

## LR34 Committee Recommendations

**Recommendation 1:** The Committee recommends that NDCS complete a comprehensive staffing analysis by July 1, 2017. This should include an analysis of staffing needs for programming and assessment, an analysis of the behavioral health system staffing needs, and an analysis of administrative and support staff needed for all areas of the Department. The analysis should include specific positions needed, for all staffing areas, and should also include qualifications and training necessary for all positions.

**Recommendation 2:** The Committee recommends that the Legislature consider amending Section 48-101.01, the statute that allows First Responders to receive workers compensation benefits for emotional and mental trauma, to include employees of state institutions.

**Recommendation 3:** The Committee recommends that the Department reach a set point in its wage packages, by profession, that recognizes longevity and the local market in which the Department competes.

**Recommendation 4:** The Committee recommends that proposals the Director submitted to the Governor in conjunction with the Department's FY2016-2017 budget request, but crafted to be phased in over the next four years, be expedited and that a determination of the total amount of money that will be necessary to bring the Department up to par be quantified and reserved.

**Recommendation 5:** The Committee recommends that NDCS work with the Department of Administrative Services to reclassify nurses who are employed at NDCS facilities, similar to the Department of Health and Human Services' reclassification of nurses employed at the Regional Centers.

**Recommendation 6:** The Committee recommends that NDCS work with the

Behavioral Health Education Center of Nebraska (BHECN) and other partners to design and implement a behavioral health workforce and training program for use within the Department.

**Recommendation 7:** The Committee recommends that the Board of Parole and the Parole Administration, in consultation with NDCS, develop a plan detailing how a correctional system overcrowding emergency would be administered. The Parole Board and Parole Administration should present the plan to the Governor and the Legislature by September 15th, 2017.

**Recommendation 8:** The Committee recommends that NDCS review the budget request submitted in September to ensure that it accurately reflects the Department's needs. The Governor should include the full NDCS budget request and the full Parole Board/Parole Administration request in his budget recommendation in January. The Appropriations Committee should make sure the Governor's budget recommendation addresses the issues raised in this report. The Legislature should fully fund those requests.

**Recommendation 9:** The Governor and the Legislature should take a close look at the Residential Treatment Center (RTC) proposal in the NDCS budget request. More discussion and analysis is needed before moving forward with funding for a "brick and mortar" expansion.

**Recommendation 10:** The Legislature should convene a group of attorneys to conduct a comprehensive review of the Nebraska Criminal Code. The group should also review criminal penalties outside of the Code. The group should provide a report to the Judiciary Committee by September 15, 2018 with recommended changes for the 106th Legislature to consider in 2019.

**Recommendation 11:** The Committee recommends that the Department engage in, complete, and report out the findings of follow-up assessments of the Department's mental health system, similar to the Gage Report, on a regular basis. The Committee

also recommends that NDCS use clear, consistent, clinically accurate terminology to determine the actual mental and behavioral health treatment needs of the inmate population. If statutory definitions need to be revised to accomplish this, the Department should communicate with the Legislature to discuss potential legislation.

**Recommendation 12:** The Committee recommends that DHHS explore the role of the Regional Centers as potential locations for county jail inmates with identified mental or behavioral health needs.

**Recommendation 13:** The Committee recommends that NDCS find more therapeutic and less restrictive housing for inmates with mental disorders, including county safekeepers.

**Recommendation 14:** The Committee supports the LR413 Task Force's recommendation that an analysis be made by an independent consultant or educational organization to determine the right size for the Lincoln Regional Center, including the number of inmates who may need the level of care that can only be provided by the state hospital. Such an analysis should consider whether it is appropriate to establish designated NDCS beds at the Lincoln Regional Center, as suggested by the Ombudsman's office.

**Recommendation 15:** The Committee recommends that the Department establish mission specific housing units that offer a therapeutic environment for inmates who have mental and behavioral health issues, but who cannot be admitted to the Mental Health Unit at Lincoln Correctional Center or transferred to the Lincoln Regional Center. Such populations include veterans, inmates with traumatic brain injuries, inmates with dementia, and inmates with developmental disabilities, among others.

**Recommendation 16:** The Committee recommends that NDCS inmates no longer be housed at county jails. If the Department requests funding to house state inmates in county jails, use of county jails should be limited to work release placements for individuals who will live nearby after release from incarceration, and the Department

should establish clear criteria for who may be housed in a county jail. The criteria should ensure, at a minimum, that inmates who need mental or behavioral health treatment are housed in a facility that is able to provide that treatment.

**Recommendation 17:** The Committee recommends that NDCS increase sex offender treatment options to ready more inmates for parole by their eligibility date. In particular, the Department should take action to remove language barriers to sex offender treatment.

**Recommendation 18:** The Committee recommends that NDCS provide enough medication at release to last until a scheduled community based mental health appointment. The Department should provide appropriate case management to ensure access to community based treatment and medications upon release, and should provide inmates a prescription upon release, if needed.

**Recommendation 19:** The LR34 Committee recommends that NDCS develop an implementation plan for the JPA recommendations on program delivery as soon as possible.

**Recommendation 20:** The Committee recommends that NDCS conduct assessments of all inmates by July 1, 2017. The Committee recommends that NDCS develop a plan to shorten the timeframe to conduct assessments, as previously recommended by CSG's Justice Program Assessment. If NDCS is not able to complete initial assessments of all current inmates within the timeframe recommended by the Justice Program Assessment, NDCS should contract with outside providers to complete the assessments.

**Recommendation 21:** Once assessment is complete, the Committee recommends that NDCS follow CSG's Justice Program Assessment recommendation to make program assignments based on individual's risk, needs, and time to parole eligibility.

**Recommendation 22:** The Committee recommends that NDCS increase access to cognitive-behavioral programming to ensure that it is available to inmates who need it.

**Recommendation 23:** The Committee recommends that NDCS develop evidence-based gender-specific programming for women.

**Recommendation 24:** The Committee recommends that the Department shorten the timeframe to move people into appropriate programming once assessments are complete.

**Recommendation 25:** The Committee recommends that NDCS ensure that individuals complete programming and treatment before their Parole Eligibility Date when possible, particularly when statutorily required. NDCS should implement the Justice Program Assessment recommendations to coordinate prison and community-based programming for people who are on post-release supervision and parole.

**Recommendation 26:** As recommended by the 2014 Performance Audit Committee report, the Legislature should revise the statute that requires NDCS to provide certain types of treatment prior to parole eligibility, to account for individuals with short sentences.

**Recommendation 27:** The Committee recommends that the Department establish appropriate levels of staffing as needed to administer programs throughout all the facilities and to build capacity of the programs.

**Recommendation 28:** The Committee recommends that NDCS complete a facilities space analysis for programming and assessment by July 1, 2017.

**Recommendation 29:** The Committee recommends that NDCS develop a program access plan by July 1, 2017. The plan should show how core programs will be offered in

every institution or how transportation will be provided for inmates to go to facilities that offer core programs.

**Recommendation 30:** The Committee recommends that NDCS review the budget request submitted in September to ensure that it accurately reflects the Department's staffing and spacing needs in order to increase programming capacity to inmates.

**Recommendation 31:** The Committee recommends that the Department strike the "catchall provision" from the restrictive housing rules and regulations by January 1, 2018. Specifically, the Department should strike the language, "Inmates whose presence in the general population would create a significant risk of physical harm to staff, themselves and/or other inmates." from Title 72, Chapter 1, Section 003.02 of the Nebraska Administrative Code.

**Recommendation 32:** The Committee recommends that NDCS amend Title 72, Chapter 1 to add more due process protections. The rules and regulations should require notice, in writing, of the reasons for assigning an inmate to Longer-term Restrictive Housing, and an administrative hearing where the inmate can be heard in person, and can confront and cross-examine any witness whose testimony is relevant to the case. The Department should schedule a public hearing and submit the proposed revisions to the Secretary of State no later than July 1, 2017.

**Recommendation 33:** The Committee recommends that the Legislature consider explicitly creating a statutory right to an administrative hearing to review continued assignment to Longer-term Restrictive Housing. The Legislature should also eliminate statutory references to "Disciplinary Segregation."