime expenditures at \$12 million for fiscal year '18, up from \$10.7 [MILLION] in '17, \$9.2 [MILLION] in '16. And I want to put that on the record because I think this remains the heart of the issue, it remains the heart of the problem. And so the question I want to ask related to that is, have you found any evidence or outcomes or anything you can report out to us about how your merit pay program has worked, has it helped with retention, or any other strategies that you've put into place that you think have moved the dial on retention?

**FRAKES:** [00:50:00] Well, as you know, if you could do things in a vacuum and do them in a controlled laboratory setting, then you'd be able to point at it and say that cause and effect, you

know. But we don't have that luxury and we have done different initiatives at different points in time. What I know is that the \$2,500 hiring bonus that we used last year to bring additional staff on at NSP and Tecumseh had some impact on retention as compared to the 50 percent turnover that we saw previous with those one-year employees. But we're three quarters of the way through that and I'm going to say that maybe it's a 10 percentage point improvement, so. And it's-- again, wasn't that-- didn't happen in a vacuum. So was it specifically the \$2,500 or was it improving the FTO/new employee relationships? Was it my staff getting on board with what I've been telling them and others have been saying now for about a year and a half that this is your-- these are your saviors. You should be running to the front door and hugging them and putting your arm around them, you know, and doing everything you can to ensure their success because they are the answer to many of our problems. And a lot of staff have taken that to heart. So we have all of those kind of variables. The performance merit pay that we did specifically at Tecumseh, we've seen two good indicators that would be, one, an increase, and it was a pretty measurable increase. Not going to give you numbers but-- I can but not off the top of my head, but a measurable increase in people transferring to Tecumseh. That didn't happen very often in the past. So we saw an uptick there. And our staff at the seven years and beyond, and especially the group that were ten years and beyond, we saw a downturn in turnover in those two areas. The groups that saw the greatest, you know, 7.5 percent, 10 percent wage increase. At the one- to three-year level we didn't really see any difference and not really anything to-- this is not really much for the group that falls three years to six years to three years to seven years, whatever that is, so kind of mixed results on that one. And then, you know, it's all of the things that I've talked about are the pieces that we continue to work on to see if we can change the environment. But I-- I tell you, I talk to my peers around the country and there are more similar examples than there are exceptions of people struggling to attract and retain a work force in this business, so the escalating violence, the changing aggressive just difficult-to-deal-with attitude, especially of our young offenders and of our higher security people. And, you know, I can provide some stuff. I'm sure Mr. Koebernick can provide you some stuff, just some of the narratives that I

read day to day of what-- how-- what my staff have to put up with. The issue-- we have a changing cultural value and it's a good one of where once again family and time away from work is as important or more important than work. But then that means shift work becomes even less attractive. And so we've got to fight that battle. Then we've got the Nebraska incredibly low unemployment rate issue to weave in there. So it's tough. And I'm-- those all sound like excuses but those are all part of the realities and we just-- we're not going to stop. We're working on a-- you know, this is actually a suggestion that came from Mr. Koebernick about why don't you put together a recruitment group, a work group to look with line-level staff and see what you get from them. So we're in the process. I think they may have already met once. We're going to try any idea that we think is worth trying.

**BOLZ:** [00:52:29] Is it your intention to continue your merit pay program?

**FRAKES:** [00:52:31] Yes.

**BOLZ:** [00:52:31] And you'll use vacancy savings to continue to pay for those expenses?

**FRAKES:** [00:52:32] Yes.

**BOLZ:** [00:52:33] Okay. So on the other side of the ledger is overcrowding, of course, right? You've-- you've got the two numbers that matter. Is it your intention to continue the county jail program?

**FRAKES:** [00:52:37] I'm trying hard to stop calling it a program because this is more like a place where I can plop people down for a little while and then weave them into the system. So I talk about it as being the bubble in the mattress. But yes, yeah, I need to for now. And I've got savings from

the previous fiscal year that will carry me through this year. And then as we approach spring we'll see where we're at and what we need to do.

**BOLZ:** [00:52:55] My-- my last question for now is-- I might get a smile or a groan out of you on this one, but your regulations and the last revision date I have as October. Well, that can't be right. The revision date marked on my copy says October 31 of 2018.

**FRAKES:** [00:53:05] Well, if you got the current copy, we typically-- we finish them, sign them off 30 days in advance of [INAUDIBLE]--

**BOLZ:** [00:53:10] Thirty days in advance, okay.

**FRAKES:** [00:53:10] -- and so that we can distribute them to the world and get them in place.

**BOLZ:** [00:53:12] Okay.

**FRAKES:** [00:53:12] Okay?

**BOLZ:** [00:53:12] Well, then I most certainly have the most--

**FRAKES:** [00:53:13] You've got the freshest copy.

**BOLZ:** [00:53:14] -- freshest copy. And this is related to health administration-- Health Authority, administration, and personnel management. Under "PROCEDURES" it says: The facility uses a staffing analysis to determine the essential positions needed to perform the health services mission and provide the defined scope of services. A staffing plan is developed and implemented from this

analysis. There is a bi-annual review tied to the legislative budget by the Health Authority to determine if the number and type of the staff is adequate. Are those materials available? And can you provide them to the committee?

**FRAKES:** [00:53:32] What I can give you tom-- well, it's Friday. But what I can give you Monday would be what we provide to ACA. But we have met and discussed this and we don't feel that we're meeting the intent of that language like we need to. So there's more work that's going to happen. So we do provide [INAUDIBLE] ACA but really what that just provides is a roster because ACA doesn't tell you how many staff you should have unless they identify that it just seems completely, you know, unreasonable, so.

**BOLZ:** [00:53:51] So if I'm remembering correctly, the only-- your-- in your budget request you're asking for the-- the full complement of your staffing analysis. And-- and in addition to that, if I'm remembering correctly--you can correct me--there's only four other positions that you're asking for in your agency budget. Correct? And I think they're unit caseworkers. Is that accurate?

**FRAKES:** [00:54:05] You're really close. I'm asking for 48 more positions related to the-- to the protective services staffing. That still leaves 40--I can't remember off the top of my head--42, I think it is, yet for the next biennium. And then, yes, four case manager positions, that was-- that is my request coming into this year, this next biennium.

**BOLZ:** [00:54:15] So the agency budget request doesn't include any additional behavioral health staff or any other ancillary staff at this point?

**FRAKES:** [00:54:18] No, it doesn't, and specifically with behavioral health and healthcare in general we don't feel that we have-- we-- we do not have--I'll be more definitive--we do not have a

need for more positions. We still do have a need for more staff, especially behavioral health where we're-- vacancy rate right now is probably about 20 percent--I think 33 positions out of the 175 that we have allocated--and then we have challenges in nurse staffing, in particular, and a few other components. So we don't need more positions. We just need more people to fill those positions. And there not only is it the Nebraska job market and the challenges of-- of, you know, wages and showing that it's a competitive package that we can offer, but it's the whole healthcare staffing shortage that's an America problem. I don't see it getting better unfortunately.

**BOLZ:** [00:54:51] I'll give up the mike. Thank you.

**EBKE:** [00:54:51] Other questions? Senator Brewer.

**BREWER:** [00:54:51] Thank you, Senator Ebke. All right, well, there's tons of stuff. You can see the trees that we've killed here that we could discuss. But I'm going to run some ideas by you. I may have a unique perspective because I'm pretty much a frequent flyer out at your facilities. And I've kind of had a chance to not only talk the staff, but this binder is letters that I've received from prisoners. And for the most part they're-- you know, they'll have certain issues. They're usually individual issues. It's not a-- necessarily a facility issue. And some of them are just saying, hey, thanks for taking the time to come out and speak. The-- the Lifers, the veterans support group, the prison ministry, the Native American support group are the primary ones that I've been out working with. Recently I went to York to the Defy program out there. Also been working-- as you know, we-- we were allowed to reset or reconstruct your sweat lodge out there, which hopefully was a morale booster for those that that affects. And then we've also been trying to get as many books out as possible. We've had an opportunity to have a conduit for books. But through all this and having a chance to go out and talk to them, the one thing that I saw that kind of caused a spark of interest, excitement, and was a calming effect is at York, as we're doing the Defy program, they had-- they're

not true therapy dogs. I think they're like rescue therapy dogs, for lack of a better term. Is that a-- and because it seemed like a-- not only just calm the inmates but the guards seemed to be a little happier--

**FRAKES:** [00:55:59] Officers.

**BREWER:** [00:55:59] -- when they had a dog to pet.

**FRAKES:** [00:56:00] Officers.

**BREWER:** [00:56:00] What's that?

**FRAKES:** [00:56:00] Officers.

**BREWER:** [00:56:00] Officers, excuse me.

**FRAKES:** [00:56:00] Thank you.

**BREWER:** [00:56:00] I'm used to the army world. Anyway, is there a way to expand that or-- or do you see that maybe there's a threat level that that would not be an acceptable thing to-- to look at in some circumstances, be able to-- to use more of these rescue therapy dogs?

**FRAKES:** [00:56:12] No, I completely support it. So we have active programs and NCCW, at LCC, at NSP, and now at Tecumseh, as well. Tecumseh just celebrated their one-year anniversary. And they have different focuses. Some of them are just kind of focused on rescue dogs and-- and getting them adopted instead of euthanized. Some are doing the prep work that then leads to them

being fully certified as service dogs. And I'm thinking somewhere we actually got-- took it to the next level of where we're getting dogs that can just go and be tested and be certified. So I believe without question that giving people in prison responsibility for and access to living things changes their behavior, changes the behavior of the people they hang out with, and ultimately changes the culture for the entire facility in positive ways. I've seen it time and time again.

**BREWER:** [00:56:48] I totally agree. And if you should need help with that additional project, you let me know because I just-- what I saw was folks that didn't have a lot of hope in life and that all of a sudden became their focus and it just seemed to change their whole outlook, so.

**FRAKES:** [00:57:02] When they brought those five "Labradoodles," I think they were, in there--

**BREWER:** [00:57:04] Labradoodles.

**FRAKES:** [00:57:04] -- oh, my gosh, my favorite-- sorry, but you put me here. My favorite story is watching a group of maximum security, toughest kind of gang member inmates rolling around on the floor playing with some puppies that we brought into a prison in one place and then I walk in there and they look at me and then they're kind of sheepish and then they go back to playing with the puppies because you can't not play with puppies. If you would be willing, I'd like to set up a meeting with you, the warden at NSP, the head of Domesti-PUPS was one of our best partners, so if we can find a time to do that, I would-- that would be great.

**BREWER:** [00:57:26] Well, it's-- it's a situation where you got-- you got them needing some love on both ends. And so it just seems like it's-- it's too easy. There's some of this we can't fix. I mean we can have all the money in the world but it-- it may not give us the end state we want. But there are probably little things we can do to make life a little better. And so put me down. I'm-- I'll be

your Huckleberry on that one.

**FRAKES:** [00:57:40] Okay.

**EBKE:** [00:57:40] Other questions?

**GEIST:** [00:57:40] I do have questions.

**EBKE:** [00:57:41] Okay. Senator Geist.

**FRAKES:** [00:57:41] Senator.

**GEIST:** [00:57:41] One, being not an army individual, would you explain-- you said earlier about unit sergeants. Can you tell me what that looks like?

**FRAKES:** [00:57:45] Yes. So we have a unit management model here in Nebraska. And actually it was a pretty good model but it wasn't staffed completely. It's like we got to a certain point, about two thirds of where we needed to be, and then dollars ran out or whatever it might have been. So we have our caseworkers, case managers, unit managers, and typically we have officers or corporals that run the control booths. And then where we're having challenges staffing caseworkers a lot of times, a lot of officers are corporals that are on the floor. So in a-- in the unit management model that I know and love, which was based on something the feds put together in the 1970s, you have a custody side of the house and you have your classification or case management side of the house. They both report to the unit manager. So I've got the case manager, who's a supervisor, who provides that oversight for that classification. And we say "softer" but I don't mean that's softer in terms of easier or anything else. It's just the-- the-- not the hard security side of the house, critical

piece of, and they really all go hand in hand. What we don't have is a strong, you know, security presence and a security voice. And so those unit sergeant positions serve as the-- kind of the voice of the security, provide the supervision of the uniform protective services staff. So now you've got two clear chains. You've got a case management side, a supervisory side both reporting to that unit manager. How I describe this in a simple analogy is I see unit managers as the wardens of their living unit and I see unit sergeants as their, you know, their sergeant-of-arms, truly; you know, they provide that direction and security oversight. One of the challenges we've had is especially in a couple living units, and that's where we're going to start NSP, where the inmates will not take direction from the staff on the floor. They are abusive; they are threatening; they are vulgar. And then so the staff have no choice. They call the shift office, then the shift lieutenant or the shift sergeant comes over and then the inmate is, oh, no, no, I was just kidding or, you know, complies and does what they're supposed to do. We're going to put that supervisory voice right on the floor. And so now staff will be-- feel that they're backed up immediately. They'll actually have another body and they'll be two shifts five days a week with different days off. So there will always be, always be at least one unit sergeant on days and swing shift, and some days there will be two on each of the shifts.

**GEIST:** [00:59:41] Okay. Thank you.

**FRAKES:** [00:59:41] Yeah.

**GEIST:** [00:59:41] That helps. And then I also just wanted, if you would-- I've heard just a little bit about a program that you do called The Challenge Program. Would you explain that as well?

**FRAKES:** [00:59:47] So some of the-- you know, with restrictive housing reform across the country, one of the important components that was identified in a number of states, including the

one I left behind, was how do we assess when people can come out safely--because we should be putting people there because they present risk and then we should get them out as soon as we think it's safe for them to be in general population--and what can we provide them so that we can make a reasonable assessment and what can we provide them so they can change their thinking, change their behavior, and actually demonstrate less risk. So that's the concept. A number of states have fairly formal programs. I'd say ours is still in evolution. We're about to, you know, look at-- it's been a year and so now it's time to see what revisions we need-- we need to make, including how do we get more people to accept and engage in it. For me, the programming itself that we offer is not-- it's-- it's important because it-- it provides engagement and it helps with providing some opportunities to see things differently, think differently. We're giving them moral reconnection therapy at the beginning so it's, you know, a very entry-level cognitive behavioral intervention, really good program though to increase engagement. But I'm every bit as interested in simply demonstrating engagement. Can you talk to people in a civil way? Can you interact with staff in a civil way? Can you be in a group of four or five other people and not end up in a fight? And-- or if you're one of the people that is directing the violence, can you make some other decisions and stop that? I can-- we have a whole program overview and I can provide you with all kinds of information if you want to get down into the details. But conceptually that's what it is. It is in essence a stepped-down program to move people out of restrictive housing. At the first level they're still in unrestrictive housing. At the second level they're in a less restrictive environment but still pretty restrictive. And when they get to the third level, now their out-of-cell time and movement time is about six hours a day. They get a little bit of time off the unit in a very controlled-- they don't-- in group, you know, under supervision. And when they successfully graduate, then they should be able to go back to general population.

**GEIST:** [01:01:25] Okay. Is that where the advocates come in as well where you have someone else encouraging them to take part in the programming if they're resisting that? Is--.

**FRAKES:** [01:01:31] Our peer mentors?

**GEIST:** [01:01:32] Yes.

**FRAKES:** [01:01:32] Yes, that's certainly a role that they help us--

**GEIST:** [01:01:35] Okay.

**FRAKES:** [01:01:35] --help us with.

**GEIST:** [01:01:35] Okay.

**FRAKES:** [01:01:35] Biggest challenge that we've had so far is certain security threat groups have said we're not doing it and have told their members you can't do it. And so we're trying to work our way through that. And I'd love to talk to you one on one more. I don't want to go--

**GEIST:** [01:01:47] Yeah.

**FRAKES:** [01:01:47] -- too far down that path.

**GEIST:** [01:01:47] No, I understand. No. Okay.

**EBKE:** [01:01:47] Anything else? Thanks for being here today, appreciate it.

**FRAKES:** [01:01:49] Thank you, and thanks for your work. I do appreciate it. We'll be in touch.

**EBKE:** [01:01:50] Okay. Board of Parole let us know that they are having parole hearings actually today in Omaha, so I don't believe that they will be represented. However, they will send us a written statement, some things. Probation. Big stack of stuff.

**MINARDI:** [01:01:57] Good afternoon. I'm Deb Minardi, M-i-n-a-r-d-i, and I'm the deputy probation administrator for the Office of Probation Administration. Earlier today I had the privilege of speaking to the judges from across the state on justice reinvestment. Earlier this week I had the privilege of talking to the County Attorneys Association on the status of justice reinvestment, but it only seems appropriate that I'm here today to talk to you about from the court's perspective where we are with justice reinvestment and some of the things that have happened. In the packet that you're receiving is a pretty comprehensive PowerPoint that I'm not going to go through in detail in the interest of time but certainly to-- to use it to point out some of the information in particular that I want to share with you. Going back in particular to 2002 -- '13-- 2013 and 2014 when the Council of State Government was here in Nebraska and made policy recommendations around justice reinvestment, in particular as it applied to the courts and probation, some of those recommendations included we needed to increase the utilization of probation. Nebraska, in comparison to other states, did not utilize probation as much as it could. Another recommendation that came out was reduce the number of individuals-- when coming out of prisons, reduce the number of individuals who went without supervision. And so the solution in that respect was to give Class III, Class IIIA, and Class IV felonies, the lower-level felonies, to Probation to supervise after they were released from prison, and that's referred to as postrelease supervision. And then the other policy statement that came out of LB605 had to do with reserve the resources that we do have to in fact address those individuals who are at highest risk to reoffend. So with those three policy statements in mind I just want to point out first some facts about what-- what has happened since the implementation of LB605 within the courts and Probation and then talk about some of the challenges, outcomes, and what has

to happen in order to move forward. Some examples that I would give is that even though there was a .8 percent increase in felony filings, there were 326 less individuals sentenced to prison between 2016 and 2017. Similarly, when you look at the individuals that the courts did sentence to prison, in 2016, 30 percent of those were represented by Class II felonies versus in 2017, 53 percent were represented by Class II felonies. So what that in essence means is that the court was doing exactly what was being asked: reserve prison for those individuals who are the higher-level felony offenders. Those are just two examples where the courts are in fact making improvements and taking seriously justice reinvestment. In addition, when it comes to the idea of "place more individuals on probation," between 2016 and 2017 Probation saw approximately a 22 percent increase in the utilization of probation and then again between '17 and fiscal year 2008-- '16 and '17 we saw another 17 percent. We saw a tremendous growth in the utilization of probation by the courts. And that's coupled with the postrelease population as well. As a matter of fact, that growth has been so much that we are significantly over what the Council of State Government predicted. The Council of State Government-- we're approximately 800 individuals over what the Council of State Government predicted where we would be at this point in time. So again just kind of noting that, yes, we're-- not only are we doing our part, but we're doing even more than we expected and that has caused a certain amount of challenges that come along the way. One of the things that we've realized as a result of this kind of change in policy, as-- and I think it was described a little bit earlier by the director, is the face of the individuals under supervision is changing too. Right now when-- everyone who comes through the probation system receives a risk assessment, so we know exactly what their risk to recidivate is; we know exactly what their criminogenic factors are, and we use that to tailor services. Well, right now when you look at the county court, about 18 percent are considered to be high risk versus the PRS population which is as much as 87 percent. That's a big difference in what these individuals look like and what their needs look like. I was previously asked by the senator to talk about our work force. We-- we supervise according to our risk population, so our high, very high risk is to be 1 to 24. Our officers are carrying about 33. Our high-risk population

is 1 to 50. Our officers are carrying about 42. So we're about where we need to be and that's because we continue to shift those resources upwards. But most importantly I would bring to your attention toward the end of that PowerPoint the challenges and the outcomes. The challenges in particular is, as I mentioned, there's a higher percentage of individuals under community supervision. That's putting more pressure on our courts; that's putting more pressure on our jails; that's putting more pressure on our behavioral health system. There's no doubt about that. We do have limited resources, including limited providers across the state.

**EBKE:** [01:06:11] Keep going.

**MINARDI:** [01:06:11] Okay.

**EBKE:** [01:06:11] Finish it.

**MINARDI:** [01:06:11] Thank you.

**EBKE:** [01:06:11] Yep.

**MINARDI:** [01:06:11] There is an increase in terms of, as I said, the face of the individuals that's under supervision and we have to recognize that those individuals are not going to look like the same probationers of yesterday. So in other words, their success rate is going to look different and be much different. That having been said, some of the positive things that are happening, we've-- have two re-entry courts now, both in our jurisdiction, Judicial District 9 which is the Grand Island and Kearney area, and in Sarpy County. These problem-solving court-- re-entry courts are focusing on these high-risk PRS populations, and this is a research-based kind of approach, along with our SSAS program, which also in your packet is some of the research around SSAS. The other positive

outcomes include we have not seen a huge reduct-- a huge shift in our recidivism. So I would strongly encourage you to look at the outcomes that it's provided in the PowerPoint so you could kind of see all of them as we move forward. But in order to be successful moving forward I just want to kind of highlight a couple. We need to continue to support treatment and evaluations in the community. We have a problem, as was also stated, we have a very-- we have a serious problem around providers. We need to have a dynamic work force in the behavioral health system and right now we do not have enough providers, in particular in our rural areas. We need to understand that our jails are being affected by a result of the custodial sanctions and revocations because of the growing population. We also need to recognize that our courts are affected. They have more than they anticipated coming into their courtrooms. So there will be a need for ongoing financial support, ongoing services, and in order to continue to move us down the-- the correct road. So that's the really condensed version and I'll be happy to answer any questions that you may have.

**EBKE:** [01:07:42] Senator Hilgers.

**HILGERS:** [01:07:42] Thank you, Senator Ebke. Thank you for being here today. I thought that was-- thought that was really informational how-- I appreciate the PowerPoint as well. I had a-- I had a question at least on one slide of the deck if you wouldn't mind unpacking it for me. It's on slide 8. And for the record, since I don't think the PowerPoint will be part of the record, this is the-- it's-- it's titled "Felony Cases Added By Fiscal Year." And when I first looked at that, what jumped out at me besides the spike in '16, fiscal year '16-17 from 2,135 to 3,564 felony cases, my first instinct was that they-- what you're referring to is the number of cases filed, actually filed in court, or convictions from court. But actually reading the footnote, that's not what it appears to be. Are these the-- these are the cases that you would have under the postsuper-- postrelease supervision, so either probation or post-- some other postrelease supervision, is that what this is referring to?

**MINARDI:** [01:08:03] Correct. What this is intended to do is it's intended to demonstrate-- the gold line shows you what CSG predicted-- predicted we would have. And so they predicted at that point in time that we would have 3,330 when in fact we have 3,564, and similarly the postrelease cases they predicted 1,532 where we in fact had 1,767, so to really kind of demonstrate that we had way more individuals that ended up on probation and postrelease than we expected.

**HILGERS:** [01:08:23] What's driving that in your opinion? Is it there are just more cases being filed on the front end of the system or is there something, something else that's at work that's driving those numbers up more than you expected?

**MINARDI:** [01:08:29] I-- I would say-- I would say twofold because one of the comments that I made on the onset is there's only been a .8 percent increase in felony filings. Okay? So but what has changed is that as--

**HILGERS:** [01:08:37] You said .8? I'm sorry to interrupt.

**MINARDI:** [01:08:37] Point-eight--

**HILGERS:** [01:08:37] Point-eight [INAUDIBLE] okay.

**MINARDI:** [01:08:38] Point-eight percent, so a very slight increase in felony filings. But that having been said, I think what you are seeing is the courts taking seriously justice reinvestment, placing more individuals on probation, having the confidence to place more people on probation, but also because this group, this-- because the Legislature saw fit to also provide us with service dollars and those service dollars are critical to increase the confidence of the judiciary. They're not going to put individuals on probation unless they feel like we can adequately supervise them,

meaning having caseloads that are appropriate, and that they have the services in the community and can access the services. So I really think it's that confidence in the judiciary and taking this justice reinvestment seriously that is attributed to that.

**HILGERS:** [01:09:13] One more question, if I might, Senator Ebke. So I-- when we talk about LB605 we often talk about certain metrics to judge success, one of which is the pop-- the prison population itself. And I know it hasn't gone down quite as much as we would like. From your perspective, from the-- from the Probation side, what metric or metrics should we be looking at to judge success? And so it's a two-part question. So the first question is what metric or metrics should we be looking at to judge success of LB605 from the Probation perspective? And then secondly, qualitatively how would you sort of judge the impact so far and what could we be doing--so maybe three questions--what-- what would-- what would you tell the Legislature in terms of the ways we can improve the system going forward?

**MINARDI:** [01:09:37] Okay. So in order to-- the first I would point out, again, the slide that I indicated in relationship to-- slide 4, which indicated that-- the shift in the overall prison population, what that signifies is that there are more Class IIs in the prison now than Class IIIs and IVs. So what that suggests about why hasn't the prison population gone down or just-- it just makes sense that higher-class individuals are going to be in the prison system longer, so we have not seen kind of that net effect. What we've seen is a little bit of that stabilization. That's why the prison hasn't gone up at the rate that was expected but we're-- we haven't seen the actual benefits. I truly believe that that's still to come when we actually get all of the individuals through the system that need to be through the system, when we-- when we have this fully operational. We technically are only two-and-a-half years into this, three years at best. And I don't think that we've seen our sweet spot in terms of really seeing the full effect in terms of justice reinvestment. Do there need to be improvements? Yes, there-- there are. As I mentioned before to this group, nine months on

postrelease supervision, most individuals who are coming out of the prison have not had any services while in the prison. There just have-- they just have not had access to services. So it's the time that they're on postrelease is our only opportunity to get them the services that they need to reduce that probability of recidivism. That's a very short period of time to get them the services that they need. So in essence we have to be very careful or we're setting them up for failure on the onset because if they don't get what they need to reduce the recidivism, they'll be back. Does that help answer your questions?

**HILGERS:** [01:10:58] No, that's-- no, that's very, very helpful. I may have some follow-ups but I'll let some others ask some questions.

**GEIST:** [01:10:59] I do have another question.

**EBKE:** [01:10:59] Senator Geist.

**GEIST:** [01:10:59] You talked earlier about--community-based programs and the need of more. And I think the mental health portion of that is a problem throughout the state, throughout the country. Beyond that piece, what other really critical community-based programs do you see that we need to shore up to help you more?

**MINARDI:** [01:11:10] Well, a couple of examples that come to mind is we haven't even begun to bridge medicated-assisted treatment. Medicated-assisted treatment is by far one of the best known ways to help bridge, whether you're talking about mental health or substance use. We-- we're not into that arena at all. We're not helping individuals. If they are fortunate enough to have medicated-assisted treatment while in the institution, when they come out it's only for a short term so they have to get their own once they're out and figure it out. So that's one big one. Individuals with-- also keep

in mind that supervision is very defined. So when you have people with long-term chronic problems, they have to be engaged in long-term treatment. When, again, when you're talking about on supervision for nine 9 months or even 12 months. but they have histories of 25 and 30 years, you're not going to get immediate results in that 9-12 months. We don't have a continuum that after they're off supervision, that anyone else is out there to help them. They're really reliant upon either resources that come from Probation or resources that come from our regions, which are also limited as well.

**GEIST:** [01:12:04] Um-hum. Okay.

**EBKE:** [01:12:05] Other questions? Senator Bolz.

**BOLZ:** [01:12:05] Thanks for the information. I think when we talked in September you did-- you provided a very helpful rundown of how you make judicious choices about how to use the service dollars that you have. I'm sorry if I missed it, but I think at that point we talked about whether or not you could give us some more information about your unmet service needs and your unmet behavioral health needs and if you could either resend that or send that, I would appreciate it.

**MINARDI:** [01:12:26] So if I could talk about it just from a very high level, I would like for you to think about it from this perspective. When you think about what-- what NIDA in particular references, that it-- from national statistics, that on the very conservative side 65 percent of all the individuals involved in the justice system have some kind of behavioral health or substance use problem. So now you take a-- and I'm just going to use the adult probation population. I'm not even including the juvenile at this point in time. But we have 16,000 individuals on adult probation. If 65 percent of those have some kind of behavioral health problem and we're only working with the high and very high risk, which is about 35 percent of that, we're actually capturing just a very small

percentage of the behavioral health needs of those individuals that are just under our supervision alone. And that is that continuum of what I would consider to be chronic and severe mental health that we get, which is a smaller population that's under our supervision but they are there, to the immediate mental health kinds of needs, meaning that whether it's anger management or, you know, parenting or-- or life skills or-- and all the way through the continuum of educational classes. Those are some of the unmet needs that we're talking about in relationship to our-- our people under supervision with us.

**BOLZ:** [01:13:56] I appreciate that and wholly agree. It would also be helpful if there were any number statistics. Anything that could give us a data-driven picture would be great.

**MINARDI:** [01:14:04] Okay.

**EBKE:** [01:14:07] Other questions? Senator Hilgers.

**HILGERS:** [01:14:09] Just two follow-ups. One is, how is the navigator program working out?

**MINARDI:** [01:14:14] Thank you. We place probation officers that we refer to as "navigators" in the institutions. They go every-- practically every single day into the institution and meet with those individuals who are coming out on postrelease supervision. Their role is to not only create that plan about when they come back into the community, but they literally introduce them to their supervision officer. They have either a video call or a phone call with their supervision officer in the community. So we're doing everything in our power to make sure that that hand-off is really tight and really close. We have services that their appointments are already made for the service providers in the community. So I'm biased when I say I think it's working very well. We have-- this is-- this was new for us. Our courts seem to really appreciate having these plans in advance of these

individuals being released, and so it seems to be going very well.

**HILGERS:** [01:15:12] Great. Thank you. And then my last question would be following up on my previous question. I'm not sure if maybe you gave the answer and I apologize if I missed it. In terms of the numbers on the probation side that we should be focusing on, [INAUDIBLE]-- give us some signals as to the success of the program. Should we be looking at recidivism? Should we be looking at the mix of the felonies that you mentioned? What-- both? Something else? What would you say?

**MINARDI:** [01:15:33] The other-- the other-- now I lost my train of thought in relationship to that. I do think that recidivism is critical. I do not think that we have a unified recidivism definition in the state of Nebraska so I can speak to recidivism as it applies to the Supreme Court and Probation. The Supreme Court and Probation used the definition of having been released from probation and not coming back for a new charge that is a misdemeanor II or above for three years out. Okay. Our high-risk population sit at about a 20 percent recidivism rate. Our over-arching population sit-- so like if you have both from the county court all the way through the district court, sit at about a 17 percent recidivism rate. I think we need to keep a close eye on that to see what kind of-- we have had a slight change since the onset of justice reinvestment. We, in fact, increased unfortunately by 1 percent between-- so now, right now we're able to measure the people that were on postrelease in 2015 because that's when it started. And we're now finally three years out from that so we're finally able to start to measure those individuals. We have seen a slight increase but I think that, again, is-- is one definition that we need to watch very closely.

**HILGERS:** [01:16:51] Okay. Thank you very much.

**MINARDI:** [01:16:52] We-- we do have a reduced number of individuals that are revoking. I think that that's another important denominator because when an individual ends up in a revocation, that

means they end up either back in our prison or back in our jail. That's not to suggest that everyone that gets off of probation is, you know, a Pollyanna and cured by any stretch of the imagination. There are people who end up serving their custodial sanctions who end up getting terminated from probation but possibly not revoked. But I think those revocation numbers will also be critical to watch.

**HILGERS:** [01:17:26] Thank you.

**EBKE:** [01:17:28] Other questions? I have one question about the recidivism, and you said that the number has gone up 1 percent. Okay. Is that related-- I mean can that-- is that statistically significant or is that related more to the fact that we have more people on probation and a different-- kind of a different population that's on population [SIC] or-- or-- or else postrelease supervision?

**MINARDI:** [01:17:54] I can-- I can only speculate.

**EBKE:** [01:17:55] Okay, speculate.

**MINARDI:** [01:17:56] So my speculation is just as you said. We have a new population called postrelease supervision that, as I said, is a higher-risk population and we have them all, but a much larger population, so I do think you're correct in both arenas is that's what's affecting it. Because it is such a small postrelease population, the next couple years will really, really help us take a closer look at what that recidivism looks like.

**EBKE:** [01:18:24] Okay. Great. Other questions? Thank you for being here.

**MINARDI:** [01:18:25] Thank you so much.

**EBKE:** [01:18:27] Okay. We have the Ombudsman. And are you two both coming up at the same time? Is that the plan? Okay, the Ombudsman and the Inspector General.

**LUX:** [01:18:42] Good afternoon. Good afternoon, Senators.

**EBKE:** [01:18:42] Let-- let us pull up a chair for you. Are you good? You want to sit? Okay.

**LUX:** [01:18:59] Good afternoon, Senators. I'm Marshall Lux. I'm the Ombudsman for the state of Nebraska. And in-- in the interest of time what we would like to do today is that I would like to give Doug Koebernick my minutes so that-- because he has a lot of important things to say. And I'll be right here to answer any questions you might have for me when he's finished.

**EBKE:** [01:19:21] Okay. And we won't cut you short anyhow.

**KOEBERNICK:** [01:19:25] Okay. Thank you, Senators. My name is Doug Koebernick, spelled K-o-e-b-e-r-n-i-c-k, and I am the Inspector General for Corrections for the Legislature. During the past three years I've examined and documented the many challenges faced by Nebraska's correctional system. The system is overcrowded, understaffed, stressed, and can sometimes be dangerous. The physical facilities themselves face challenges due to outdated buildings and infrastructure that has been identified as needing \$60 million for maintenance and a change in correctional philosophy since the-- since most of those facilities were built. In the last month I have released an annual report and a supplementary report on the State Penitentiary. These have been provided to a number of people including the Legislature, the Governor, the department, Board of Parole, Parole Administration, and the public. What these reports have found is that Nebraska's correctional system was the second most overcrowded system in the country last year. A few years ago we were

fifth in the country. Earlier this week there were 5,394 individuals in our correctional system. According to my records, this is the highest total since early 2016. The system today is at 160 percent of design capacity. The Diagnostic and Evaluation Centers is the most overpopulated facility because it is operating at over 315 percent of design capacity. One would think that our system is overcrowded due to climbing crime rates and a high rate of incarceration when compared to other states. However, my reports show that until recently crime rates had actually decreased during the past 20 years or so. In addition, Nebraska has the 12th lowest incarceration rate in the country. This surprises many people, including me when I found that out. As you know, on July 1, 2020, the Governor will have to declare an overcrowding emergency should our population be above 140 percent of design capacity. At this time I don't see any way of avoiding that declaration. A report is due to the Legislature and the Governor no later than December 1 of this year from the Department of Parole that will provide information on how this overcrowding emergency would be carried out. It is my hope that the report does not suggest that we avoid the problem by exchanging the term "design capacity" with "operational capacity." Director Frakes addressed this in testimony in the past before the Legislature when he said the right answer is, whether we agree that design capacity in current law is design capacity, then 100 percent design capacity should be the goal. If we can come to an agreement that operational capacity makes sense and it is healthy, the goal still would be at 100 percent operational capacity, better yet, 95 percent. In 2014 the LR424 Committee found that there was a need for the department to be led by a more reform-minded director in order to bring about reform in the use of segregation. Last month the 2018 ASCA-Liman nationwide survey on restrictive housing was released. It showed that men in Nebraska's correctional system were placed in restrictive housing at the third highest rate in the country for those states that reported that data with 8.2 percent of the population in restrictive housing. Iowa and South Dakota, two of our neighbors, reported a little over 2 percent of their population-- of that population in restrictive housing while Colorado, which has undergone significant reforms, reported that they had only .1 percent of that population in a restrictive housing setting. Nebraska restrictive housing

system continues to face many challenges. With that said, the Ombudsman's Office, external members of the restrictive housing work group that was created by Legislature, and myself are working with the director of the Colorado Department of Corrections Rick Raemisch to set up a visit to their restrictive housing facilities in December. Director Raemisch has set aside time on his schedule to tour three facilities with us over the course of two days so that we can learn more about his efforts to reform restrictive housing. Moving on to staffing, this continues to be a significant problem in Nebraska's correctional system as can be-- can be seen in continuing high rates of turnover, overtime, and vacancies. The director of the department has testified before the Legislature that any agency that has a turnover rate over 15 percent is an unhealthy agency. Since he said that, the department's turnover rate has been running at around 30 percent, which by his measurement would make this an unhealthy department. If you go back a few years before that it was averaging right around 12 percent, 15, 12 percent, and has moved up in the last several years. My office has also been conducting surveys of employees at the ten correctional facilities and the responses have been similar to ones received in past surveys. I've received responses from hundreds of staff and the majority of them took the time to provide written responses to open-ended questions. When asked what it would take to retain staff, a staff member wrote: Myself and many of my coworkers feel largely undervalued and overworked. We line staff put our physical and mental well-being in harm's way daily. Many of us have been injured physically and psychologically during the performance of our duties and continually are faced with the same conundrum: Is it all worth it? Other careers that involve significant risk and dangers offer significant incentives for individuals willing to take those risks and additional incentives for those who dedicate themselves to the task long term. As a six-year line staff who's shown my willingness to learn and lead and make myself a valuable lasting member of the team-- let's see, of this team but is still compensated similarly to a new hire with no experience, the question is overwhelmingly simple. What is my motivation to remain with this department while former colleagues at other similar organizations nearby tell firsthand tales of feeling properly compensated and appreciated in the same capacity?

When asked their thoughts on the department's promotion practices, one person wrote: We don't have good, consistent, and ethical promotion practices across NDCS. There are some pockets of groups who ensure they are completing good, unbiased hiring boards, but in general we don't have policies in place to ensure hiring boards are not biased. We don't even really have training around hiring boards to create future consistent ethical hiring boards. The people being hired at the highest levels in those appointed positions are the wrong people for what staff need. They are not inspirational leaders but are only skilled at managing by threats and using the fear of being blacklisted or fired. They get results but do not make loyal and dedicated staff. They create an environment where staff want to leave and just do what they are told to get through the day. When asked for general feedback on the operation of their facility, another staff members simply wrote: I have lost faith that you or the Unicameral are going to do anything. I've offered to meet with each deputy director that oversees the ten facilities as well as the wardens at each facility to share these results. With-- actually within a few hours of my email to the wardens, I had visits set up with nearly every single one of them, which is very encouraging. On Monday I have two appointments set up. I'm appreciative of their interest in the surveys and believe they can learn much from them. Those who responded to my surveys generally do not believe the department is heading in a positive direction. Most of the staff would not recommend a job to a friend or a family member. They do not feel supported. They have made more comments about the "good old boy"-- "good old boy" system now than in previous surveys. Many have serious safety concerns and there is a continued crumbling of staff morale. I searched the responses and tried to find a few and I shared those with you. Think I got out of order there a little bit. This is backed up by the fact that very few staff agreed-- okay. When I go back-- I did get out of order there. The-- it is likely that there may be some who disagree with these statements but these do not seem to be widespread views across the agency based on the hundreds of responses that I received to my surveys. There are hundreds of other responses that are full of honesty and candor and many are pleased for someone to listen to their concerns, ask for their input, and acknowledge the toll that these jobs are taking on them.

There are many other issues that I've discussed in my recent reports including the fact that the contract for the department's assessment tool, the STRONG-R, ends this year and the department appears to be set on renewing that contract instead of opening it up for public bid despite it costing a great deal of money the company behind it not delivering on all of its contractual obligations.

With all this said, there are positive things taking place within the correctional system. There have been some changes in programming. Some positive changes have been enacted or are trying to be enacted by Dr. Deol in health services, including the conversion of a restrictive housing at LCC into a unit that is based on a mental health model that is more focused on treatment than on restricting people's movement. Many inmates are taking things into their own hands and establishing groups like Inner Circle at LCC or the Circle of Concerned Lifers at the State Penitentiary to try to make improvements to their facilities. York has changed dramatically in the last three years thanks to the efforts of previous Deputy Director Rothwell and Warden Davidson. From feedback received from staff and inmates at LCC, I believe that the new warden there has started to bring some additional positive change that builds on the work of the interim warden before him. When Ryan Mahr was put in charge of the Community Corrections Center in Omaha this past year, the number of complaints from that facility to the Ombudsman's Office nearly disappeared. I think Warden Hansen at Tecumseh has somehow kept morale and the feeling of team at that facility despite its many challenges. I've also met countless staff who are dedicated to their job and do their best every single day despite the long hours and frustrated-- frustrations associated with their positions. It's difficult to adequately cover everything going on in our correctional system in this short time but that's why I recently issued a 125-page annual report. I would encourage everyone who's interested in this subject to read that and my supplemental report on the State Penitentiary as they go into quite a bit of detail. I've also included a copy of the recommendations from my annual report with my testimony. Before I open it up to questions, I do want to add one thing that wasn't in my prepared remarks. Earlier today, upon reviewing the department's information system, I found an individual that had absconded while on parole just yesterday. I won't share his name but he came into the

system in 2015 on a four- to six-year sentence. During his approximately 41 months in the custody of the department, he was in segregation for all but four months. The sheet at the end of what I gave you has his profile and you can see when you go down the line that it says "seg" all over the place on there. Most of the time he was in for refusing orders or verbal threats. His last placement in restrictive housing started in November 2016 when he refused to order-- refused an order to lock down, made a verbal threat, and tried to spit on a staff member. For this he ended up in segregation for over 20 months. I met with him while he was there. We knew he was probably going to get paroled in July and I asked chief of operations Sabatka-Rine if they would remove him from segregation so he could begin a transitional process. She said no because they had not-- he had not accepted to enter The Challenge Program. He completed every other program they asked him to do but not-- but that one, but that wasn't good enough. However, the key to this whole situation is that this is a man that was identified by mental health staff as-- staff as having a serious mental illness. Despite this diagnosis and the other facts surrounding the case, the department refused to do much to help him to successfully transition into the community. In addition, study after study has shown how difficult it is to treat someone in that condition when you lock them up by themselves in a cell for 23 hours per day for month after month. I have begun to look into this more so I can understand what happened with him, but I did want to share this observation with the committee. With that, I'll end my testimony and Marshall and I are open to questions, though there's that great big handout that you have. And I was at a meeting over the lunch hour that Senator Morfeld put on and there's a group that's been meeting in Omaha and it has Probation, Parole, the Department of Corrections, community groups, Metro Community College, mental health associates, and a wide variety of people have been meeting for-- for over a year and they have some really good research that they've done. This is kind of their map. They had a bunch there so I said, can I steal some from you? And it kind of shows you the pathway through the system starting with county jail into the prisons. It has a little coding system down at the bottom that shows where different programs and different services are along the way and everything and I just wanted to share that with you. I think they'll be-- I

talked to Senator Morfeld briefly afterwards and I think that he and that group will probably be trying to set up visits with you. I've been sitting in on their meetings as well. So with that, thank you so much for the time.

**EBKE:** [01:31:28] Thank you. Are there questions for either Mr. Lux or Mr. Koebernick? Senator Brewer.

**BREWER:** [01:31:43] Thank you, Senator Ebke. All right. Well, about half of the pile is yours, so you-- you are very good at providing us the information we need to kind of get an assessment. I'm a little bit torn. The old colonel in me says there's a lot of guys out there who probably didn't have a lot of good things to say about me when I told them to guard the motor pool. And I know I can't use the term "guard." But if you were to put your finger on where the root of the problem is, could you-- you were here earlier when I-- when I said that some of the groups that I go to-- and keep in mind they are the ones that probably have a little more motivation and have a little more positive outlook on life. The ones that fit into the category of someone that-- that we're dealing with here probably don't have those luxuries in life, especially if you're stuck in a cell 23 hours a day. Do you think -- again, I'm just asking your opinion and I'm sure nobody in here is going to write anything down so you're good. The--

**KOEBERNICK:** [01:33:05] Just-- it's just between us.

**BREWER:** [01:33:05] Is it a systemic leadership issue? And if the answer is yes, is that in the middle or is that at the top? I mean to-- to break it out so that we understand how we can fix some of the things that you've identified, we've got to figure out where it's at. Now if you're not a part of the system, about all you can do is take the comments from those that are giving it to you through the system. Do you feel comfortable that you've got across-the-board assessment from those at

different levels and-- because the guy at the bottom is always a little disgruntled. But what are-- what are your thoughts on that?

**KOEBERNICK:** [01:33:45] I've spent a lot of time over the last three years talking to staff throughout all the facilities, from correctional officers up through people that are pretty close to the top, so I feel like I have a fairly good feel of what those people believe and what they perceive and think. I would say that the issues really-- I mean there's just a multitude of-- of problems in the system but I think that Director Frakes needs to be more clear about what he needs for more resources and to move forward. He, along the way over the last few years, he's come in and talked to different committees and said, I-- you know, he gets asked by Senator Bolz I know in Appropriations a few times and others, other people, what do you need? Well, I'm not sure yet; that's-- it's coming in the next biennium; I'll put something together; I'm going to address these needs, what I need for staffing or I need for the facilities and everything. We really haven't seen much in my opinion about what he truly needs. I've seen internal e-mails where he was going to ask for quite a bit of money--indicating to his staff--for this next biennium. He didn't. He's not. He knows there's a lot more needs than he's asking for and I wish he would actually come and do that because the staff are aware of what those needs are. Even on staffing, if you look at the State Penitentiary, they have a huge problem there right now. Now Tecumseh, they went ahead and funded a longevity and merit pay plan. As Senator Geist said, and when we talked before, why can't NSP do that same thing? I don't know why he won't do that. They need help desperately. That is the most troubled facility in our system and he has not done what I think he needs to do to fix that, to help those staff. They are really struggling. I've-- hear from them all the time. I met with just two new-- two other staff that have been around for 10 and 15 years the other day for over an hour and they told me, along with so many other people, that they think the system is worse now than it's ever been. And that's a lot and it's very, you know, kind of out there. I mean it's kind of a bold statement but that's what I'm hearing from staff.

**BREWER:** [01:35:58] No, that's-- that's pretty-- pretty bold statement. I guess what's troubling is, and I can't speak for the Appropriations Committee, but I think if there is a reasonable request that can be justified, I don't see that the-- the-- the stumbling block here is-- is the Unicameral. I-- I think we want to see it fixed and if-- if we can say money is a part of that then figuring out what right looks like, I think is where we need to be. So, all right. Well, so if we could condense what you just said, it's probably a combination of upgraded facilities, fixing pay in a way to get the right people in the right place, and then the leadership needs to lead.

**KOEBERNICK:** [01:36:51] Correct.

**BREWER:** [01:36:51] All right.

**KOEBERNICK:** [01:36:52] Correct. I'd also put more money into re-entry--

**BREWER:** [01:36:56] Re-entry.

**KOEBERNICK:** [01:36:57] -- and vocational education and job training.

**LUX:** [01:36:59] And mental health.

**KOEBERNICK:** [01:37:02] Mental health.

**BREWER:** [01:37:02] Yeah. No, that's-- that's a good one though. That-- that actually needs to be there.

**LUX:** [01:37:04] Yeah.

**BOLZ:** [01:37:11] Are there other questions?

**GEIST:** [01:37:11] I have questions.

**BOLZ:** [01:37:11] Go ahead, Senator.

**GEIST:** [01:37:11] I had a-- I wanted you to expound a little bit on what you say about re-entry. Tell me what you would-- in a perfect world what that would look like.

**KOEBERNICK:** [01:37:23] Right now we have re-entry officers in the department that meet with people at the beginning, middle, and end of their sentences. Believe there's like seven or eight people that do this. I'm not quite sure.

**GEIST:** [01:37:37] At--

**KOEBERNICK:** [01:37:37] At--

**GEIST:** [01:37:37] Total or just at NSP?

**KOEBERNICK:** [01:37:39] Total for the whole department. But we also have the navigators from Probation and then Parole has also created their own re-entry staff. So there-- maybe there needs to be more coordination among those three agencies on that to prepare people to get out. There is funding for our re-entry grant program, the vocational and life skills grant program that was funded back in 2014. That funding has stayed the same. I was at a meeting in Omaha actually with this re-

entry work group that's been going forward where they were talking about the need for more funding on the outside for transitional housing services, all of those things that-- that-- and even Deb was talking about too. And somebody asked Mike Rothwell, the former deputy director, why, why haven't-- you know, why hasn't the department asked for that money? And he said, well, Doug hasn't gotten us the money. And I said, hey, that's not my job. But I-- but the reality is I went up to him during the break and I said, you know, I talked to your director and he said that you didn't need any more money. I've been pushing that with-- I started with Senator Mello, actually, when he was Appropriations Chair, and-- and brought that to him. And-- and I think that there is definitely a need for more of those transitional housing opportunities and programs, job training out in the community. And a lot of things that have happened, I think with those re-entry grant dollars they've moved a lot of that money to the inside. And there's nothing wrong with that. We do need services on the inside. But the department really should tell us what they truly need on the inside and let's devote those re-entry dollars, at least most of them, to what's going on outside. I think a couple other things that we could do is start to develop smaller work-release centers throughout the state. That's something that in the past Director Frakes has indicated an interest in, in looking at. The state where he comes from, Washington, has done that. And you could have where, for instance, Hall County has about 30 work-release beds that are open the last time I was there that they said they would contract where we could take people who are at the very end of their sentence and eligible for work release who are from that tri-cities area and have them finish their sentence out there. If we're going to contract with the county jails, that seems like a pretty good way of doing it. So I think doing some things like that. Those are-- those are just some ideas that I have.

**GEIST:** [01:39:51] Okay. Would that include the-- the grant dollars that we heard the testimony about this time--or it was earlier last interim--of the housing, the \$25,000 that we were giving for transitional housing in Hastings, and does that--

**KOEBERNICK:** [01:40:11] Oh, yeah, the Hastings/Bristol Station--

**GEIST:** [01:40:12] Yes.

**KOEBERNICK:** [01:40:13] -- and the Mental Health Association's Honu Home?

**GEIST:** [01:40:15] Does that all fall under--

**KOEBERNICK:** [01:40:16] That would-- that's included in that funding.

**GEIST:** [01:40:17] Okay.

**KOEBERNICK:** [01:40:20] Yeah, um-hum.

**GEIST:** [01:40:20] Thank you.

**KOEBERNICK:** [01:40:23] You're welcome.

**EBKE:** [01:40:23] Senator Bolz.

**BOLZ:** [01:40:26] I have a couple questions. The first is that I guess I appreciate your ideas and recommendations about how to support and, I guess, benefit the experienced staff members in the Department of Corrections. So one thing I-- I'd maybe ask for your help with is in some recent conversations with some correctional officers there has-- there has been anecdotal observation that we are losing more experienced staff members, that the turnover rate now includes people who have been there 16 and 20 years in a way that that hadn't been in the past. Could we ask for your help in--

in looking at those numbers and trying to figure out whether or not that's actually the case?

**KOEBERNICK:** [01:41:14] I should have brought those because just recently I kept hearing that, too, and I was at-- when Director Frakes talked about that meeting of staff at the-- at the State Penitentiary, that EPIC meeting, I was there. And the person running that meeting talked about the need for retention, to-- to improve retention and everything. And they had four brand-new officers on the job that just-- that the sergeant who they-- was their training officer made them come to the meeting. And it was really interesting to hear what they had to say. But it's a lot of the things that I've been hearing for three years. But at that meeting they talked a lot about how so many people were leaving within that first year and they gave data and I-- actually I looked at the data. I'm like, well, this can't be right; I look at data all the time; this isn't right. And-- and so I went back and I dug in and I have the numbers and I can-- I'll share those with the committee. But it is kind of-- I mean you have a lot of people leaving on the front end, on the early part. But you also have a lot of people that are-- that are leaving, you know, in that five years and stuff. But I have-- I have all that data for 2017 that I can send to you.

**BOLZ:** [01:42:15] I'd appreciate it. And again anecdotal, but one comment that was made to me was that one experienced staff member can make up for three new staff members--

**KOEBERNICK:** [01:42:24] If-- if they're good.

**BOLZ:** [01:42:24] -- because of the technical knowledge, because of that experience and that relationship building.

**KOEBERNICK:** [01:42:29] Um-hum.

**BOLZ:** [01:42:29] And so I think part of our responsibility is to think about how, you know, so often we talk about step raises in this committee, and I guess I want to make sure that we dig into that because it's not-- it's not just about the monetary compensation. It's about incentivizing experience and we need to figure out how to do that in any way that we possibly can.

**KOEBERNICK:** [01:42:49] Yeah. Yeah. We have to-- I mean there's so-- the overtime is just so out of control at some of these facilities. And like I said in my NSP report, you know, I've actually witnessed where they wouldn't let people out until they got people to volunteer to stay or people are at their post and they said no to the mandatory overtime because they might have some family obligation or they're just-- they've worked so many hours already. And what happens is nobody comes and relieves them so they end up getting stuck there. So I mean there's-- and then what happens, like I said, it's that spiral and people leave and then we have more overtime needed to be filled and it just gets harder and harder.

**BOLZ:** [01:43:24] Just one other question: Would you elaborate a little bit more on what your thoughts are regarding the \$60 million in deferred maintenance in the system? We've-- we've gotten some modest requests for-- for updates and deferred maintenance. Given the-- the variety of requests that we get from the department in the Appropriations Committee, it's hard to figure out how to balance that with a staffing request or a request for new construction. Can you help us pull apart what needs would have positive impacts on the institution as a whole versus a little plumbing?

**KOEBERNICK:** [01:44:01] Boy, there's so-- I-- I went back or I went through their budget document and looked at all the-- \$60 million of request and, I mean, they're-- they are all over the board from-- from better security systems, whether that's doors or cameras or fencing, all sorts of different issues in it. But-- but plumbing and air conditioning and that, I mean, all that's so important. I-- I can look at it and tell you what I think but I think it would be really interesting to

actually maybe touch base with the 309 committee and the Task Force on Building Renewal and see if they have any insights on that. They're probably more engaged in that than I am because I haven't really looked at it. All I know is in the past there have been some efforts to give the department some more money and-- and by the Appropriations Committee and I know that the-- that Director Frakes indicated that the challenge is trying to-- to add more to their plate as far as fixing things. And at that point in time he said he didn't-- he didn't want any more, but he did ask for a little bit more in this next biennium.

**BOLZ:** [01:45:08] Thank you.

**KOEBERNICK:** [01:45:08] That's kind of dodging it. Sorry.

**BOLZ:** [01:45:11] It's okay. Thank you.

**EBKE:** [01:45:11] Other questions? Mr. Lux, do you have anything to add?

**LUX:** [01:45:16] No, I don't. I'm pleased that Doug got a chance to give you an idea of what he's learned. He's dived-- dived into these issues with a great deal of enthusiasm and I'm extremely pleased with the--with the awesome job he's done as the IG. And I wanted you to hear what he had to say today because I think he's given you example of what can happen when you have somebody who's out there talking to staff on a frequent basis, talking to inmates, looking at numbers and-- and doing the stuff that-- that he's supposed to do.

**EBKE:** [01:45:56] I see no other questions. Thank you, gentlemen.

**LUX:** [01:45:58] Thank you.

**EBKE:** [01:46:00] Okay. We will now begin-- you guys okay? Staff okay?

**VOLLERTSEN:** [01:46:05] Yep.

**EBKE:** [01:46:05] Okay. We will now begin with any public testimony if there's anybody who wishes to add anything. I see no one, so then that will conclude our hearing for today. Thank you for being here. And our report will be issued in a couple months.