



OFFICE OF INSPECTOR GENERAL OF THE NEBRASKA CORRECTIONAL SYSTEM 2017/2018 ANNUAL REPORT

Abstract

An annual report regarding the Nebraska Department of Correctional Services and the Nebraska Division of Parole Supervision. The report is a summary of the year's activities of the Office of Inspector General along with numerous observations, findings, and recommendations.

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INTRODUCTION

This is the third annual report of the Office of Inspector General of the Nebraska Correctional System (OIG). The OIG was established in 2015 by the Nebraska Legislature in order to provide for increased accountability and oversight of the Nebraska correctional system. It was based on a recommendation of the Department of Correctional Services Special Investigative Committee, which was established by the adoption of Legislative Resolution 424 during the 2014 legislative session. The OIG identifies and examines systemic issues of the Nebraska Department of Correctional Services (NDCS) and the Division of Parole Supervision (Parole) and also investigates incidents resulting in death or serious injury that occur within the Nebraska correctional system. The OIG is affiliated with the Legislature's Office of Public Counsel.

The Office of Inspector General of the Nebraska Correctional System Act is found in **Neb. Rev. Stat. § 47-901 – 47-919**. On September 16, 2015, Doug Koebernick was appointed as the first Inspector General of Corrections. In March 2017 Mr. Koebernick attended the Inspector General Institute sponsored by the Association of Inspectors General. He was awarded the designation of Certified Inspector General after completing the program. He will be attending the Association's conference in October 2018 in order to continue his certification.

The OIG generates an annual report with its findings and recommendations to the members of the Judiciary Committee, the Clerk of the Legislature and the Governor by September 15th of each year. **Neb. Rev. Stat. § 47-918** requires this annual report:

On or before September 15 of each year, the Inspector General shall provide to each member of the Judiciary Committee of the Legislature, the Governor, and the Clerk of the Legislature a summary of reports and investigations made under the Office of Inspector General of the Nebraska Correctional System Act for the preceding year. The summary provided to the Clerk of the Legislature shall be provided electronically. The summaries shall include recommendations and an update on the status of recommendations made in prior summaries, if any. The recommendations may address issues discovered through investigations, audits, inspections, and reviews by the office that will (1) increase accountability and legislative oversight of the Nebraska correctional system, (2) improve operations of the department and the Nebraska correctional system, (3) deter and identify fraud, abuse, and illegal acts, and (4) identify inconsistencies between statutory requirements and requirements for accreditation. The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.

The OIG has spent considerable time the past year visiting facilities, attending meetings related to correctional issues, visiting with senators and legislative staff, gaining a better understanding of correctional facilities and related programs, and reaching out to members of the community.

Nebraska law (**Neb. Rev. Stat. § 47-902**) charges the OIG with “*assisting in improving operations of NDCS and the Nebraska correctional system.*” The OIG is committed to that responsibility and this report provides information related to those efforts. There will be many attachments to this report that will hopefully provide additional information for the reader and be useful to them in whatever role they play in the justice system in Nebraska.

The OIG would like to thank the inmates, parolees, staff and administration of NDCS and Parole, the Ombudsman's office and other community members who assisted with the OIG's efforts and shared their opinions, insights and suggestions during the past year. The OIG works continually with the staff of NDCS to understand the correctional system and their partnership in this effort is greatly appreciated.

Finally, Victor Hugo wrote, "Even the darkest night will end and the sun will rise." There are many people involved in the correctional and parole systems who make the sun rise each and every day. Their desire to help themselves or others improve their lives is noble and praiseworthy and those efforts should be celebrated.



HIGHLIGHTS OF THE REPORT

During the past year, the OIG has communicated on a regular basis with not only the Nebraska Department of Correctional Services (NDCS), the Division of Parole Supervision (Parole), and the Board of Parole, but also with the Legislature's Judiciary Committee and the Nebraska Justice System Special Oversight Committee or LR 127 Committee. The OIG examined many parts of the correctional and parole systems during the past year and the results of that work are contained in this report. The correctional system is the focus of the majority of this report.

Highlights of the report include:

- The Inspector General and the Ombudsman's Office have worked to define their relationship and it has resulted in positive outcomes (page 10);
- NDCS had 661 individuals start their Pre-Service Training in FY 17/18, an all-time high (page 13);
- NDCS overtime has more than doubled in the last four years (page 14);
- NDCS total overtime expenditures were over \$13 million in FY17 (page 16);
- NDCS protective services positions experienced the highest turnover in recent history, if not ever (page 18);
- According to the Nebraska Department Administrative Services, the turnover rate for all NDCS employees exceeded 30% in 2016 and 2017 (pages 20-21);
- According to the Nebraska Department of Administrative Services, NDCS had six positions ranked in the top 27 classifications with the highest turnover rate in state government. These positions had turnover rates ranging from 22% for Corrections Unit Case Manager to 59% for Corrections Officer (page 21);
- The Division of Health Services has made strides in the hiring of psychiatrists and psychologists (page 24);
- NDCS has taken new action to attract and retain staff (pages 25-26);
- Approximately 50 staff from Omaha are transported to and from TSCI each day to assist with the staffing situation at TSCI (page 26);
- OIG would recommend a tiered pay plan and the use of community colleges to recruit and retain staff, as well reward staff for taking on extra duties and training (pages 29-31);
- The OIG has recently conducted online staff surveys of employees at TSCI, NSP, LCC and NCCW (page 33);
- The NDCS inmate population continues to be stable (page 38);
- Nebraska had the 14th lowest incarceration rate in 2016 (page 39);
- NDCS is taking away inmate good time at much higher rates than in years past, more than tripling between 2014 and 2018 (projected) (pages 44-45);
- NDCS is restoring good time lost at a lower rate than in years past (page 45);
- Three new projects regarding NDCS facilities are moving forward (page 47);
- The OIG remains cautious about assault data reported by NDCS (page 50);
- The number of inmates in restrictive housing has increased since 2014 (page 56);
- The number of inmates who have been in restrictive housing for more than 180 days has increased from 62 in September 2016 to 158 in August 2018 (page 57);

- NDCS began a peer support pilot program at NSP in 2018 (page 63);
- Contraband remains a significant concern in NDCS facilities, but NDCS does not currently have a tracking system for contraband (pages 73-77);
- The Division of Health Services still has staffing concerns but has made important strides in a number of other areas (page 78);
- The number of medical complaints by inmates made to the Ombudsman’s office has appeared to decrease (page 79);
- There were two suicides within NDCS facilities in 2018 and NDCS established a Suicide Work Group to examine ways to reduce suicides in their facilities (page 80-82);
- NDCS’ new classification tool has resulted in over 90% of men being classified as “Low Risk” (page 86-87);
- The two inmates who escaped from LCC in 2016 have been cell mates since their escape as they have moved out of restrictive housing (pages 90-91);
- Two escapes took place from the Work Ethic Camp in McCook in August 2018 (pages 91-92);
- NDCS has taken many steps to increase and enhance programming for inmates (page 93);
- Concerns regarding the use of county jails were presented to NDCS by the OIG after the OIG toured several county jails that house state inmates. NDCS took steps to address those concerns after they were shared with them (page 104);
- The Lincoln Correctional Center has seen improvements in its operation since a new warden was hired from Ohio (page 105);
- The OIG has several concerns regarding the operation of the Nebraska State Penitentiary and will issue a supplemental report no later than October 5, 2018 (page 107);
- Restructuring took place in the NDCS Central Office in 2018 (page 108);
- The Division of Parole Supervision continues to move forward in a successful manner on a number of fronts (pages 111-112); and
- Recommendations made by the OIG begin on page 115.

A LITTLE HISTORY

Previous reports by the OIG have shared that the Nebraska correctional system has faced a number of challenges over time. Last year's report even quoted a legislative report from 1990 in which then NDCS Director Frank Gunter testified and stated the following:

Prison administrators generally agree that when the prison population exceeds capacity, their ability to manage the inmate population begins to erode. As the number of prisoners increase, the following scenarios develop:

- *There is an increasing level of stress for both inmates and staff. Staff workload/caseload increases in all areas and at all levels...sick leave usage and staff turnover rates increase, and inmate disciplinary actions and litigation increase.*
- *Staffing becomes inadequate which ultimately means less control of the inmate population. This lessening of control increases the probability of inmate problems and potential violence.*
- *Services and programs within the prison become overextended and the physical plant deteriorates at a more rapid rate. Educational and vocational programs, staffed and designed at a certain level, are now crowded or not available...Recreational program availability becomes increasingly limited. Medical and mental health services are severely strained...*
- *Inmate idleness, always a source of significant concern, increases as the prison system loses the ability to provide even make-work job assignments...*

As correctional policy makers, you have the opportunity to take a pro-active approach in dealing with the increasing prison population before it gets out of control.¹

This effort resulted in a good analysis of parole and corrections challenges during that time.

In later years, Senator Dwite Pedersen was elected to the Nebraska Legislature in 1992 and during his 16 years of service he shined a bright light on the work of the correctional and parole systems through legislation introduced and passed, as well as a number of interim studies that were conducted by his office and the Judiciary Committee during his tenure. One of those will be highlighted in this report. During the 2000's other senators became involved in the overview of these systems, such as Senators Kermit Brashear, Nancy Thompson, Pat Bourne and Brad Ashford, and their work assisted with some changes in the systems. During most of the years discussed Senator Ernie Chambers served in the Legislature and maintained an aggressive oversight as well.

In 2014, the establishment of the Department of Correctional Services Special Investigative Committee set the stage for the involvement of the Legislature, the establishment of the OIG and some changes in both of the systems.

¹ Testimony by Frank Gunter to the LR 222 Committee on September 22, 1989

OMBUDSMAN AND INSPECTOR GENERAL RELATIONSHIP

During the past three years, the relationship between the Ombudsman's office and the OIG has evolved. There has been confusion from some regarding the two roles of the two offices. The Inspector General for Corrections was hired by the Ombudsman, and reports to the Ombudsman and to two senators, the Chair of the Judiciary Committee and the Chair of the Executive Board.

The OIG was established by the Nebraska Legislature in order to provide for increased accountability and oversight of the Nebraska correctional system. The main responsibilities of the OIG are to identify and examine **systemic** issues of the Nebraska Department of Correctional Services, and to also investigate incidents resulting in death or serious injury that occur within the Nebraska correctional system.

The Ombudsman's Office is an independent complaint-handling office within the Nebraska Legislature for the use of citizens who have complaints about the actions of all administrative agencies of state government, that is, the bureaucracy of state government. In regards to correctional issues, the Office has staff who focus on **individual** complaints which can come from inmates, correctional staff and members of the public.

The OIG and the Ombudsman's office communicate constantly in order to share their respective experiences regarding correctional and parole issues. In some ways, it is a partnership in which both offices assist the other in understanding any trends, issues or concerns in those systems. They make every attempt to not duplicate their efforts. At times, their efforts may overlap, but this ends up being a positive factor for each office, as they share information and grow their respective oversight capacities through collaboration.

Recently, the brother of an inmate at TSCI contacted both offices due to concerns about the state of his brother's incarceration, including safety concerns. In this case, both offices met with him and then discussed the case. The individual concern fell under the purview of the Ombudsman's office, and a case was opened with that office. However, due to the nature of the case, the OIG also followed the case as it progressed in order to learn more about how this situation was handled by NDCS because it related to a significant systemic issue that fell under the purview of the OIG.

This is an excellent example of the two offices working together to achieve a better understanding of an issue, as well as the resolution of an individual problem for an inmate. Below are examples of other situations in which the two offices communicated and coordinated their efforts.

Digital Tablets

In recent years, NDCS allowed inmates to purchase digital music players that they could then use to purchase and listen to music, as well as send emails to those outside the facility. However, recently NDCS switched the service to a different vendor (JPAY), and the inmates were told that they could keep their previous digital music player, send it to someone outside the facility, or trade it in for a new tablet from the new vendor.²

² As part of this change, NDCS invited the Ombudsman's office and the OIG to be a part of this process. As part of that process, both offices raised concerns about the impact of this change on the inmate population, especially regarding the fact that many

In the spring, the new vendor raised their rates for music downloads without previously disclosing this to NDCS. It was brought to the attention of NDCS after an inmate notified them. This was eventually brought to the attention of the Ombudsman's office and the OIG by several inmates who complained about the situation. NDCS did not notify either the OIG or the Ombudsman about this change despite both parties having been involved in the vendor switch last year. NDCS has indicated that they will notify both parties should something like this happen again, and said that the lack of notification was an oversight. After this took place, the OIG requested a variety of information, including copies of the contracts and more information on how the decision to allow this change took place. The OIG also requested a list comprised of the top 50 downloaded songs prior to and after the price change, to better understand the impact of this increase in prices to the inmate population. NDCS had not done such an analysis. The analysis by the OIG found that the prices for those two groups of songs went up over 32% (\$1.17 per song vs. \$1.55 per song). However, when comparing the four price points before and after the increase the change in the cost per song was even more significant. The chart below indicates that three price points actually increased by 54%, and one price point increased by 65%.

Pre Price Points	Post Price Points	Price Change	Percentage Change
\$0.69	\$1.06	\$0.37	54%
\$0.78	\$1.29	\$0.51	65%
\$0.99	\$1.52	\$0.53	54%
\$1.29	\$1.99	\$0.70	54%

From all of the information provided to the OIG it appears as though NDCS signed a contract with JPAY that indicated that the cost of each song would range from \$1.00 to \$2.50. This contract was signed despite the fact that JPAY had indicated during their initial presentation (which was attended by the OIG) that they would be providing songs at prices lower than \$1.00. It would appear that JPAY then came back and said that they had to raise the prices of the songs (after they had raised the prices without notifying NDCS, then lowering the prices after NDCS found out about it). A June 15, 2018 memorandum from NDCS to the inmate population regarding the price change stated, "The price of the music is determined by JPAY based on their licensing agreements..." It then says, "The impact of the price increase of music purchases from JPAY is recognized, but the initial lower prices were erroneously inputted by JPAY." Without knowing what was said at any meetings by NDCS regarding this change, it is not known by the OIG whether or not NDCS ever discussed the fact that JPAY did, in fact, promise prices lower than the price range in the contract. Based on this information, it would appear that two things may have happened to allow this price change to take place:

- 1) NDCS signed a contract with JPAY in which the price range did not match what JPAY had actually proposed; and
- 2) JPAY then was able to increase the prices within that range, and NDCS could not fight the price increase since they had signed a contract which does not have a mechanism that

inmates had invested a significant amount of funds to pay for music on their digital device. Due to the efforts of the two offices, NDCS was receptive to a change in policy that would allow the inmates to keep their old digital device. This is a good example of a positive outcome that took place when NDCS invited the two offices to participate in a change of policy.

requires JPAY to request permission to increase prices in the future to the top of the range found in the contract.

The OIG indicated to NDCS officials that language should be in the contract which specifically covers the process involved with any future price changes.

NDCS also signed a contract with a vendor called GTL during the past year that provided tablets to the inmate population. The tablets are used to make telephone calls with numerous restrictions. However, complaints were submitted to the Ombudsman's office and the OIG regarding the poor telephone reception for those who are called by an inmate. The Ombudsman's office shared this concern with NDCS in August 2018 and NDCS responded by stating that they will be performing remediation studies regarding this issue and report the results to their office. As of the writing of this report, NDCS had not provided the Ombudsman's office with any results of these remediation studies.

NCCW Water Issue

Over the past few years, the Ombudsman's office (Assistant Ombudsman Anthony Kay has been the leader of this effort) has worked diligently with NDCS regarding water contamination issues at NCCW. The Ombudsman's office became involved with this issue after receiving complaints from women who reside at the facility related to the quality of the water and health related issues associated with possible water contaminants. During this process Mr. Kay has kept the OIG informed about the situation and any updates that took place as this issue had also been raised with the OIG. As a result of his work NCCW completed repairs/renovations to the facility's water tower, after it was determined that this would improve the water quality at the facility.

Earlier this year, the Ombudsman's office received additional complaints regarding the water quality at NCCW and found that water quality reports completed by the Department of Health and Human Services (DHHS) indicated ongoing concerns related to the copper levels found in the water. The likely source of this contamination was listed in the report as: (1) the erosion of natural deposits; (2) leaching from wood preservatives; and (3) the corrosion of household plumbing. The report found that the NCCW nursery recorded almost twice the allowable limit for copper.³ DHHS recommended that NCCW take specific action to reduce exposure, particularly for the nursery. Mr. Kay suggested the installation of a reverse osmosis unit in each of the living quarters at NCCW, including the nursery, to reduce the exposure to any contaminants. This measure was completed in the nursery earlier this year, but not in other living units.

The Ombudsman's office will continue to work with NDCS to monitor this issue, and has indicated that they will continue to keep the OIG informed as well.

³ The NCCW nursery is a part of the facility in which women who give birth while incarcerated live with their children for a set amount of time.

STAFFING

The 2016 Annual Report by the OIG put it bluntly by stating, “NDSC is in a staffing crisis.” The 2016 OIG report found that while recruitment numbers had increased, overtime, staff turnover, and staff vacancies had all increased. The 2017 OIG report had similar findings.

Recruitment

The 2016 OIG report found that during fiscal year (FY) 2013-14, 462 individuals started their pre-service training program for NDCS. This increased to 526 individuals in FY2014-15 and 587 in FY2015-16. In FY2016-17 548 employees started their pre-service training program. In FY2017-18 661 employees started their pre-service training program. The 2017 OIG report shared that the approximate training cost for each individual was \$5,792.82 which included benefits.

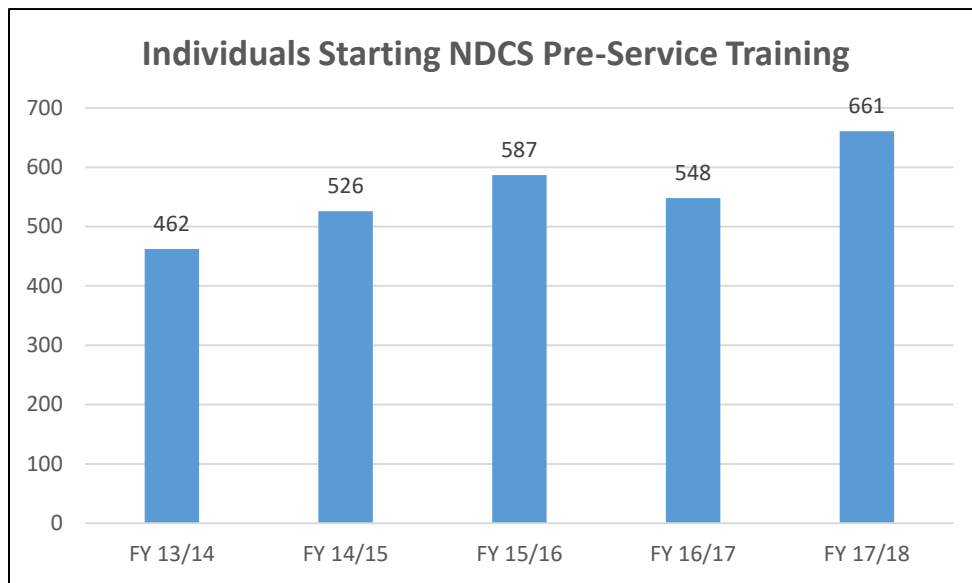


FIGURE 1

In the 2017 OIG report, the OIG reviewed the starting salaries for correctional officers in Nebraska’s neighboring states. The review found that Kansas (\$13.61/hour) and Missouri (\$13.86/hour) were significantly lower than Nebraska’s starting wage for a correction officer (\$16.74/hour) or a corporal (\$18.16/hour). As a result the OIG made a recommendation to NDCS to expand recruitment efforts by possibly advertising near the facilities that are closest to Nebraska or directly contact employees from those facilities.

Overtime

In past reports, the overtime data that has been reported has covered protective services employees. Protective service employees are defined by NDCS as the positions of correctional officer, corporal and caseworker. Previous reports found that the average amount of overtime throughout NDCS steadily grew for these employees. Figure 2 shows the changes in overtime hours worked by those staff going back to 2014. During that period overtime hours worked has continued to increase as demonstrated by the trend line in the chart. In fact, overtime hours have

increased by approximately 100%.⁴ The three facilities with the most significant overtime usage are the Tecumseh State Correctional Institute (TSCI), the Lincoln Correctional Center (LCC) and the Nebraska State Penitentiary (NSP) (Figures 3-5). Of the ten state correctional facilities in Nebraska eight have trend lines indicating consistent growth in overtime hours. One (Work Ethic Camp) demonstrates volatility in overtime use but an overall trend line that is decreasing. One (Community Corrections Center – Lincoln) actually has an overall trend line that is flat. Overtime charts for all of the facilities are attached to this report.⁵

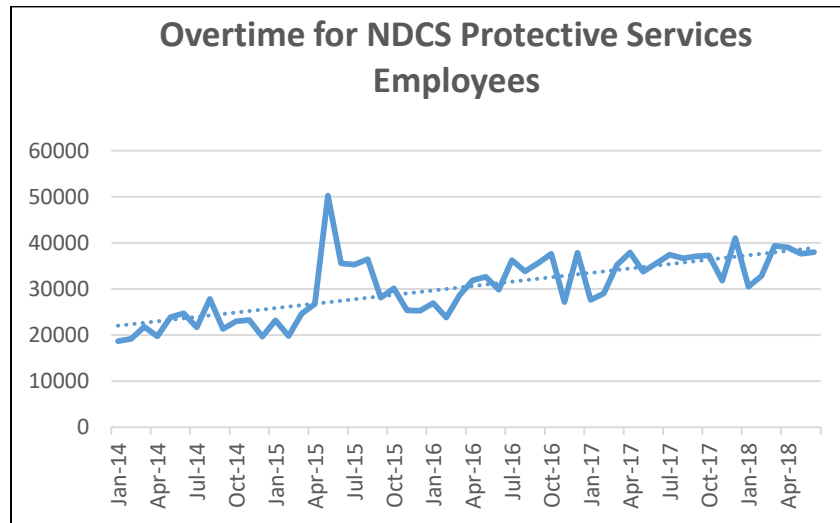


FIGURE 2

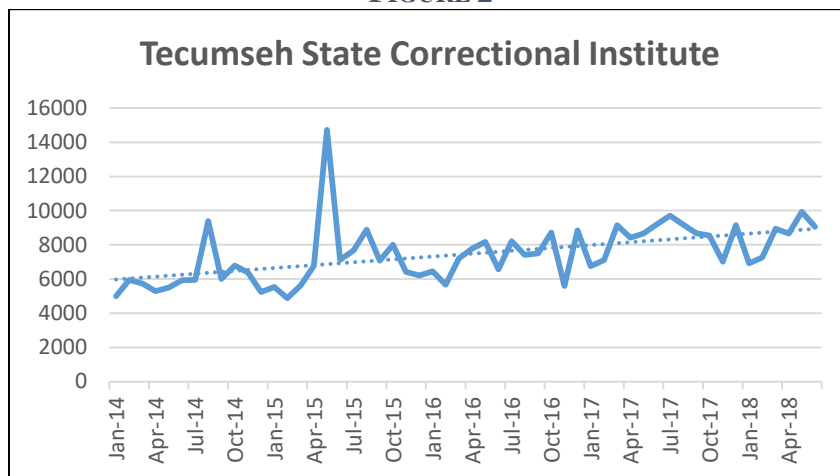


FIGURE 3

⁴ There is a significant spike in overtime rates during the summer of 2015. This took place as a result of the TSCI riot in 2015.

⁵ Attachment 1: Overtime Charts for all NDCS correctional facilities

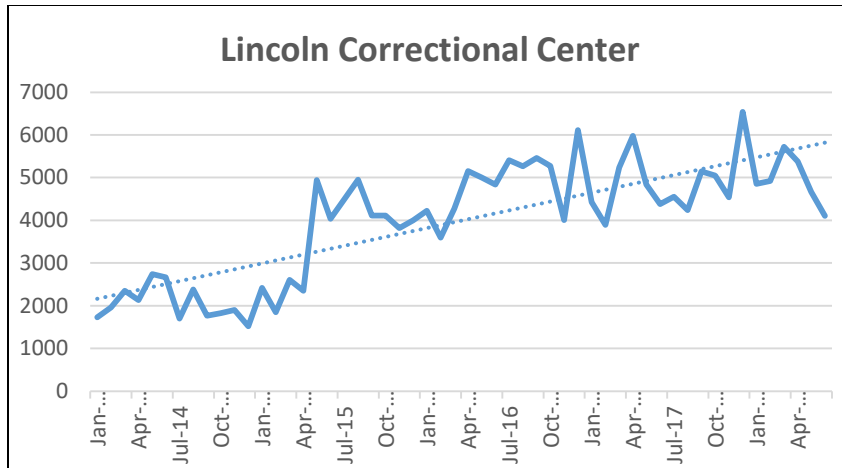


FIGURE 4

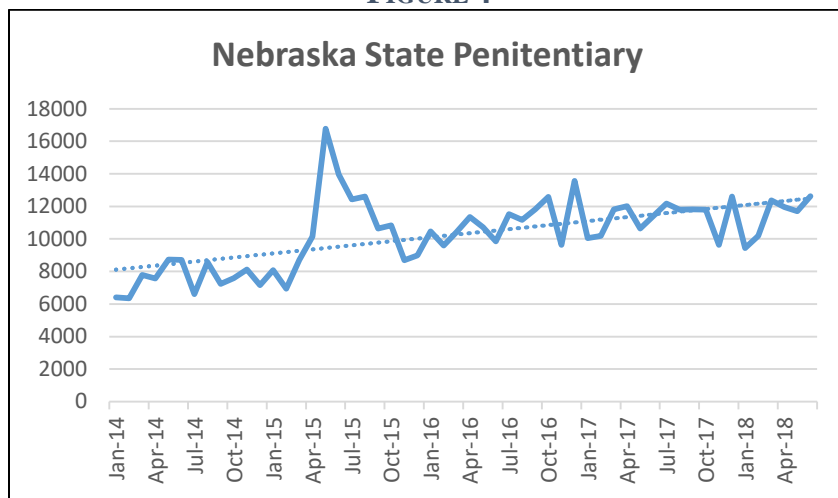


FIGURE 5

The amount of money spent on overtime for NDCS staff has increased dramatically. Overtime costs for all NDCS employees more than doubled between FY2006-07 and FY2016-17, increasing from \$5.3 million in FY2006-07 to over \$13.3 million in FY2016-17, according to the 2018 Department of Administrative Services Personnel Almanac (Figure 6).

Straight time overtime takes place when an employee who is paid a salary and not eligible for overtime works extra hours at a facility. Instead of receiving their extra pay at a rate of 150% of their hourly wage they are paid their current hourly wage. Data from NDCS shows that over 50,000 hours of straight time overtime was paid out during FY2017-18 (Figure 7).

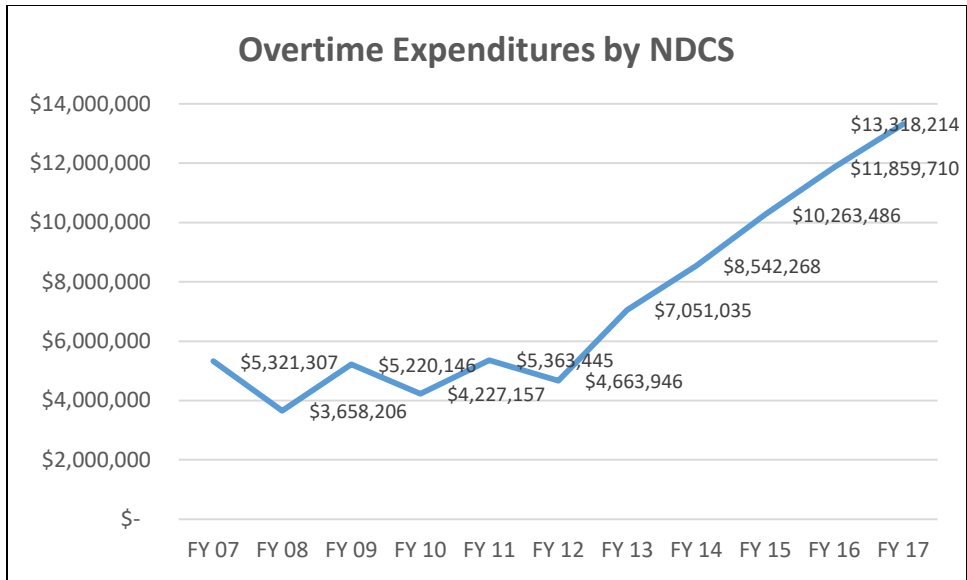


FIGURE 6 (SOURCE 2018 DAS PERSONNEL ALMANAC)

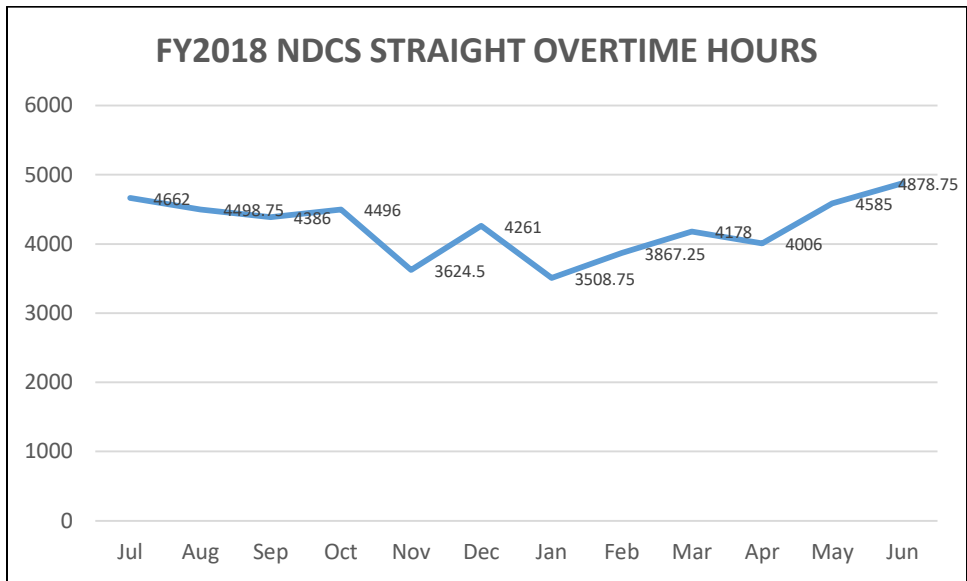


FIGURE 7

Mandatory and Voluntary Overtime

When staff work overtime hours they can either do so in a mandatory or voluntary manner. The simple difference is that mandatory overtime occurs when employees are required by NDCS to work extra hours that they were not scheduled to work, and where they do not typically have a choice in working those hours. Voluntary overtime hours are those worked by an employee as a result of their independent decision to do so. The view on mandatory and voluntary overtime is that there is a real difference, but at some facilities it is difficult to differentiate between the two categories. At facilities such as TSCI or NSP many individuals choose to work voluntary overtime in an effort to keep from receiving mandatory overtime. They also choose to work voluntary overtime due to their desire to assist their fellow employee who does not have the support around them that they likely need. Employees may also work “voluntary” overtime hours

in the hope that someone will do the same when there is not the appropriate staffing levels and they need to avoid working overtime. As a result, the OIG decided in the past to only track total overtime hours for NDCS.⁶ The bottom line is that even though mandatory overtime may be going down in some instances that does not necessarily mean that this is a positive change in the correctional system.

In 2008, the Nebraska Legislature authorized a special committee to examine the issues facing the Beatrice State Developmental Center (BSDC) through the adoption of Legislative Resolution (LR) 283. The committee conducted a thorough review of the situation at BSDC and looked at the issues of mandatory and voluntary overtime in that context. In their report the committee wrote:

The requirement of mandatory overtime as a substitute for sufficient staffing has been identified as the principal reason for abuse and neglect of residents, failure to provide active treatment to the residents, and appears as the principal reason for failure to provide adequate staff development at BSDC.⁷

At an August 22, 2008 hearing by the LR 283 Committee, the Chief Operating Officer of the Beatrice State Developmental Center, Ron Stegemann, was asked about voluntary and mandatory overtime. He was asked if employees were signing up for voluntary overtime so they could have some control over mandatory overtime. He agreed. He was then asked if what was actually important was the total amount of overtime and not just mandatory overtime and he agreed.⁸

In many ways the situation at the Beatrice State Developmental Center and some of the correctional facilities is very similar. Whether or not it is voluntary or mandatory overtime, the end result is that there has and continues to be a significant growth in the use of overtime within the state correctional system. It continues to increase and there are many employees of NDCS who have stated that it is taking a toll on their ability to do their job to the best of their abilities.⁹

As stated in previous reports, various studies and reports have found that when correctional employees work high amounts of overtime, low morale, burnout, complacency and fatigue can take place, and additional mistakes or errors on the job can be made. Staff at NDCS facilities have shared similar thoughts with the OIG in the OIG staff survey and in private conversations. NDCS also provided other information on the impact of overtime in a 2016 OIG report that is discussed in the next section of this report.

⁶ In addition, due to the way the system is constructed the number of mandatory overtime hours and voluntary overtime hours did not match the total overtime hours provided to the OIG.

⁷ LR 283 Legislative Report (page 28) -

https://nebraskalegislature.gov/pdf/reports/committee/select_special/ddsi/DDSI_2008_LR283.pdf

⁸ https://nebraskalegislature.gov/pdf/reports/committee/select_special/ddsi/DDSI_2008_LR283.pdf

⁹ The OIG has distributed staff surveys three different years which allow for comment from NDCS staff. Numerous comments by staff have shared the impact of extensive overtime. In addition, the OIG has visited with numerous staff throughout the system and has heard similar comments.

Turnover

Turnover of protective services employees significantly increased from 2010 to 2017. During that time the turnover of these positions increased by approximately 91%. During the first seven months of 2018 NDCS had 257 of these positions turnover, which projects to 440 positions turning over during 2018. This would be slightly less than the same data for 2017.

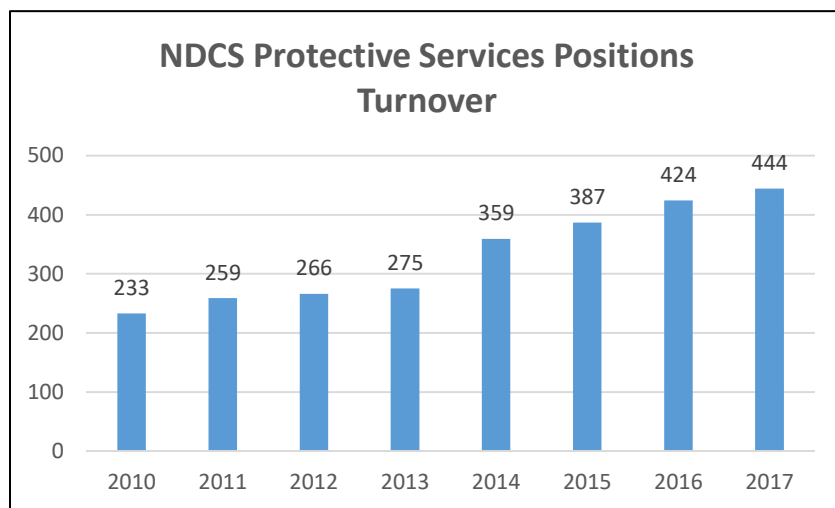


FIGURE 8

However, it should be noted that in the 2017 OIG report it was projected that there would be a total turnover of these positions of 408 and the actual number was 444. This projection was based on the first six months of 2017 while the current projection is based on the first seven months of 2018.

NDCS began sharing more detailed information regarding these positions to the OIG during the past year. The information includes the names, positions, facilities, length of employment and reason for leaving. This information has provided the OIG with a greater understanding of why individuals are leaving NDCS, and what the impact is at specific facilities. For example in June 2018 there were 44 individuals who left employment with NDCS. Of those 44 individuals nine were corporals at NSP and six were corporals at TSCI. The Omaha Correctional Center (OCC) lost seven correctional officers. Of the 44 individuals nine were involuntarily terminated and 20 employees provided less than two weeks' notice. 26 of these individuals had worked for NDCS for less than one year. This information has proven to be valuable for the OIG, and the effort by NDCS to provide more detailed information is appreciated.

According to a document compiled by NDCS regarding turnover in 2017, they found the following regarding protective services employees who left NDCS:

- 77 protective services employees were involuntarily terminated;
- 132 employees provided less than two weeks of notice to NDCS when resigning;
- 22 employees resigned who had a statement of charges pending or were under investigation, suspension or discipline;
- 26 employees transferred to another state agency; and,
- Of all employees who left NDCS employment almost 40% (242) had less than one year of NDCS work experience at the time of separation.¹⁰

NDCS has also begun to include turnover data in their quarterly data sheets which are available on their web site. Figure 9 shows how that information is shared. This data indicates that the

¹⁰ NDCS Document titled "Turnover 2017"

projected turnover rate for protective services positions is 32.79% and the projected turnover rate for the entire agency in 2018 is 24.35%. These are similar to the rates in 2017. Figure 10 shows the total turnover data for all of NDCS since 2015. The first six months of 2018 project to a decrease in overall staff turnover for NDCS when compared to 2017.

6-Month Agency Turnover (January – June 2018)			
	T/O YTD	Auth FTE	T/O Rate
Total Turnover Rate for Protective Services:	212.00	1,299.00	16.40%
Total Turnover Rate for Nurses:	4.00	62.50	6.40%
Total Turnover Rate for Education:	3.00	28.00	10.71%
Total Turnover Rate for Other:	77.00	1,049.50	7.34%
Total Projected Annual Turnover Rate for Protective Services:			32.79%
Total Projected Annual Turnover Rate for RN's & LPN's:			12.80%
Total Projected Annual Turnover Rate for Education:			21.43%
Total Projected Annual Turnover Rate Other:			14.67%
Total Agency Turnover Rate:	297.00	2,439.00	12.18%
Total Projected Agency Turnover Rate:			24.35%

FIGURE 9

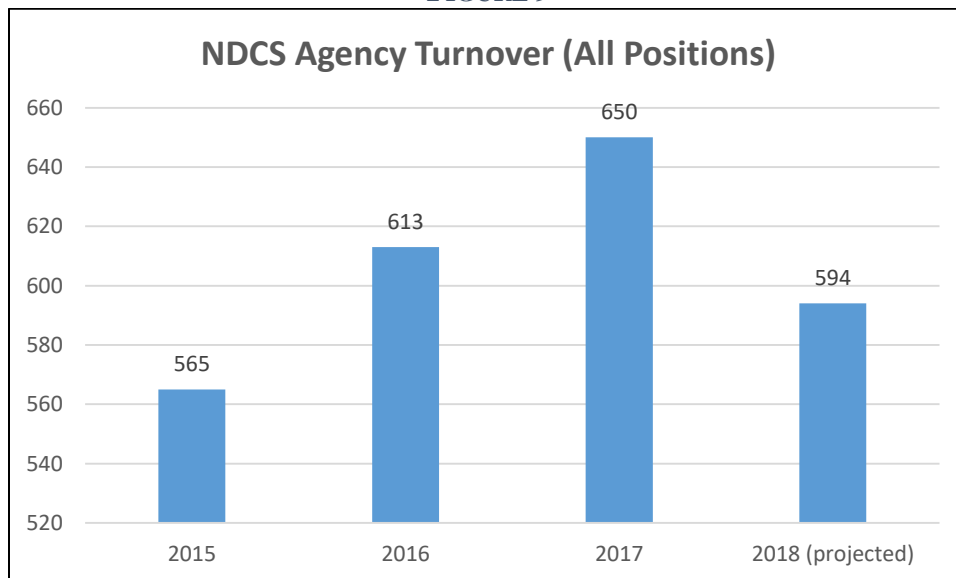


FIGURE 10

NDCS presented a report to the Legislature on January 1, 2016 regarding overtime. In the report they discussed the importance of reducing turnover by stating:

Keeping quality, trained staff is important for maintaining safe and secure prisons in Nebraska. Not only are staff responsible for keeping offenders and the public safe, they play a vital role in the rehabilitative process for offenders, assisting with their successful reentry into our communities upon release. Furthermore, the ability to retain trained correctional professionals committed to successful offender reintegration into society protects all Nebraskans.

Organizations typically view turnover rates of 12-15% as a healthy and normal part of business operations. Turnover levels in excess of 15%, however, may indicate instability

and create management difficulties. Over the past 5 years, NDCS has maintained an agency wide turnover rate of 18.5% or higher. The turnover issue is particularly troublesome among security staff positions, with turnover rates of over 28% in FY 15 and slightly higher so far this fiscal year. In order to combat this issue, NDCS is focusing its efforts on reducing turnover among key security and unit staff with a target of reducing it to 28% or lower by the end of FY 2016.

Research has shown correctional officers face higher levels of stress than workers in other lines of work. Extended exposure to occupational stress can increase the risk of serious medical conditions and have negative effects on workers' emotional and behavioral wellbeing. These impacts may lead to decreases in staff morale and higher rates of turnover among key staff positions as they search for jobs in less stressful environments. As turnover increases and fewer staff are available to perform necessary job functions, the amount of money spent on overtime pay for existing employees increases. NDCS currently faces higher than normal rates of turnover among essential custody and unit staff. In order to increase employee retention, NDCS will fill vacancies through increased internal promotions and efforts to enhance staff recruitment. Not only will this alleviate levels of stress among NDCS employees, but it will also increase efficiencies within the department's operations by reducing the amount of money dedicated to overtime expenditures.¹¹

It should be noted that the 2017 State Personnel Almanac sheds additional light on the total turnover rate for NDCS. As stated above, the NDCS overtime report stated that NDCS had maintained a total turnover rate of 18.5% or higher during the previous five years. The Almanac actually shows something different (this was not realized by the OIG last year during a review of this data). During the five years previous to this report NDCS had actually maintained a total turnover rate of 12.3% or higher during that time, not 18.5%. In fact, they had two years during that five year period in which it was under 18.5%. The overtime report did not share that in the two years previous to the report, the total turnover rate had increased to 22.2% and then to 25.3%. The year that the report came out it had increased to 31.7%.¹² New data has been released this summer in the 2018 State Personnel Almanac and it showed that the turnover rate for NDCS was 30.8% in 2017.¹³

¹¹ https://nebraskalegisature.gov/FloorDocs/104/PDF/Agencies/Correctional_Services__Department_of/559_20151231-152325.pdf

¹² Attachment 2: 2017 DAS Personnel Almanac (page 112)

¹³ <http://das.nebraska.gov/personnel/classncomp/docs/2018-almanac.pdf> (page 112)

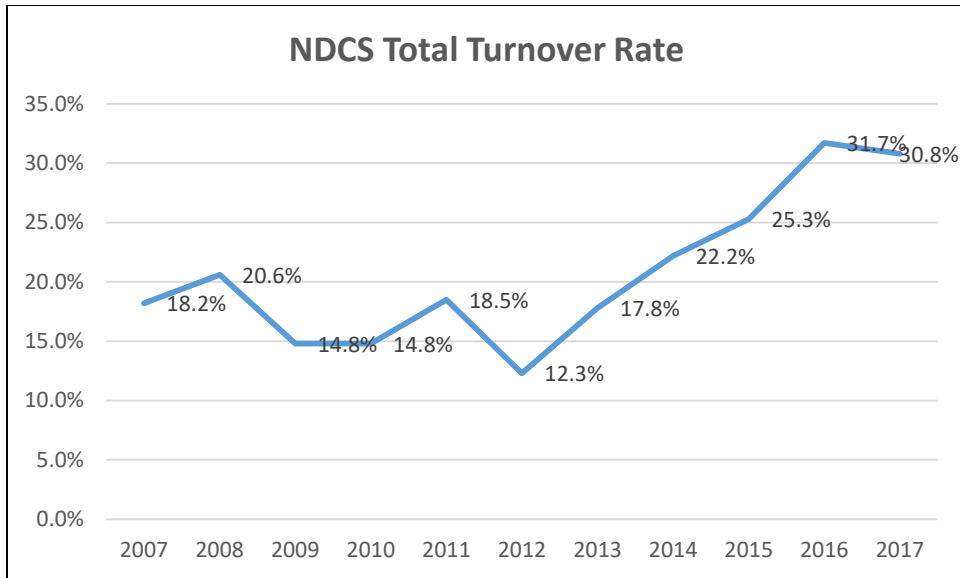


FIGURE 11 (SOURCE: 2018 DAS PERSONNEL ALMANAC)

The 2018 State Personnel Almanac also reported that in 2017 NDCS had six positions ranked in the top 27 job classifications with the highest turnover rates in state government.¹⁴ These positions had turnover rates ranging from 22% for Corrections Unit Case Manager to 59% for Corrections Officer.

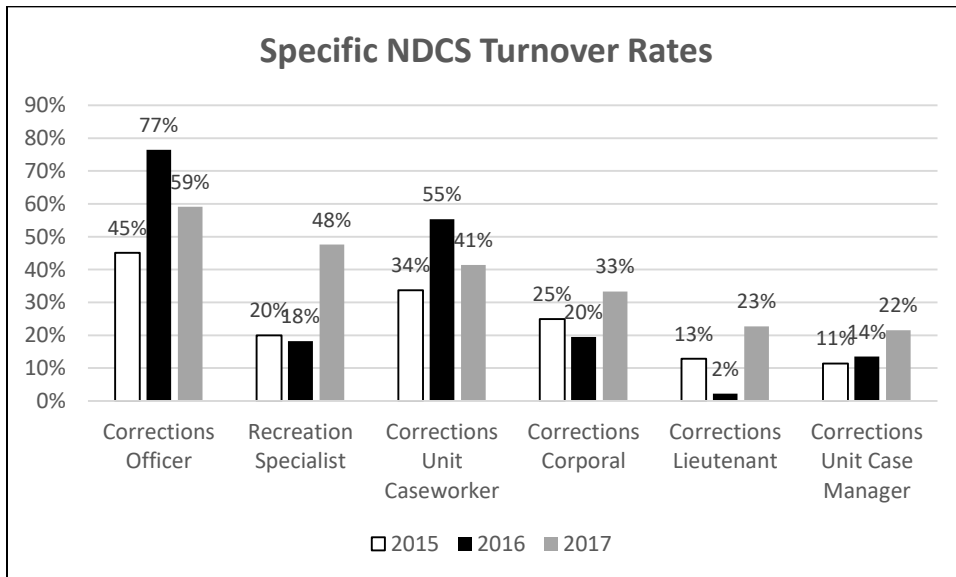


FIGURE 12 (SOURCE: 2018 PERSONNEL ALMANAC)

The OIG recently gained an understanding that NDCS and the Nebraska Department of Administrative Services (DAS) calculate turnover rates in two different manners.¹⁵ NDCS bases their turnover rate on the number of authorized FTEs for NDCS. DAS bases their turnover rates

¹⁴ For job classifications with more than 20 employees and a turnover rate greater than 15%

¹⁵ This may have been apparent or slightly confusing as the reader read pages 18-20 of this report.

on the number of people actually employed by an agency on December 31 of each year. As a result, DAS' data results in higher turnover rates than those reported by NDCS.¹⁶ The OIG contacted NDCS about this difference and was told that both methods are acceptable and that it is important to have consistency and transparency. While the OIG agrees that consistency is important, what is most important is accuracy. DAS uses their method to report the turnover rates for all state agencies. While NDCS has used their method for several years, and it was not done in an attempt to make the numbers look better, NDCS may consider using both measurements in the future and gradually transition to the DAS measurement. It is likely, based on a review of how many agencies or business track turnover rates, that using this measurement would also make the comparison between Nebraska's turnover rate for state correctional positions and other state's turnover rates for state correctional positions more of an "apples to apples" comparison.

Vacancies

As stated in past reports, vacancy data for protective services staff is somewhat more difficult to track due to changes in the way NDCS defines the actual number of vacancies. Prior to June 4, 2015, it wasn't treated as a "vacancy" if an individual was in training for a position.¹⁷ In addition, there have been other changes made by NDCS that influence statistics such as the transferring of such positions to other classifications.¹⁸ Over the past two years the number of vacancies for these positions has been fairly stable. As noted in the 2017 OIG report, an important point to remember is that NDCS completed a staffing analysis for these positions in which it identified the need for an additional 138 protective services positions. This vacancy data does not take any positions that have not been created as a result of that analysis into account. As a result of legislative action, NDCS will conduct a full staffing analysis no later than 2020 which will provide critical information on whether there are other categories that need additional staff positions. These categories could be in such areas as administrative support, medical, recreation, maintenance and even higher ranked security and case management positions.

¹⁶ The number of authorized FTEs is 2439. The number of people actually employed on December 31, 2017 was 2080.

¹⁷ Training typically takes six weeks and is done in most cases outside of their particular facility.

¹⁸ After the private health care company ended their contract with TSCI 16 vacant protective services positions were transferred to the Division of Health Services for TSCI. In this case, those 16 vacant positions were no longer captured in the NDCS vacancy report.

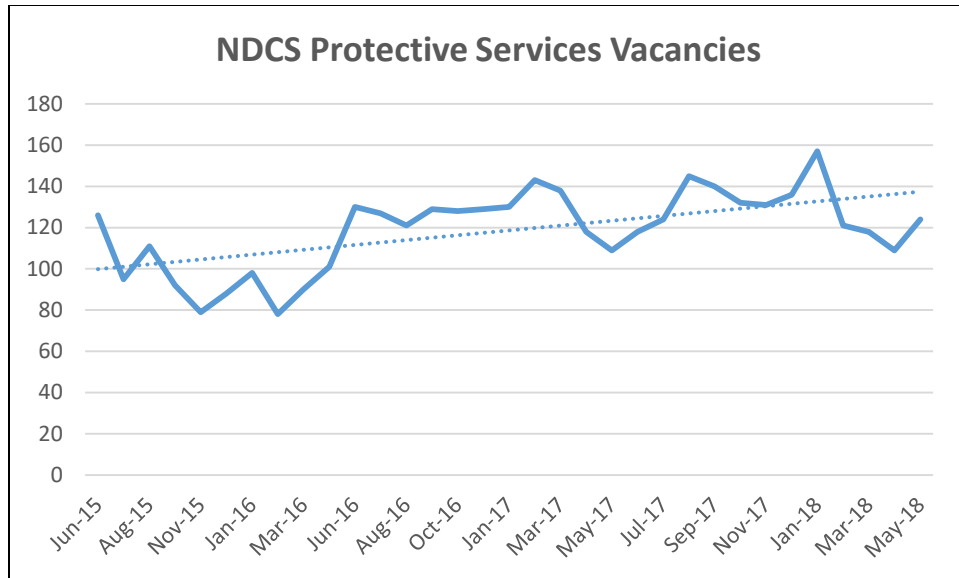


FIGURE 13

The State of Nebraska does compile and publish a quarterly State of Nebraska Vacancy Report. The latest version of this report is dated June 30, 2018. This report shows every current vacancy, the date the vacancy took place and salary information for that position. The total for the latest report is 294 vacancies.¹⁹ The June 2017 OIG report listed 292 vacancies²⁰ and the June 2016 OIG report listed 252 vacancies.²¹

Health Services Staffing

In the 2017 OIG report, NDCS had 52 vacancies within the Division of Health Services. This was one less than reported in the 2016 OIG report. This did not take into account the changes at TSCI in 2017 regarding the ending of the contract that provided for private health services. In this report there are 57 positions identified as vacant.

On July 4, 2018 NDCS had 29 Behavioral Health clinical vacancies (see Figure 14). The information in Figure 14 is reported on a quarterly basis by NDCS via their quarterly data sheets which they place on their web site.

¹⁹ https://nebraskalegislature.gov/pdf/reports/committee/appropriations/vacancy_06-18.pdf

²⁰ http://nebraskalegislature.gov/pdf/reports/committee/appropriations/vacancy_06-17.pdf

²¹ http://nebraskalegislature.gov/pdf/reports/committee/appropriations/vacancy_06-16.pdf

NDCS Behavioral Health Clinical Vacancies ⁸								
	DEC	LCC	NCW	NSP	OCC	TSC	WEC	Total
Certified Master Social Worker				1	1			2
Chemical Dependency Counselor	1	1	1	2	2	1	1	9
Chemical Dependency Counselor Supervisor					1			1
Clinical Program Manager		1			1			2
Director of Social Work				1				1
Mental Health Practitioner II		2	2	1	3	1		9
Mental Health Practitioner Supervisor					1			1
Psychologist			1		1	2		4
Total	1	4	4	5	10	4	1	29

FIGURE 14

One year ago, they had 25 vacancies in this area but the positions with the vacancies were slightly different (Figure 15).

NDCS Behavioral Health Vacancies by Facility Q4 FY 2017							
	NSP	TSCI	LCC	OCC	NCCW	WEC	Total
Psychiatrist	1		1	1			3
Psychologist	3		1				5
Mental Health Practitioner Supervisor		1	1				2
Mental Health Practitioner II	1		5		3		9
Nurse Practitioner			1				1
Chemical Dependency Counselor	3	2	1	1	2	2	11
Total	8	4	10	2	5	2	31

FIGURE 15

The Division of Health Services has made strides in the hiring of psychiatrists and psychologists,²² but is still having difficulty filling open chemical dependency counselor and mental health practitioner positions. Some facilities, such as LCC and NSP, have made positive steps in filling these vacancies but OCC has gone from two vacant positions to ten vacant positions.

Other vacancies in the Division of Health Services that were reflected in the June 2018 vacancy report included 13 Registered Nurses, nine Licensed Practical Nurses, one Nursing Director, one Pharmacy Tech, one Physician Assistant, one Dentist, one Dental Assistant and one Physician.

²² Since the 2018 quarterly data report was released that showed four psychologist vacancies the Division has filled two of those positions.

The OIG has met with leaders of the Division of Health Services many times in the past year, and has found their recruitment efforts to be thorough and strenuous. They have been transparent regarding their efforts, and openly acknowledge the difficulties that they encounter.

NDCS Recruitment and Retention Efforts

Since 2017 NDCS has attempted a variety of initiatives to impact the recruitment and retention of staff, including long-term efforts, bonuses, longevity raises, and transporting employees from one location to another.

In August 2018 the OIG met with three leaders of NDCS in order to learn more about their efforts to recruit and retain staff. The following long-term efforts being made by NDCS were shared during that meeting:

- Leadership Academy for Supervisors: NDCS has established a new training program for supervisors;²³
- SMART Goals: Action steps taken to transform NDCS goals into reality. This is a program initiated in several state agencies in 2018;²⁴
- Daily Huddles: NDCS has thirty active huddles consisting of individuals who have been trained in Lean Six Sigma;²⁵
- Employee Positive Impact Council (EPIC): Each facility holds regular meetings of their EPIC group that focus on issues such as communication, employee engagement and improving interactions with the incarcerated individuals in their facility; and,
- Process Improvements: NDCS is part of a state agency initiative that is focused on improving performance by removing waste, reducing variation and working as a team. Each NDCS employee is required to complete a one-hour online class related to this initiative.

In addition, in the past there was action taken outside of the normal negotiation process that resulted in some positions gaining an increase in their salary as well as a special emphasis on increasing the pay for corporals and hiring new employees as corporals rather than correctional officers at some facilities. There has been an increased effort at improving communication with staff by providing email accounts for all staff, increasing their social media presence and distributing a weekly email from Director Frakes called the Frakes Files to NDCS staff.

NDCS has also expanded employee recruitment advertisements on the radio and through other communication methods. They also have expanded their recruitment efforts to career fairs, schools and other settings, including working with the Nebraska Department of Labor to identify businesses that are closing in order to reach out to their employees.

Last year Director Frakes announced two plans that were focused on TSCI and NSP. The first was the providing of a \$2500 bonus for the first 100 employees hired at those two facilities. The second was the providing of a merit/longevity pay increase for all employees at TSCI. The merit/longevity pay increase can result in increases of up to 10% of one's salary, provided that

²³ Attachment 3: NDCS document on the Leadership Academy

²⁴ Attachment 4: NDCS documents on SMART Goals

²⁵ Attachment 5: NDCS document on Daily Huddles

they have performed at an acceptable level and have worked for NDCS for a certain number of years.

NDCS filled 96 of the 100 positions that were eligible for the \$2500 bonus. 71% of those staff were still employed on June 25, 2018. 44 of the 96 have received two quarterly payments of \$625.

Between October 2016 and June 2017 only four staff transferred from another facility to TSCI. However, after the merit/longevity pay when into effect at TSCI, 13 staff transferred from another facility to TSCI between October 2017 and June 2018.

One other initiative that was started by NDCS to assist staffing levels at TSCI and NSP was the hiring of individuals at OCC but assigning them to work at those two facilities. It started with 10-15 staff and they were split between the two facilities. Eventually all of the staff were shifted to TSCI. Currently there are approximately 50 staff who are transported from Omaha to TSCI each day. They are paid for the three hours of travel time and work five hours at TSCI. The immediate impact is that this has provided some relief to the staff at TSCI.

Diversity of Work Force

The 2016 OIG report found that NDCS faced challenges regarding the diversity of their workforce and that 231 minority employees (10.4% of the NDCS work force) were employed by NDCS in 2014. This increased by 16% in 2015 to a total of 269 minority employees. The latest report by the Nebraska Department of Administrative Services found that in 2016 there were 267 minority employees employed by NDCS (12.8% of the NDCS work force).

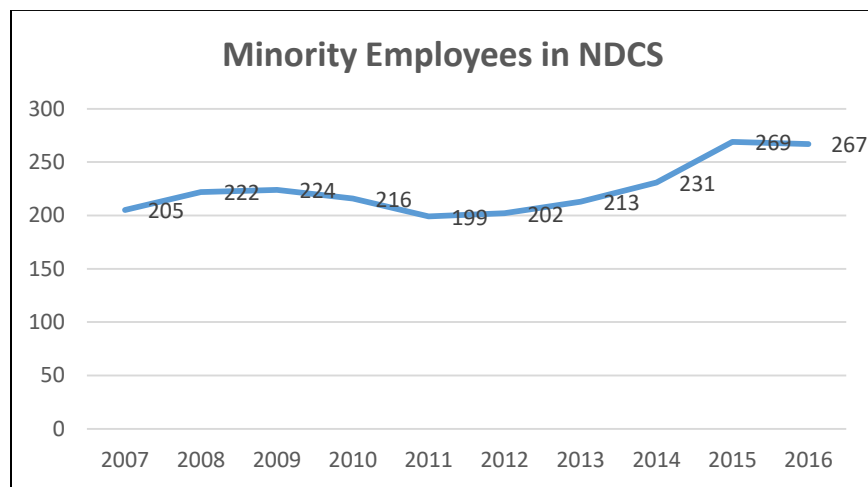


FIGURE 16 (SOURCE: STATE PERSONNEL DIVISION 2017 ALMANAC)

It is key that that NDCS continue to build upon their efforts to increase the recruitment and retention of minority staff, including staff who speak Spanish and other languages that are spoken by inmates in the NDCS facilities. One reason for the need for NDCS to increase recruitment and retention of minority staff is that this can result in building a pipeline that results in more minorities being promoted into leadership positions in NDCS. There are few minorities

in leadership positions in NDCS. This point was confirmed by then Deputy Director Diane Sabatka-Rine during a legislative hearing in 2016.²⁶

Overcrowding

On August 13, 2018, NDCS was operating at approximately 157 percent of design capacity.²⁷ This is two percent less than last year due to an increase of 100 beds in the design capacity of the system and a very slight decrease in the inmate population. According to this measurement it remains one of the most overcrowded state correctional systems in the country.

Continued Staffing Challenges

It is clear that, two years after the 2016 OIG report declared that NDCS was facing a staffing crisis, the situation has not resolved itself. In fact, the report stated, “Should the current trends continue on overtime, vacancies, and departures, NDCS will only find itself in even more of a staffing crisis and may witness what took place at BSDC²⁸, only on a much larger scale.”²⁹ **As demonstrated by the data in this report NDCS still is facing a significant staffing crisis.**

During numerous conversations that the OIG has had with staff over the past three years, there are consistent themes that they share with the OIG. Safety is a top concern and impacts their ability to do their job. Staff at some facilities feel a continual sense of fatigue as their overtime hours impact their physical and mental well-being, and they do not see an end to this trend of working long hours in a stressful environment. They also share that in many instances they do not feel they are part of the decision making process, and that changes in policy are made without their input and sometimes with very little notice. A recent study in the Criminal Justice Policy Review discussed the dangers involved with being a correctional staff member. One of the interesting findings of this study was one regarding front line custody staff:

Input into decision making was the strongest correlate of perceived risk among custody officers...Having input empowers staff to express their viewpoints and recommendations and probably expands their internal focus of control at work. In an environment where uncertainty often runs high and threat of danger is ever-present, staff who are given meaningful opportunities for input probably feel less threatened. In contrast, high external control and a lack of input can render staff feeling less able to affect their own welfare and more vulnerable to danger.³⁰

The LR 283 Committee also shared this in their 2008 Report:

²⁶

<https://nebraskalegislature.gov/FloorDocs/104/PDF/Transcripts/SpecialCommittees/Department%20of%20Correctional%20Services%20Special%20Investigative%20Committ.September%2030.%202016.pdf> (page 77)

²⁷ This accounts for the 105 individuals who were state inmates but were residing in county jails.

²⁸ BSDC is the Beatrice State Developmental Center. BSDC faced many difficulties about 10 years ago including a loss of federal funding and an investigation and oversight by the U.S. Department of Justice. Due to the deteriorating conditions at BSDC care for the residents diminished and resulted in serious injuries and deaths.

²⁹

[http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector General of the Nebraska Correctional System/600_20160915-141014.pdf](http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector%20General%20of%20the%20Nebraska%20Correctional%20System/600_20160915-141014.pdf) (page 21)

³⁰ Lambert, E. G., Minor, K. I., Gordon, J., Wells, J. B., & Hogan, N. L. (2018). Exploring the Correlates of Perceived Job Dangerousness Among Correctional Staff at a Maximum Security Prison. *Criminal Justice Policy Review*, 29(3), 215-239.

The change in this perception in Beatrice is a significant contributing circumstance to the difficulties BSDC faces in filling vacancies. Concerns expressed by employees relate to a change in the “culture” at BSDC. Employees more often than not feel left out of the process. Several employees testified that questions, concerns and suggestions went up the organizational chart but no response or feedback was ever provided by management. Interestingly, most employees, and the employee union representative, indicated that the rate of pay was not the most significant issue to employees at BSDC. The biggest impediment to job satisfaction related to the issues of culture, the absence of an engaged management and management’s abuse of mandatory overtime.³¹

Last year, the 2017 OIG report shared part of a report that was completed by the Vera Institute of Justice in 2016. In their section on staff shortages they wrote the following:

Understaffing and frequent staff turnover at NDCS are likely due to a number of factors, including the location of some facilities far from population centers, a pay structure that is uncompetitive and does not reward longevity, and stressful and perilous work environments due to overcrowding and lack of resources. This results in an increased workload, even for newer, less experienced staff. It has also led to the frequent use of mandatory overtime, which correctional officers told Vera can negatively affect staff morale and lead to increased attrition. Employees become frustrated with overtime, which increases workplace stress and interferes with their personal lives, and often seek occupations with more set schedules elsewhere.

In addition to frustration from custody staff, Vera also heard that people hired as caseworkers were often surprised to find that their actual job duties were similar to custody staff, partly due to custody staff shortages. They reported dissatisfaction with their inability to run therapeutic programs, provide social services, and proactively engage people in programming and productive activities; instead, they spend much of their time escorting incarcerated people, managing counts, and responding to grievances. This likely contributes to high turnover of caseworkers as well, which negatively impacts facility functioning, staff morale, and institutional knowledge.

Incarcerated people also told Vera that they feel that correctional staff are treated poorly and that they wish case managers had more opportunities to facilitate programs and build rapport with the population...

Understaffing and high turnover reduce the department’s ability to provide needed mental health services, heighten the risk of disruptions to treatment or failure to meet the needs of individuals, and add stress to staff that may have multiple competing responsibilities.³²

³¹ LR 283 Legislative Report (page 29) -

https://nebraskalegislature.gov/pdf/reports/committee/select_special/ddsi/DDSI_2008_LR283.pdf

³² <http://www.corrections.nebraska.gov/pdf/Vera%20Institute%20Final%20Report%20to%20NDCS%2011-01-16%20v2.pdf>
(pages 18-19)

The two reports and the study are relevant to what many staff at NDCS believe they are facing today when they report for work.

What Else Can Be Done?

Director Frakes distributed a letter throughout NDCS that expressed his concern about his staff. He wrote:

Staff vacancies, heavy workloads, two years of negative media coverage, and excessive mandatory overtime are just some of the challenges we face...NDCS employees are tired, and it might be difficult to believe that things are going to get better. It is going to get better. I've asked the legislature and others to accept on blind faith that good changes will come to our Department. Now I'm asking you to do the same.³³

This was written on May 30, 2015. In the three years since that letter was written overtime, turnover and vacancies have not improved. So the question is what else can be done to improve these staffing measures.

The 2016 OIG report made several recommendations regarding staffing. The first three recommendations at the conclusion of the report were the following:

- 1) Convene a work group on staff retention that includes people in positions throughout NDCS and individuals from outside NDCS;*
- 2) Present salary proposals to the Department of Administrative Services that would either result in longevity pay or the establishment of a tiered plan system where an employee can be rewarded for reaching certain work goals, achievements or certifications. For example, positions of Corporal I, Corporal II, and Corporal III could be created. To move from one tier to the other the individual would have to be in their position for a certain period of time, take outside classes, gain a special certification or accomplish goals established by NDCS. Health services staff could achieve something similar if they receive a form of health professional certification.*
- 3) Provide additional pay for employees who participate in extra duties that require additional training.³⁴*

In July Director Frakes indicated to the OIG that he was going to move forward on the first recommendation and establish a work group on staff retention. He asked for the input of the OIG regarding the makeup of this work group and an email was sent to him by the OIG that included the following:

First, I would include past and present employees and specifically include individuals from areas of employment that are facing retention issues. Those chosen should be people who are independent thinkers and who won't be afraid to express their opinion. It should be made clear from the beginning that this is the expectation and that all ideas

³³ Attachment 6: May 30, 2015 Letter by Director Scott Frakes to NDCS Staff
³⁴

[https://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector General of the Nebraska Correctional System/600 20160915-141014.pdf](https://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector%20General%20of%20the%20Nebraska%20Correctional%20System/600%20160915-141014.pdf) (page 62)

need to be put on the table. I would even suggest individuals who have never worked for NDCS but have some expertise in this area.

Second, the leader of this group should be an "outside the box" pick and not someone who is viewed as a "yes man" or "yes woman" and I would even argue that it should not be someone from central office. It needs to be someone that the rank and file have faith in and that they believe will be independent as well. My personal favorite for a spot like this would be someone along the lines of [REDACTED], [REDACTED] or [REDACTED] or someone lower rank than them. It could even be an outside individual. One such person could be [Dennis Wagner](#) who is a former NDCS employee who later was in charge of Human Resources for the Lancaster County Jail.

Third, I would actually have little or no central office representation on the work group because I believe there is still a feeling among your facility staff that central office will quash ideas that they do not agree with.

Fourth, I think it is vital that the work group go out and hold staff meetings to gather input and that these be widely advertised. They could also conduct staff surveys.

Fifth, I think that the group needs to work quickly and thoroughly and that their ideas are then shared with the LR 127 Committee and the Governor in case there are ideas that could result in legislation for the 2019 legislative session.

These are my initial thoughts. If you believe that it would be helpful for me to observe the work group in action I am more than open to doing so.³⁵

The second recommendation that would establish a tiered pay plan or changes to position or salary based on a special certification could be implemented by NDCS. There are already positions that are treated like this within NDCS, including such positions as Accounting Clerk I and Accounting Clerk II as well as Buyer I, Buyer II and Buyer III. This would provide employees with an ongoing incentive to enhance their job skills and as part of that process NDCS could increase their expectations of that employee and that position. This would allow for a system whereby demonstrably more seasoned employees could earn more than less seasoned employees which is an issue that has been continually been raised by NDCS staff to the OIG. NDCS could also reach out to the community colleges in Nebraska and discuss setting up a career track for NDCS positions through the creation of new correctional staff classes or other programs at a community college.

Related to this is the fact that the State of Nebraska does not have a true step plan for salary increases. In other words, a person who has been a sergeant for ten years receives the same pay as a new sergeant. It is clear in past surveys done by the OIG and NDCS that this is a significant factor in recruiting and retaining employees. This information has been shared repeatedly with policy makers and the public and is subject to bargaining between the State of Nebraska and the union representing correctional staff. However, as was explained earlier TSCI has implemented a type of pay system that rewards longevity.

³⁵ August 15, 2018 email to Scott Frakes from Doug Koebernick

The third recommendation, which could also be implemented by NDCS, rewards those who go the extra mile and complete additional training in order to participate in specialized roles in addition to their current job duties. Many times specialized teams are activated and deployed when incidents take place at various facilities. If an individual has taken additional training and has been chosen to serve on a specialized team, then they would receive additional compensation as long as they continue in that role. This would recognize their extra efforts and might also assist with recruiting more NDCS staff to volunteer for those duties.

The value of these three recommendations are clear and progress could be achieved if they are implemented. However, a fourth issue that continues to need to be addressed is much more difficult, not only to measure but also to implement, that is changing the employment culture or environment. This is a challenge for nearly all organizations, but is a particular challenge for NDCS. In 2016 NDCS even had a “Culture Study” conducted for them by the Nebraska Department of Administrative Services.

The Culture Study found that areas requiring attention included compensation, safety, resources and training effectiveness. The document and the response to it by Director Frakes provide a great deal of information related to the issues raised by employees as well as the initial response to attempting to address these issues by NDCS.³⁶ The OIG will make a recommendation to NDCS that a follow-up study is done regarding the culture of NDCS in order to see if there is any measurable change being made in these important areas.

In the next section of this report, the OIG will share results from recently conducted staff surveys. Throughout the written responses by staff who received the survey there are a number of comments that indicate continued concerns about the culture and the work environment at NDCS. One response that is representative of many others stated:

It comes down to how you treat staff. You treat staff well, you get good staff who work hard. You treat staff poorly and the climate of the department degrades. A good paying job, where seniority and hard work is rewarded, that uses positive reinforcement to create a positive place to work keeps its employees. A job that pays just enough to keep some people, where they are punished (counseling logs, statement of charges, constant verbal reprimands), overworked (mandatory overtime), no time off (can't use vacation/compensation time, can't get a weekend off from time to time, (and) can't get time off for family functions) will eventually degrade the morale to the point that EVERYONE is miserable (inmates, staff, visitors)... You HAVE to make this a desirable job to keep good employees. Staff are treated like they are replaceable...³⁷

New Normal

In the past two reports there have been sections titled “New Normal.” They discussed how when a situation gradually worsens over time each year becomes a new normal and the view (at least for some) becomes that it really is not that much worse than last year. However, if one were to

³⁶ The Culture Study can be found at https://nebraskalegislature.gov/pdf/reports/committee/select_special/lr34_2015/lr34_appendixC-04a.pdf

³⁷ Anonymous response from the 2018 OIG Staff Survey

take a step back and compare the current year to the situation five or ten years ago, then one would see that significant changes have taken place over that time period. Data shows this to be the case in overtime, turnover, overcrowding and other measurements. The 2016 OIG report stated the following:

The gradual worsening of these problems highlighted previously is something that needs to be remembered and focused on as change takes place in NDCS. It is important that people throughout NDCS take a step back and have a full understanding of the changes that have taken place over a period of five, 10 and even 20 years. This applies to vacancy rates, overtime rates, overcrowding, and turnover rates. NDCS, the Legislature, and other interested parties must look at change over a period of more than one or two years in order to accurately assess actual differences within NDCS.³⁸

As stated in the 2017 OIG report, this holds true again this year.

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[http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector General of the Nebraska Correctional System/600_20160915-141014.pdf](http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector%20General%20of%20the%20Nebraska%20Correctional%20System/600_20160915-141014.pdf) (pages 19-20)

STAFF SURVEYS

The OIG has made use of the Google survey format to distribute a number of surveys to NDCS staff since December 2015. Two of those surveys focused on the views of the staff regarding NDCS, their work environment, the culture and other correctional issues. The results of these surveys can be found in the past two OIG reports. Neither of the surveys was considered a scientific survey and there was nothing that limited staff from responding to the survey on more than one occasion. No limits on this were set because it was highly likely that some staff would be sharing a computer to respond to the survey. The true goal of these surveys was to collect much needed information and insight from those surveyed. The surveys found that many staff felt NDCS was not heading in a positive direction, that they did not look forward to going to work on most days, that they would not recommend a job at NDCS to a friend or family member, that the Legislature did not support NDCS employees and many other views. The 2017 survey had a series of questions and many opportunities for staff to share their personal views through written comments that were anonymous.

This year the OIG did not send a survey to all staff at NDCS primarily due to the amount of time that it takes to conduct such a survey. As a result of limited resources the OIG decided to distribute the surveys to staff specifically assigned (through the State of Nebraska online employee directory) to four facilities: TSCI, NSP, LCC and the Nebraska Correctional Center for Women (NCCW). It is the hope of the OIG to distribute the survey to the remaining NDCS employees over the next few months.

Scaled Statements

There were nine statements in which staff were provided and they were given a five point scale ranging from strongly disagree to strongly agree. For this report, charts are being provided that show what percentage of the staff from each of those four facilities agreed with those statements. As the reader will see, these responses will show some variance among facilities.

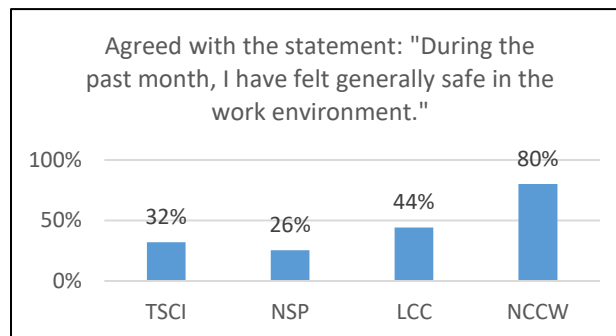


FIGURE 17

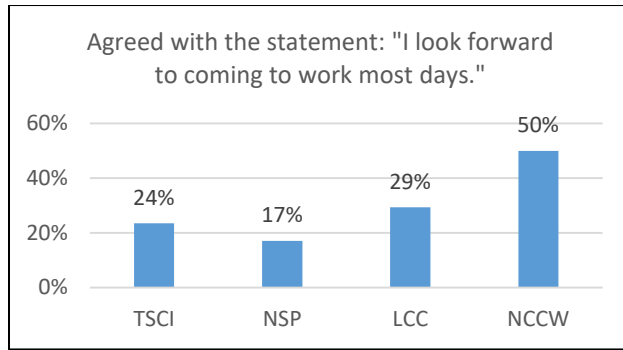


FIGURE 18

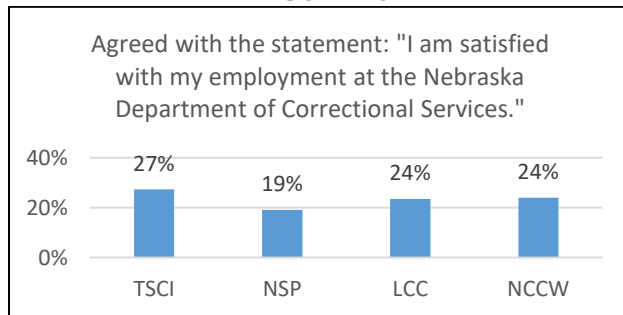


FIGURE 19

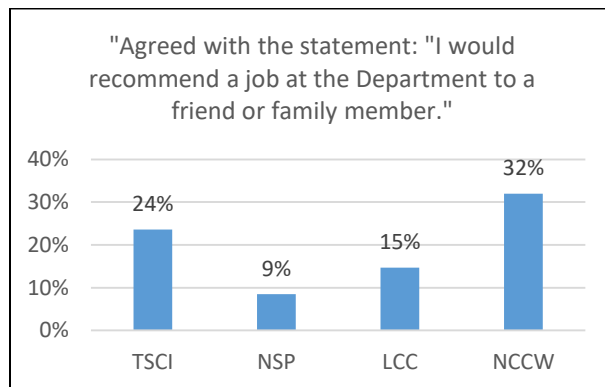


FIGURE 20

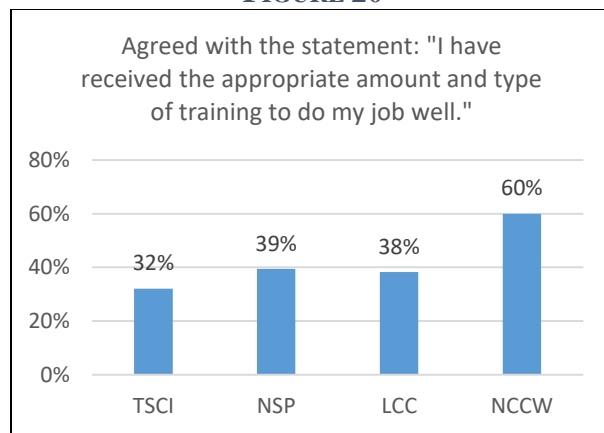


FIGURE 21

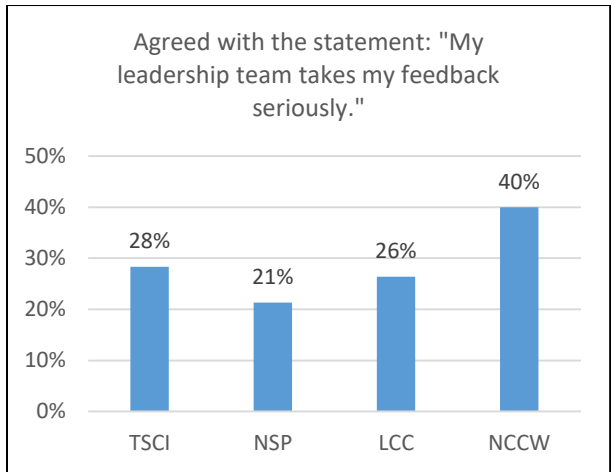


FIGURE 22

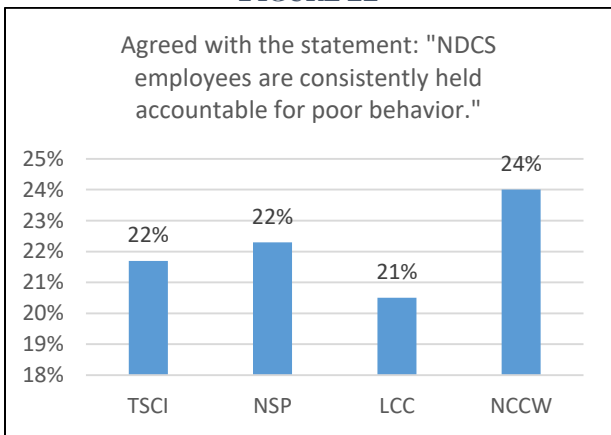


FIGURE 23

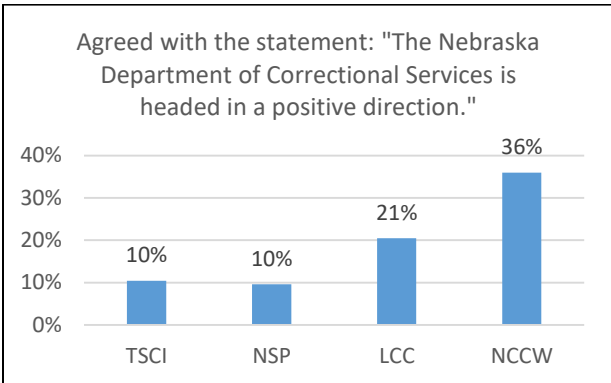


FIGURE 24

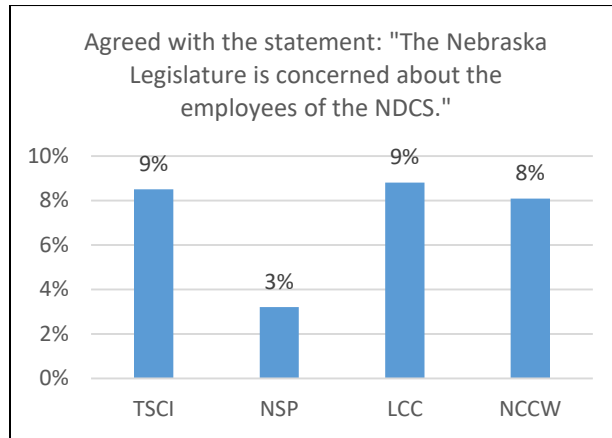


FIGURE 25

Written Comments

The survey also had a series of open-ended questions that allowed the staff to write as much as they wanted regarding the question that was asked. The questions asked were:

- Do you have any comments on how the Department can best retain employees?
- Do you have any comments on the reasons why your coworkers have left employment with the Department?
- Is there something that you believe the Department could do to better respond to the concerns and needs of the employees after a crisis?
- In the last year, what have you seen as the most significant improvement within the Nebraska Department of Correctional Services?
- What would you recommend be done to improve staff safety?
- What changes do you think could be made to improve the outcomes for inmates within the correctional system?
- How would you describe the organizational culture of the Nebraska Department of Correctional Services?
- What are your thoughts about the promotion practices of the Department?
- If you could have the Warden at your facility make one change what would it be?
- Do you have any other feedback about the operation of the Department of Correctional Services?

The responses to these questions provided a great deal of insight into the thoughts of the NDCS staff who responded to the survey. It is difficult to summarize the hundreds of responses for each answer but several consistent themes did emerge. These included:

- More accountability needed for staff and inmates;
- The good old boy club continues;
- Safety concerns about understaffing, overtime and the inconsistent treatment of inmates;
- Front line staff would like to provide more input and have someone listen to them;
- Enforce even the small rules;
- Prosecute inmates when they violate the law (one example given was when male inmates expose themselves to female staff);

- Reentry efforts are going in a positive direction;
- Add more positions to difficult units;
- Provide more job training opportunities for inmates;
- Some improvements being seen from the increase in programs being offered;
- Inconsistent promotion practices;
- Open the yards (specifically at NSP); and,
- Establish alternative shifts (8, 10 and 12 hour shifts).

As recommended earlier in this report, the OIG encourages NDCS to consider a follow-up to the Culture Study. As part of this effort, staff should be surveyed to see if the responses and results of the OIG survey are consistent with the NDCS survey. In the past there were many similarities in the results of the previous OIG staff surveys and the Culture Study. In fact, they are along the lines of thoughts expressed by Director Frakes when he testified before the LR 34 Committee on August 31, 2016 and said the following about problems facing his agency:

Concerns include compensation. They include staff believing they don't have a voice, staff believing that if they speak up they'll be retaliated against, staff feeling--well, I would say they would express it as feeling--not engaged but that's the descriptive term. It's a lack of staff engagement. Very typical of a 24/7 operation, the hours of work is often a challenge, in particular for single parents. The mandatory overtime, certainly a significant issue. And then general overtime, an issue for some because we acknowledge that staff are managing...many of the custody staff or protective services staff avoid direct mandatory overtime by working voluntary overtime so they can have control over it. So we can just say overtime. The term "good old boy system" or "good old person system" comes up and it's also described just simply as favoritism. I'm sure there's a number more, but I think that's a good start.³⁹

It could be helpful for NDCS to do something along these lines again for a number of reasons. A recent article in the *Harvard Business Review* found that employee surveys are still essential tools for a business for assessing employee engagement.⁴⁰ The article shared that surveys are great predictors of behavior, that they give employees a chance to feel that they are heard, and that they are a vehicle for changing behavior. It stated that “Not having a regular survey sends a clear message: you don’t care about people’s opinions. The act of filling out a survey gives them a specific channel for expressing voice.”

³⁹

<https://nebraskalegislature.gov/FloorDocs/104/PDF/Transcripts/SpecialCommittees/Department%20of%20Corrections%20Special%20Investigative%20Committee%20he.August%2031.%202016.pdf> (page 17)

⁴⁰ <https://hbr.org/2018/03/employee-surveys-are-still-one-of-the-best-ways-to-measure-engagement#comment-section>

INMATE POPULATION

As mentioned previously in this report, overpopulation of NDCS correctional facilities continues into 2018. As of August 13, 2018, NDCS was operating at approximately 157 percent of design capacity.⁴¹ This is two percent less than last year due to an increase of 100 beds in the design capacity of the system and a very slight decrease in the inmate population. According to this measurement it remains one of the most overpopulated state correctional systems in the country. Design capacity is the actual number of people a correctional facility was designed to serve, and provides a clear and absolute standard by which to measure a prison system’s actual capacity (or degree of over-capacity) relative to the number of inmates that the system was designed to handle. These numbers in turn are a strong indicator regarding the system’s ability to adequately manage and serve its inmate population. If a correctional facility was built to operate with 100 inmates and it now serves 200 inmates it would be operating at 200% of design capacity. In 2017 only Alabama (176%) was operating at a higher level of their design capacity than Nebraska. Nebraska’s population has significantly increased over the last several years for a number of reasons. However, the growth has flattened in recent over years (Figure 26). The OIG provided a memorandum to the Appropriations Committee and the Judiciary Committee regarding population on February 15, 2018 in order to provide the members with an update on the population situation.⁴²

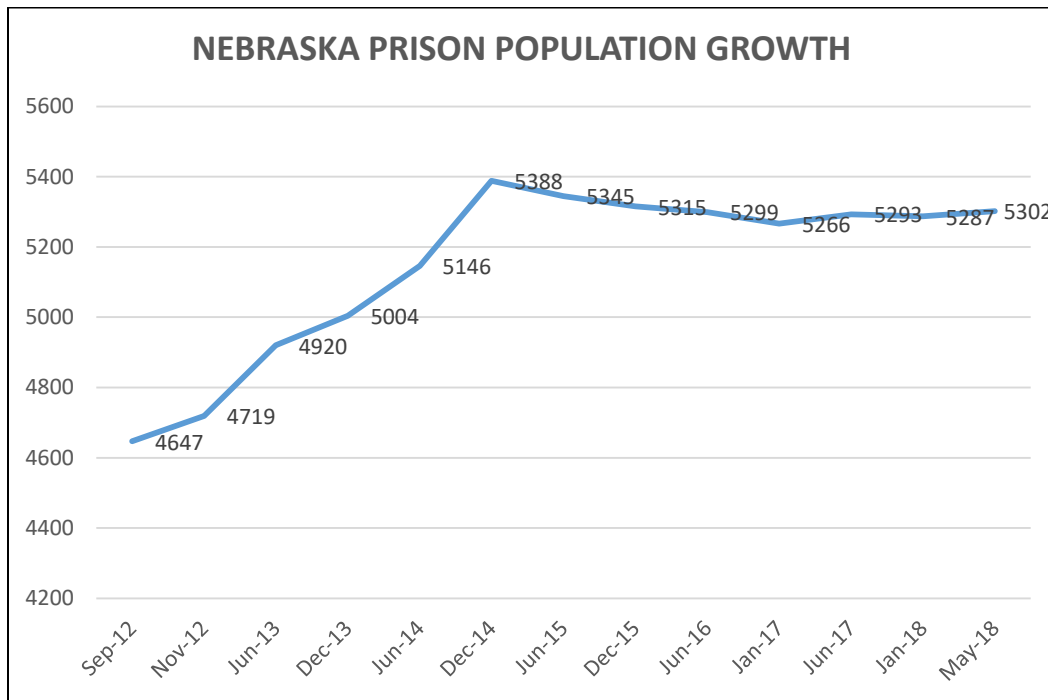


FIGURE 26

On August 18, 2018, the only facility that was not operating over their design capacity was the Nebraska Correctional Youth Facility (NCYF). The population of each of the ten correctional facilities is shown in Figure 27. Figure 28 shows at what level of design capacity each facility is

⁴¹ This accounts for the 105 individuals who were state inmates but were residing in county jails.

⁴² Attachment 7: February 15, 2018 memorandum from the OIG to the Appropriations Committee and the Judiciary Committee

operating. Last year all but three facilities were operating at over 165% of their design capacity. This year five of the facilities are operating at less than 165% of their design capacity.

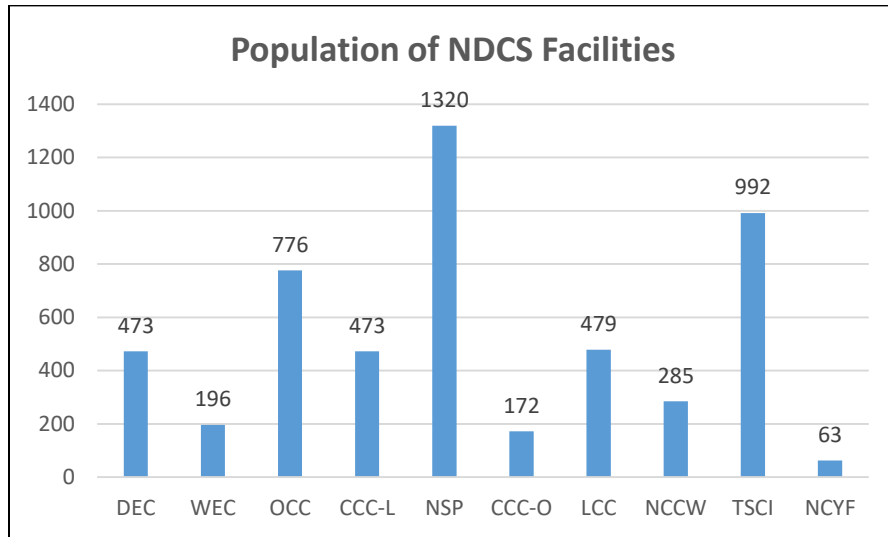


FIGURE 27: DATA FROM AUGUST 18, 2018

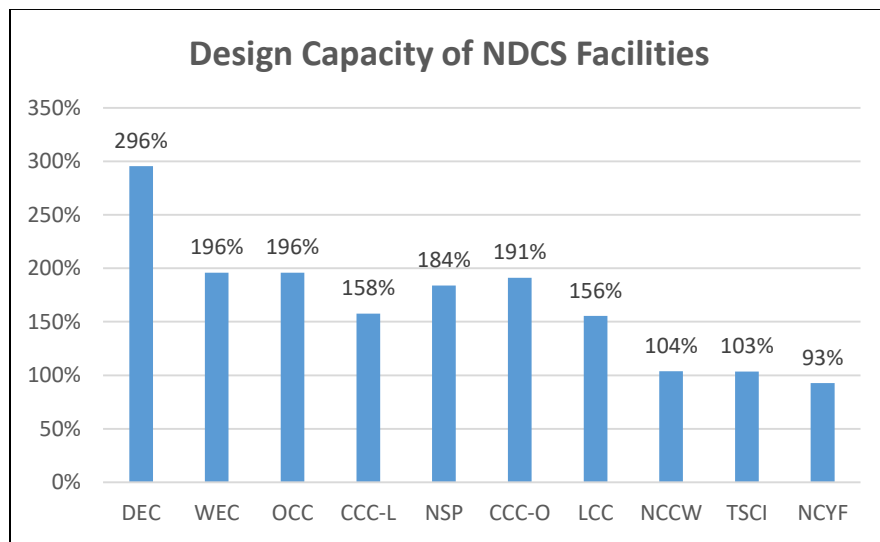


FIGURE 28: DATA FROM AUGUST 18, 2018

Incarceration Rates

There has been a perception on the part of some that since Nebraska's correctional system is overcrowded that Nebraska must be incarcerating individuals at a higher rate than other states. However, according to the United States Bureau of Justice Statistics, Nebraska had the 14th lowest incarceration rate in the nation in 2016. The incarceration rate is measured by the number of people incarcerated in state prisons per 100,000 residents in the state. Nebraska's incarceration rate in 2016 was 283 people incarcerated per 100,000 residents. The national average was 471 people incarcerated per 100,000 residents.⁴³

⁴³ <https://www.sentencingproject.org/the-facts/#rankings?dataset-option=SIR>

Within incarceration rate data there are discrepancies found when comparing different groups of people. Men are traditionally incarcerated at a much higher rate than women. Nebraska has the 11th highest racial disparity when comparing incarceration rates of black and white individuals. In Nebraska, a black individual is incarcerated at a rate 8.7 times higher than a white individual.⁴⁴ Nebraska has the 28th highest racial disparity when comparing incarceration rates of Hispanic and white individuals. In Nebraska, a Hispanic individual is incarcerated at a rate 1.2 times higher than a white individual.⁴⁵

In the last 40 years prison and jail incarceration rates have continually grown. According to the Prison Policy Initiative, Nebraska’s incarceration rate was under 100 people incarcerated per 100,000 residents in 1978 (Figure 29). A similar increase in incarceration rates took place throughout the United States during that time.⁴⁶

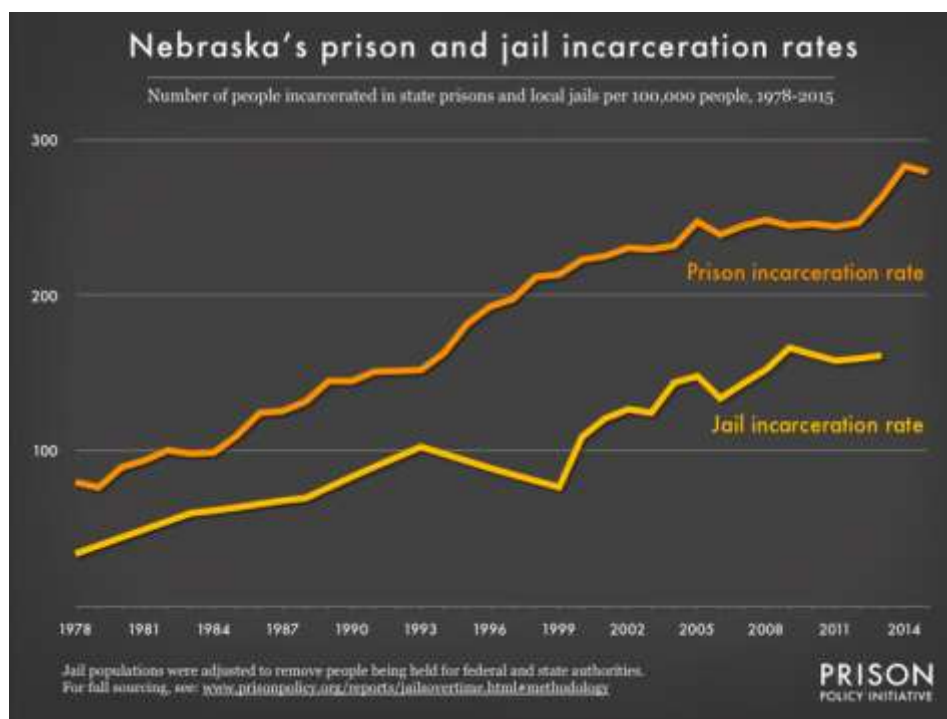


FIGURE 29

Crime Rates in Nebraska

When examining the changes in incarceration rates and prison population researchers will also compare these statistics to crime rates. The Nebraska Crime Commission tracks crime rates in Nebraska going back to 2000. These crime rate statistics include six measurements: Actual Total Offenses, Actual Violent Offenses, and Actual Property Offenses, and the number of each of those types of offenses per 1000 people living in Nebraska. Using data from the Commission from 2000, 2005, 2010, 2015 and 2017, it is interesting to consider the changes during those years regarding Nebraska’s crime rates. Generally the crime rates decreased during that period,

⁴⁴ <https://www.sentencingproject.org/the-facts/#rankings?dataset-option=BWR>

⁴⁵ <https://www.sentencingproject.org/the-facts/#rankings?dataset-option=HWR>

⁴⁶ Additional prison data on Nebraska and the rest of the United States can be found at <https://www.sentencingproject.org/the-facts/#map?dataset-option=SIR>

but have increased in the last few years, especially so in the cases of violent crime rates (Figures 30-35).

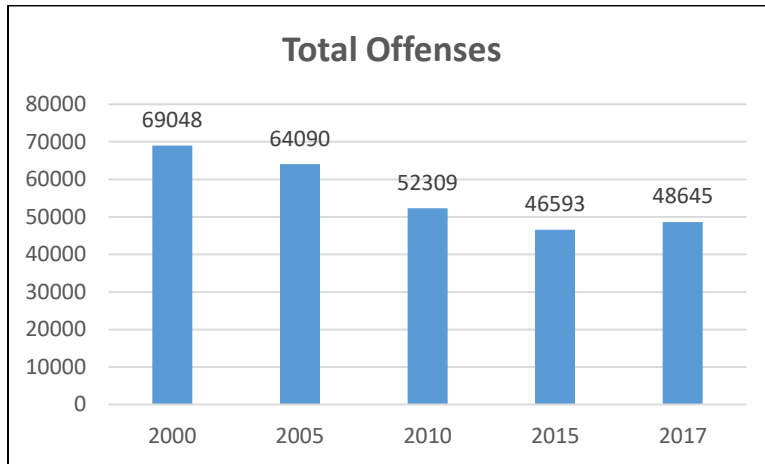


FIGURE 30

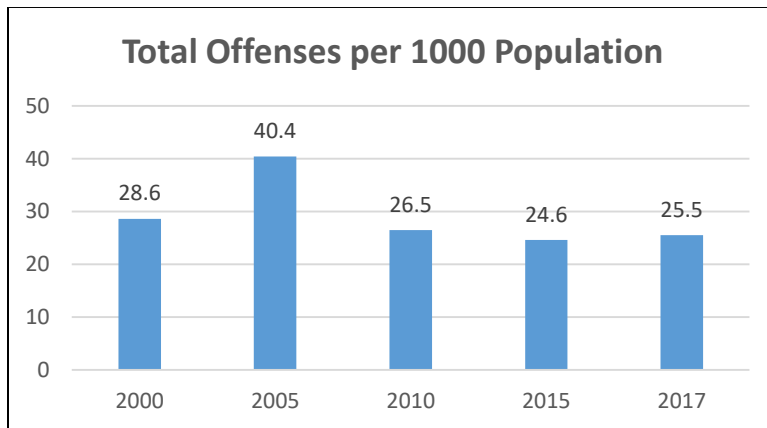


FIGURE 31

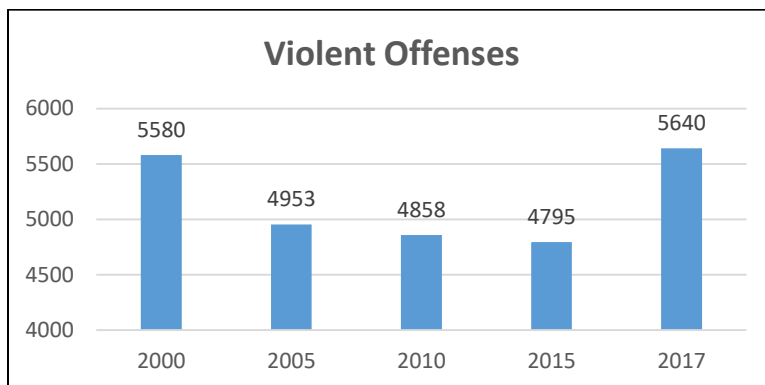


FIGURE 32

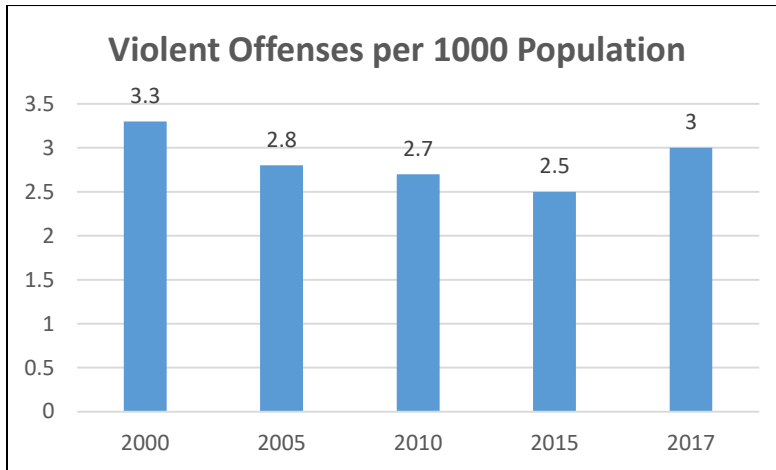


FIGURE 33

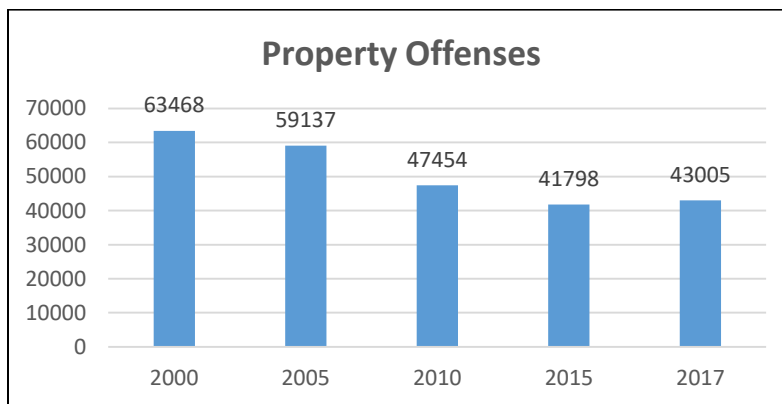


FIGURE 34

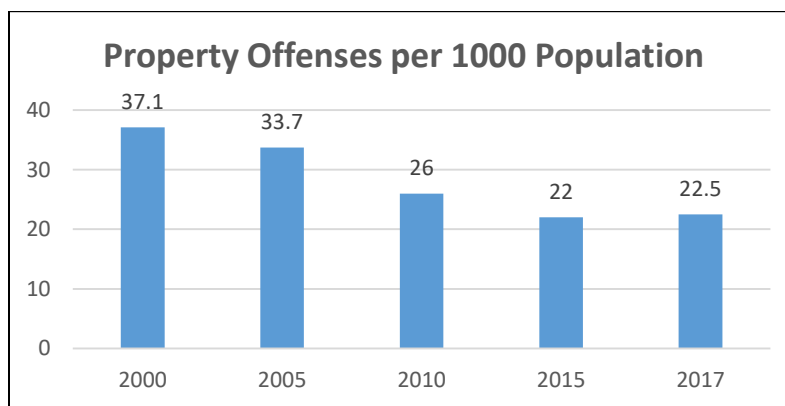


FIGURE 35

Correctional System Overcrowding Emergency Act

The Correctional System Overcrowding Emergency Act was enacted into state law in 2002 and the specifics for how it would be administered are found in **Neb. Rev. Stat. § 83-962**, which reads as follows:

83-962. Correctional system overcrowding emergency; Governor; declaration; when; effect.

(1) Until July 1, 2020, the Governor may declare a correctional system overcrowding emergency whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. Beginning July 1, 2020, a correctional system overcrowding emergency shall exist whenever the director certifies that the department's inmate population is over one hundred forty percent of design capacity. The director shall so certify within thirty days after the date on which the population first exceeds one hundred forty percent of design capacity.

(2) During a correctional system overcrowding emergency, the board shall immediately consider or reconsider committed offenders eligible for parole who have not been released on parole.

(3) Upon such consideration or reconsideration, and for all other consideration of committed offenders eligible for parole while the correctional system overcrowding emergency is in effect, the board shall order the release of each committed offender unless it is of the opinion that such release should be deferred because:

(a) The board has determined that it is more likely than not that the committed offender will not conform to the conditions of parole;

(b) The board has determined that release of the committed offender would have a very significant and quantifiable effect on institutional discipline; or

(c) The board has determined that there is a very substantial risk that the committed offender will commit a violent act against a person.

(4) In making the determination regarding the risk that a committed offender will not conform to the conditions of parole, the board shall take into account the factors set forth in subsection (2) of section 83-1,114.

(5) The board shall continue granting parole to offenders under this section until the director certifies that the population is at operational capacity. The director shall so certify within thirty days after the date on which the population first reaches operational capacity.

In the 2016 OIG report, the OIG made a recommendation to NDCS to “Work jointly with the Office of Parole Administration (now the Division of Parole Supervision) of Parole Supervision and the Board of Parole to present a plan to the Governor and the Legislature detailing how a correctional system overcrowding emergency would be administered.” The same recommendation was made in the 2017 OIG report. The Legislature passed a law (LB 841) during the 2018 legislative session that required the development of report by NDCS, the Division of Parole Supervision and the Board of Parole that will describe how the emergency would be administered. The report is due no later than December 1, 2018. This will provide

policy makers with more information so that the implications of declaring this emergency is understood.

Good Time Data

On April 17, 2018 the OIG presented a memorandum to the Judiciary Committee and the LR 127 Committee members on the subject of good time.

Below are excerpts from the memorandum:

Using the Department's information system, I was able to go back to 2014 and could look up the amount of good time lost by inmates by month, year, facility, and system...A closer look at the three largest male facilities found that all three had experienced a significant increase in the amount of good time lost over the time period...NSP had the highest rate of change as they went from 42 years of good time lost in 2014 to 270 years of good time lost in 2017. TSCI increased from 48 years of good time lost in 2014 to 179 years of good time lost in 2017. However, they are projected to have 153 years of good time lost in 2018. When looking at good time lost it is also important to look at the amount of good time that is restored...[It] indicates a gradual decrease in the amount of good time restored during that time period from 81 years of good time restored in FY 2013 to 37 years of good time restored in FY 2017.⁴⁷ After compiling and collecting this data, I thought it should be shared with your respective committees as these significant changes may be considered contributors to the overcrowding issue to some degree. I am also including an excerpt from the LR 424 report that discussed good time lost and restored.

Nebraska has had some form of good time law in state statute since as far back as 1969, or for the last 50 years. The purpose of good time laws is to help corrections officials to better manage prison populations by creating incentives for inmate's good behavior. In effect, good time laws enable correctional officials to influence inmate behavior by giving them the discretion to significantly lengthen inmates' terms of incarceration by taking away good time credits that the inmates would otherwise receive. In other words, good time laws were enacted, not to give a "gift" to inmates, but for the purpose of providing correctional officials with a tool for managing inmate behavior. In 2014, the Department of Correctional Services Special Investigative Committee found that NDCS had significantly reduced the amount of good time lost. The Committee found the following:

It is the conclusion of the Committee that the liberalization of the good time law, done at the request of the administration was in direct response to overcrowding. Similarly, the decision by NDCS to take less good time away from inmates who have violated rules within the institution was likewise directly influenced by overcrowding. Such was the testimony of Director Houston when he appeared before the Committee. The conclusion is also supported by common sense.⁴⁸

Figures 36 and 37 are two of the charts that accompanied the OIG's April 17, 2018 memorandum. They indicate a significant increase in good time being taken away over the last

⁴⁷ Attachment 8: April 17, 2018 OIG Memorandum

⁴⁸ https://nebraskalegislature.gov/pdf/reports/committee/select_special/lr424_2014/lr424_report.pdf (page 44)

several years and a decrease in the amount of good time being restored.

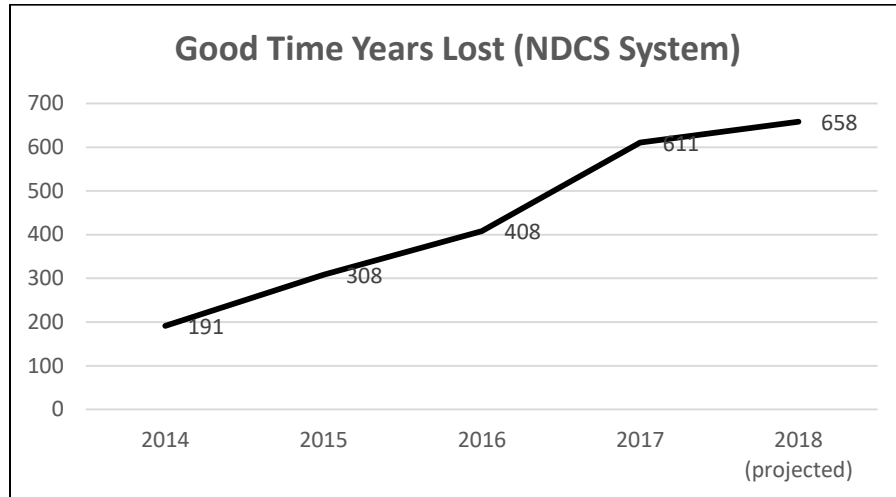


FIGURE 36

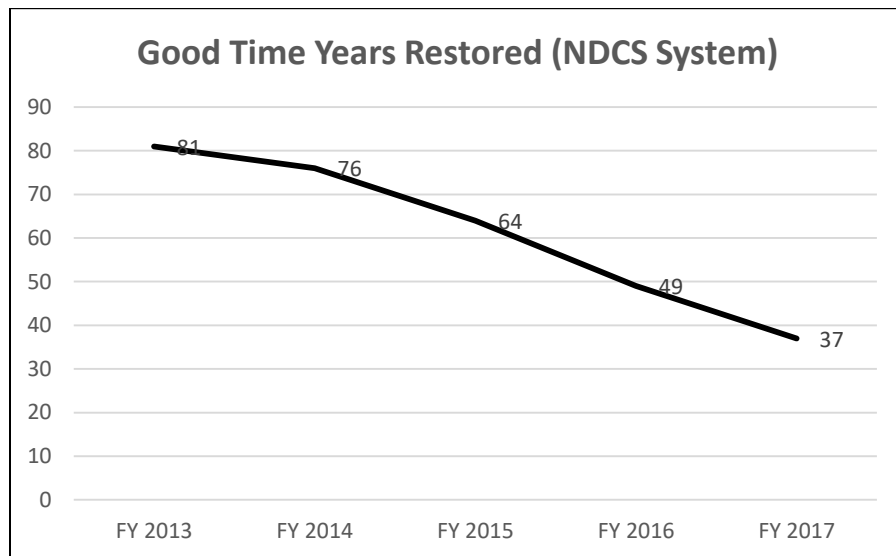


FIGURE 37

Population Goal

The 2017 OIG report discussed the recent focus on the 140% of design capacity bench mark and offered the proposition that the real goal for addressing the level of overcrowding within Nebraska’s correctional system should not be limited to trying to reach 140% of design capacity. The report stated that “Even at 140% of design capacity, the system will remain stressed and overcrowded. According to the Bureau of Justice Statistics, even if Nebraska reached a population level of 140% of design capacity, it would still be the fifth most crowded system in the United States.” In that 2017 OIG report, and in testimony before the Legislature, the OIG has suggested that Nebraska’s policy makers should establish a goal that they would like to see Nebraska’s system reach. The 2017 OIG report stated the following:

If Nebraska desires to have a system that is ranked in the middle of all of the states as far as overcrowding the goal would have to be closer to 100% of design capacity. This would require a significant change in public policy and would likely have to be a combination of building additional beds and reducing the number of inmates who enter the state correctional system. There would be many benefits related to reducing the population, many of which have been or will be described in this report.

Accomplishing that goal would not only make Nebraska's prison system more manageable, but it would likely provide more beneficial outcomes for those who are in the correctional system and eventually leave the system and reenter society. The OIG stands by this recommendation.

One possibility for reaching a population goal would be to amend the Correctional System Overcrowding Emergency Act. Currently, once an emergency is declared inmates need to be released until the system reaches 125% of design capacity. If the goal of the policy makers is to have a system that would operate at no more than 120% of design capacity (just as an example) the law could be amended by phasing in the overcrowding emergency. For example, the language requiring that inmates be released until the system reaches 125% of design capacity could be eliminated and replaced with language saying that the emergency is declared when the system exceeds 140% of design capacity on July 1, 2020, 130% of design capacity on July 1, 2021 and 120% of design capacity on July 1, 2022 and that inmates are released after it is declared until the population reaches each of those points. These are arbitrary dates but they are examples of how the law could be amended. If this were done then the system would not exceed 120% of design capacity in the future. Besides assisting with the goal of determining how the system could best operate it would also provide an additional level of safety should the overcrowding emergency declaration be needed as it would have more controls on the rate of release of inmates after it is declared.

Immediate Interventions

As NDCS implements policies that look to address overpopulation of their system, the OIG believes that it is important for NDCS to look at strategies for addressing emerging issues with inmates. For instance, there has been a significant number of misconduct reports written in the past year for inmates who use K2 or make illegal homemade alcohol. In some of these cases, inmates receive a punishment that include a placement in restrictive housing or a loss of good time. There is one individual that the OIG has followed who has had at least three instances of using K2 which resulted in disciplinary action against that inmate. The first resulted in the loss of two years of good time. The individual has a recommendation for substance abuse treatment yet despite demonstrating a difficulty with substance abuse he has received discipline, he has received no short or long term intervention to assist him with the underlying problem that is causing him to act out. The OIG plans to review the efforts in other states regarding this issue, and to share any findings with NDCS.

FACILITIES

New Construction

During the past two legislative sessions the Department has received funding for four separate building projects.

1. In September 2017 a 100 bed dormitory at the Community Corrections Center–Lincoln (CCC-L) was finished. It cost \$1.55 million and produced a building that is 7488 gross square feet. At this time, it serves men who are on work release. It currently houses approximately 80 individuals.
2. A 160 bed addition to CCC-L is currently under construction. It is scheduled to be finished in January 2019. It is intended to be a unit for women in community custody and will also have separate offices, classrooms, cafeteria and a visitation area. An appropriation of \$26 million was provided for the project and the building will be 57,018 gross square feet. Once it is finished all women who are at CCC-L and CCC-O will move there.⁴⁹
3. A \$75 million project at DEC and LCC was funded in 2017. It will establish a Reception and Treatment Center that will connect the Lincoln Correctional Center (LCC) and the Diagnostic and Evaluation Center (DEC). It will include a 32 bed skilled nursing facility that will be used for seriously or chronically ill inmates, and will primarily replace the skilled nursing facilities at DEC and NSP. It will also include a 32 bed secure behavioral health unit that will be intended to meet the needs of inmate with acute mental health or behavioral health needs. The inmates who will reside in this unit will likely be moved from a mental health treatment unit at LCC. The expansion will also include a new kitchen for the two facilities as well new space for administrative and staff support, visitation, intake and release, and other custody operations. The original proposal would have established additional special use pods, but funds were not requested for those additional purposes.⁵⁰ In theory, these pods could be added onto the facility in the future. The project has not broken ground yet, but should go out to bid this fall.⁵¹
4. Using funds that went unspent for the 160 bed unit at CCC-L NDCS will build a 100 bed minimum security dormitory at NSP in the future. The OIG expressed concerns to the Legislature after this idea was presented due to the fact that NSP has significant staffing concerns and adding a new building at NSP would require additional staff for a facility that is already difficult to staff adequately, and could cause additional stress to the facility and its already overtaxed staff.

Existing Facilities

Each of the ten correctional facilities face challenges with the way that they are currently constructed. Some of them have an antiquated physical plant that presents challenges to maintaining safety and security. Others have significant overcrowding issues and several have building maintenance issues. The September 2016 update of the NDCS Strategic Plan provided information regarding these challenges:

The wisdom of investing money into existing facilities rather than building a new prison is captured in the Master Plan document. Many of the existing facilities were constructed

⁴⁹ When this was funded the OIG expressed concerns about not having any work detail or work release beds in Omaha for women and that NDCS will be challenged to fill all of the 160 beds with women who are ready for community custody. The OIG will be following this development in 2019.

⁵⁰ The original proposal would have added over 300 beds for behavioral health, geriatric and long-term medical needs of inmates.

⁵¹ https://corrections.nebraska.gov/sites/default/files/files/41/fy17_strategic_plan_progress_report_0.pdf (pages 18-19)

during a period of time when programming and core support space were not seen as necessary or beneficial. Relocating a percentage of the population to a new facility will not address the need for improvements in most of the existing NDCS facilities. Reducing the number of inmates in our existing facilities will drive up the overall cost of operations, without significant improvement to the quality of operations. The right answer is to improve core support services and make small adjustments to bed space in existing facilities. This will provide operational capacity consistent with our population needs.⁵²

Core support space can include such needs as recreational space, educational classrooms, dining and food service areas, visitation, offices, programming space, work sites and many other needs. NCCW is a facility that houses minimum, medium and maximum custody female inmates. Unlike the male facilities that serve those populations NCCW does not have an adequate indoor recreation area, let alone a gymnasium. NCCW has a number of innovative programs, but also struggles to find adequate space to hold classes for those programs. NSP currently serves nearly 1400 men, but has only one small gym for the entire population. The facility itself is split into a maximum custody area, and a minimum custody area, but since the gymnasium is in the maximum custody area the minimum custody inmates have to enter the maximum custody area to utilize it. NSP also has a number of other needs, including educational and behavioral health space as well as dining and food service areas.

NDCS also has a maintenance backlog of over \$60 million in projects.⁵³ This presents additional challenges since NDCS is only addressing a small fraction of those projects each year. As the facilities continue to age, even more infrastructure issues will emerge which will add to that backlog.

Future Projects

In the September 2016 update of the NDCS Strategic Plan, NDCS laid out a number of projects that could be considered in the future, including:

- Adding 100 minimum custody beds to the Work Ethic Camp (WEC) and reducing the existing dormitory capacity by 40 beds to 160 beds;
- Increasing core services at WEC to support this expansion;
- Adding separate housing for female juvenile inmates at NCCW;
- Increasing core services at NCCW to support an operating capacity of 360 beds;⁵⁴
- Reducing the existing dormitory capacity by 120 beds to 480 beds at NSP by adding 120 minimum custody beds;⁵⁵
- Replacing the existing segregation unit at NSP with a functional Restrictive Housing Unit that includes programming space;

⁵² https://corrections.nebraska.gov/sites/default/files/files/39/ndcs_strategic_plan_2015_-_2018_updated_september_2016.pdf (page 5)

⁵³ According to the Legislative Fiscal Office the total maintenance backlog is \$61,946,129 which includes: Deferred Repair \$45,061,239; Energy Conservation \$2,401,760; Fire/Life Safety \$5,648,630; ADA \$2,334,500; Corrections Capital Program 913 - Security System Upgrades \$2,500,000; and, Corrections Capital Program 914 - Infrastructure and Maintenance \$4,000,000.

⁵⁴ With the additional 160 beds at CCC-L it is likely that NCCW will operate at a much lower operating capacity in the future.

⁵⁵ As discussed earlier, there will be 100 new minimum custody beds at NSP but the OIG is not aware of any plans to add these and then reduce the existing dormitory capacity.

- Increasing core services at NSP to support an operating capacity of 1350 beds;
- Adding 100 male community custody beds at CCC-O and increasing core services to support the increased operating capacity of 250 beds;
- Expanding and improving core services at OCC to support an operating capacity of 792 beds;
- Potentially adding 100 maximum custody beds at TSCI if the overall population custody levels warrant the need for higher custody beds; and
- Upgrading and/or replacing the central utility plants at NSP, DEC/LCC and CCC-L as they are at or near the end of their life spans.⁵⁶

This information demonstrates that all correctional facilities have needs that should be addressed in the future. Should NDCS decide to move forward on expanding core support services, addressing the maintenance backlog and adding new beds it is quite possible that NDCS may ask the Governor and the Legislature for funding that exceeds over \$100 million during the next biennium.

If NDCS decides to add new beds to their system they should attempt to “right-size” other facilities. In order to “right-size” a facility beds would be removed so that it would begin to operate at the size it was intended to operate. For instance, if rooms at CCC-O housed four men instead of eight men the facility and the staff could provide much better oversight and support for those who reside there.

⁵⁶ ⁵⁶ https://corrections.nebraska.gov/sites/default/files/files/39/ndcs_strategic_plan_2015_-_2018_updated_september_2016.pdf
(page 7)

ASSAULTS

During the past few years, the issue of inmate-on-staff assaults has emerged as a significant concern as public awareness regarding the assaults increased. In the past, data provided by NDCS indicated a consistent increase in staff assaults and a decrease in inmate-on-inmate assaults.

However, the 2017 OIG report stated:

At this time, the OIG is cautious about including recent assault data in the report. The reason for this is that the OIG needs to gain a better understanding of how assaults are being reported and tabulated by NDCS. NDCS has made some changes in an attempt to provide more accurate data but as part of that process it is unclear at this time whether or not a comparison between this year's data and previous years' data will be a true "apples to apples" comparison. NDCS has reported to the OIG that they have a researcher assigned to the task of combing through all assault and fight verification reports and determining if they are either fights or assaults and whether or not they resulted in a serious injury. It is a time intensive process and they have indicated that they expect to have a better report with more accurate data. At the time of the publishing of this report the NDCS report had not yet been presented. The OIG has found no fault with how NDCS is collecting and reporting their data but at this time no assault data for 2017 is included in this report.

During the past several months there have been a number of cases where staff and inmate assaults have either not been shared with the OIG or have not been shared with the Central Office of NDCS. The OIG has reached out to NDCS and expressed concerns regarding the accurate collection of this data, including examples of assaults that were not reported to the OIG. NDCS continues to work to address these concerns but at this time the OIG is not comfortable with stating whether or not the number of assaults has increased or decreased during the past two years. One change that NDCS did make is to define a serious staff assault as a staff member being struck and/or hit by an inmate for assaults that are included in monthly reports from each facility.

Neb. Rev. Stat. § 47-905 requires NDCS to provide specific reports to the OIG regarding serious injuries and death:

The department shall report all cases of death or serious injury of a person in a private agency, department correctional facility or program, or other program or facility licensed by the department to the Inspector General as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases of the death or serious injury of an employee when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such death or serious injury. The department shall also report all cases when an employee is hospitalized in response to an injury received when acting in his or her capacity as an employee of the department as soon as reasonably possible after the department learns of such hospitalization. For purposes of this subdivision, serious

injury means an injury which requires urgent and immediate medical treatment and restricts the injured person's usual activity.

The OIG believes it would be beneficial for NDCS to contact the Nebraska State Patrol whenever a staff member is assaulted in the line of duty. Recently, a female staff member was touched in an inappropriate manner by a male inmate. When the OIG learned about this potential sexual assault, the information was promptly forwarded to the Patrol. At that time, they had not received any communication from NDCS regarding this incident.

The Washington Legislature passed legislation in 2011 that required the Washington Department of Corrections to “establish a statewide security advisory committee to conduct comprehensive reviews of the department’s total confinement security-related policies and procedures” after the murder of a staff member at a correctional facility in Monroe, Washington. The committee was given the assignment of making “recommendations to the secretary regarding methods to provide consistent application of the policies and procedures regarding security issues in total confinement correctional facilities.”⁵⁷ The legislation also required the Department to do the following:

- Establish multidisciplinary teams at each facility to evaluate inmates’ placements in inmate job assignments and custody promotions;
- Develop training curriculum regarding state safety issues;
- Potentially pilot the use of body alarms and proximity cards; and
- Hire a consultant to study the deployment of video monitoring cameras within the department.

The Nebraska Legislature could consider reviewing this legislation to see if any of it is applicable to the situation in Nebraska.

⁵⁷ <http://lawfilesex.t.leg.wa.gov/biennium/2011-12/Pdf/Bills/Session%20Laws/Senate/5907.SL.pdf>

RESTRICTIVE HOUSING

Nebraska State Law

Neb. Rev. Stat. § 83-173.03 was adopted in 2015 and provides the following:

(1) Beginning July 1, 2016, no inmate shall be held in restrictive housing unless done in the least restrictive manner consistent with maintaining order in the facility and pursuant to rules and regulations adopted and promulgated by the department pursuant to the Administrative Procedure Act.

(2) The department shall adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act establishing levels of restrictive housing as may be necessary to administer the correctional system. Rules and regulations shall establish behavior, conditions, and mental health status under which an inmate may be placed in each confinement level as well as procedures for making such determinations. Rules and regulations shall also provide for individualized transition plans, developed with the active participation of the committed offender, for each confinement level back to the general population or to society.

As adopted, the law lays out a few general guidelines on restrictive housing practices and did not require NDCS to eliminate disciplinary segregation as is generally thought throughout NDCS. NDCS established more specific guidelines regarding the use of restrictive housing by adopting Title 72, Chapter One of the Nebraska Administrative Code.⁵⁸ These more specific guidelines were adopted by NDCS after a public hearing, but did so with little, if any, input from state legislators other than what is found in state statute.

NDCS Restrictive Housing Report

Nebraska state law also requires NDCS to issue an annual report regarding restrictive housing no later than September 15th of each year. The 2017 report included information on past restrictive housing practices, current actions being undertaken by NDCS, restrictive housing data, reasons for placement in restrictive housing, the needs and challenges of mentally ill inmates in a restrictive housing placement, length of stay data, protective management information, and some comparisons to efforts underway in other states.⁵⁹ After the next restrictive housing report is issued, the OIG will review it, and share a response regarding that report with the Judiciary Committee and the LR 127 Committee.

Legislatively Created External Restrictive Housing Work Group

The external work group was created in 2015 and has been led by Director Frakes. In the past two OIG reports concerns were expressed about this group not having the impact that the Legislature anticipated when it came to advising NDCS on policies and procedures related to restrictive housing practices. Members have left the group and the number of people attending the few meetings of the group have dwindled. The group does not appear to have any goals or clear mission, and NDCS does not include it in any decisions made on restrictive housing practices. In the 2017 OIG report it was suggested that the NDCS internal restrictive housing

⁵⁸ https://corrections.nebraska.gov/sites/default/files/files/1/title_72_nebraska_administrative_code_chapter-1_restrictive_housing.pdf

⁵⁹ https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services__Department_of/602_20170915-165720.pdf

work group, led by then Warden Robert Madsen, should work more closely with the external work group, but currently there remains little communication or connection between the two groups.

On November 15, 2017 the OIG sent an email to Director Frakes that shared the results of a meeting that the OIG had with the non-NDCS members of the external work group. The email shared the disappointment and frustration of the members, including their request to become more engaged and involved in restrictive housing and related practices. The OIG suggested that Director Frakes meet separately with the non-NDCS members to learn more about what they were thinking about the efforts of the group. This was not acted upon by him.

At the end of the March 2018 meeting the external work group was asked what they would like to look at as part of the role of the group. The following suggestions were made regarding the role of the group:

- Staff training;
- The Challenge Program;
- Double-bunking;
- Re-entry planning; and,
- Addressing the border between Restrictive Housing and General Population.

It was also discussed that the group should:

- Have thoughtful and open conversation to discuss new ideas;
- Weigh in on changes such as the peer mentor program and get updates about them;
- Address changes in areas such as Mental Health in restrictive housing; and,
- Problem solve and fine tune practices.

The group was told that the next meeting would be most likely conducted prior to September 15, 2018. The group received notice on September 7, 2018 that the next meeting would take place on September 29, 2018.

On April 5, 2018 the OIG sent a letter to all of the members of the external work group. It laid out suggestions on more regular meetings and the need to better understand The Challenge Program,⁶⁰ the role of NDCS Intelligence in restrictive housing, tours, programming and upcoming changes to the rules and regulations regarding restrictive housing. The letter also included the following:

Based on the last meeting and prior meetings it would be helpful to receive the following from the Department during the next month:

- *Update on any activities that have taken place in reaction to the Vera Report;*
- *Update on the work of the Internal Work Group and also whether or not members of the External Work Group could observe any future meetings of that group;*

⁶⁰ A type of transitional program implemented by NDCS that will be discussed later in the report.

- Updated data regarding the six categories of placement in immediate segregation and long-term restrictive housing;
- Updated data on direct discharges from a restrictive housing setting;
- Update on any action by the Department to establish more “blue rooms”;
- Copies of the draft of AR 210.01 that is being updated by the Department, including detailed information regarding any proposed changes;
- Additional information on restrictive housing efforts in Colorado that Warden Madsen learned about during his visit to the state; and,
- State law requires the following of the Director: “The director shall provide the work group with quarterly updates on the department's policies related to the work group's subject matter.” I would suggest that these updates be provided to the work group in the future.

The members did not receive any of this information prior to the upcoming meeting. While the OIG believes that the external restrictive housing work group could have an important role to play as changes in restrictive housing practices are made by NDCS it is now apparent that NDCS does not agree with the OIG. Either the work group should be removed from Nebraska state statute or the role and membership of the group needs to be amended so that it has a stronger role in the development of restrictive housing policies oversight of restrictive housing practices.

Restrictive Housing Changes

On July 1, 2016 two categories of restrictive housing were instituted. Immediate Segregation (IS) is the short-term housing of inmates (no more than 30 days) who have shown behavior that creates a risk to themselves or others. Longer Term Restrictive Housing (LTRH) is an intervention intended to change behavior of inmates whose own behavior results, or may result, in a risk to the safety of themselves or others. The internal and external regulations provide for a process for tracking those in restrictive housing, and for reviewing and continuing or discontinuing their stay there.

As part of that tracking and oversight process, a central office multidisciplinary review team (MDRT) has to approve the placement of an inmate in LTRH. The OIG attended a meeting of the MDRT and found it to be a detailed process that resulted in a good discussion on each case before MDRT. As a follow-up the OIG requested in December 2017 and again in August 2018 to be allowed to attend another MDRT meeting. The request was made so that the OIG could better understand how the MDRT operates and how they make their decisions, important decisions which impact hundreds of people in restrictive housing. The OIG shared that opening up this process to the OIG would result in a more transparent process by NDCS. While the first request was denied NDCS has indicated that the OIG can attend a meeting of this group in September.

Director Frakes indicated that he planned to review the accompanying restrictive housing rules and regulations one year after they went into effect in order to determine whether or not changes needed to be made to them. However, this did not take place due to an Executive Order that placed a hold on the promulgation of rules and regulations until the end of 2017. At the March 2018 meeting of the external work group Director Frakes asked for any suggestions for changes to the rules and regulations by the members. The OIG submitted thirteen suggestions to Director Frakes and the external work group members, including:

- Further defining the programming plan (for those in restrictive housing) by adding: “As much as possible, programming shall be focused on the individual needs of the inmate in the restrictive housing setting. Having a program that is focused on the specific needs of that individual will allow them to reenter general population more quickly and more successfully, as well as stay in general population in the future.” This language would establish an emphasis on specific and individualized programming for inmates in restrictive housing instead of one size fits all programming approach where an inmate might take the same program over and over and over again;
- Add a definition of “closed custody” since that has not been defined;
- Expand the definition of active STG (active involvement in a gang) so that “active” means X number of days of active gang involvement instead of having it be open-ended;
- Establish a peer mentor program in at least three facilities by no later than July 1, 2020;
- Add language regarding the MDRT process that would state: "The MDRT shall vote on each decision and the vote shall be a part of the restrictive housing record of an inmate so that the Director and other LTRH participants are able to better understand the decision that was made by the MDRT." Currently no vote is recorded or accounted for, when, by having such a record the Director or other parts of the LTRH system will be able to better understand whether or not there was consensus among the MDRT;
- Add additional language that states the following: "If a living unit within a correctional facility does not allow inmates to be out of their cell for an average exceeding six hours per day over a five day period than that living unit shall be designated as meeting the definition of a restrictive housing. Once that designation is made the living unit shall follow all regulations related to restrictive housing and any data that is collected for other restrictive housing units will also be collected for this living unit. Once a living unit that receives this designation allows inmates to be out of their cell for an average exceeding six hours over a five day period the designation shall be removed. The applying and removing of this designation shall be reported to the Deputy Ombudsman for Corrections and the Inspector General for Corrections.”; and,
- Add a prohibition to double bunking in a restrictive housing setting.

Vera Report

In 2015, the Vera Institute of Justice (Vera) began to work with NDCS to assist NDCS in decreasing its use of segregation. A report was issued on November 1, 2016.

As reported in the 2017 OIG report, Vera put forward 25 recommendations. These recommendations included such things as:

- Support staff as they adjust to a disciplinary process that no longer includes Disciplinary Segregation as a sanction, and ensure that they have adequate alternative tools to respond to misbehavior and incentivize positive behavior;
- Identify potential unintended consequences that may arise from the elimination of Disciplinary Segregation—such as the overuse of Immediate Segregation in its place—and implement strong safeguards to protect against them;
- Enact firm policies that prohibit placing youth, pregnant women, and people with serious mental illness in any form of restrictive housing that limits meaningful access to social interaction, exercise, environmental stimulation, and therapeutic programming;

- Further strengthen procedural safeguards for placement in Longer-term Restrictive Housing (a segregation category established by the new rule), to ensure that it is truly used as a last resort, only when necessary, and for as short a time as possible;
- Improve the conditions of confinement in restrictive housing units to reduce the negative effects of segregation, including by increasing out-of-cell time and recreation, minimizing isolation and idleness, and providing opportunities for rehabilitative programming;
- Create a step-down program to encourage and facilitate successful transitions from restrictive housing to general population;
- Expand the capacity of mental health care services and ensure a therapeutic environment within Secure Mental Health Units;
- Continue to explore strategies to address staff vacancies, turnover, and burnout; and
- Expand vocational, educational, and therapeutic programming and activities for the entire population, including those in restrictive housing.⁶¹

Restrictive Housing Population

One of the goals of the restrictive housing changes was to decrease the number of people placed in such a setting. In November 2014, the total number of inmates in restrictive housing units was 319 and the total number of inmates in protective management units was 310. In August 2018 the numbers had increased to 414 inmates in restrictive housing units, and 473 inmates in protective management units. Figure 38 shows the changes over the nearly past four years of these two populations by taking snapshots at certain points in time.

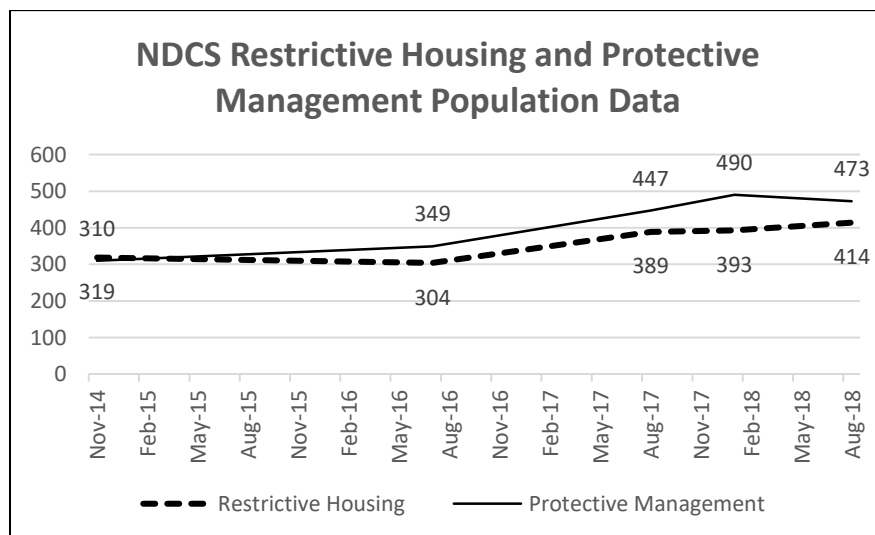


FIGURE 38

Since the fall of 2016 the number of individuals kept in a restrictive housing unit for at least 180 days has significantly increased as well. In September 2016 there were 62 individuals who had been in a restrictive housing unit for at least 180 days. Earlier this year it had increased to 185 individuals but had decreased to 158 by August 2018 (Figure 39).

⁶¹ <http://www.corrections.nebraska.gov/pdf/Vera%20Institute%20Final%20Report%20to%20NDCS%2011-01-16%20v2.pdf> (pages 4-5)

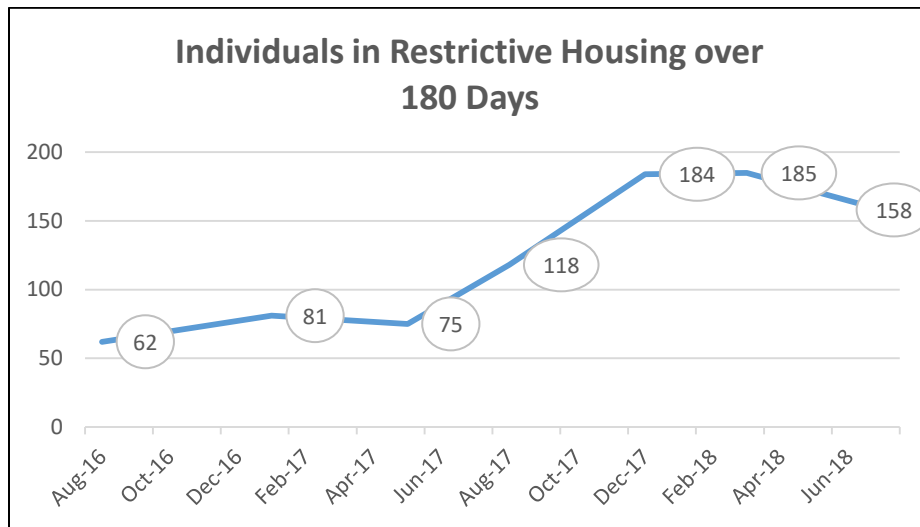


FIGURE 39

It is also important to understand who is being placed in restrictive housing units. One way to examine this is to look at the breakdown by the race of the individual. The three largest male restrictive housing units are at LCC, NSP and TSCI. When looking at the race of these individuals Black and White individuals are actually underrepresented and Hispanic and Native American individuals are overrepresented when compared to the overall male population (Figure 40).

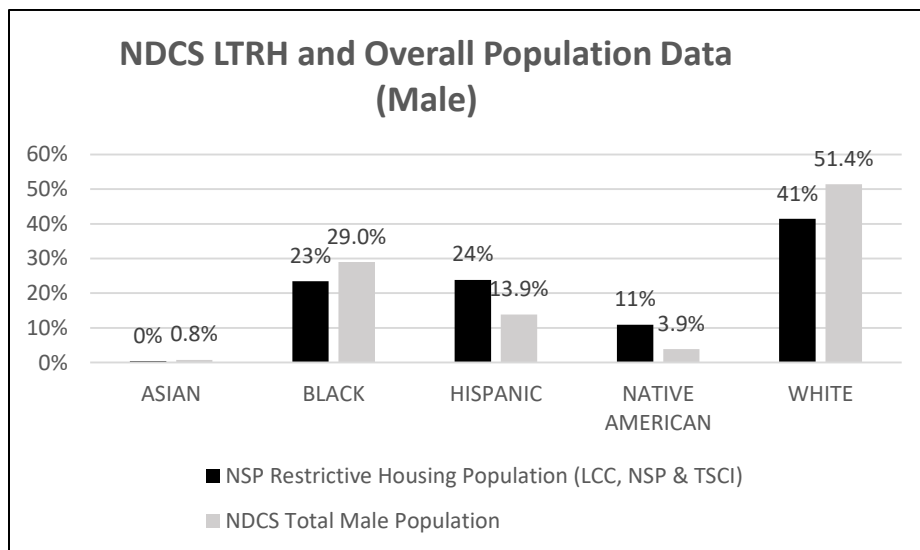


FIGURE 40

Double Bunking

In the 2017 OIG report the OIG recommended that NDCS end the practice of double bunking in restrictive housing units for a number of reasons, including the safety of the two cellmates and the impact on their mental well-being.⁶²

NDCS continues to double bunk a significant number of inmates in these units. The use is particularly widespread at NSP, despite the fact that placing inmates in this setting is a clear violation of the standards of the American Correctional Association (ACA). The 2017 OIG report described these standards and how they related to the living conditions at TSCI. However, the cells in Unit #4 at NSP are even smaller than the ones at TSCI. The ACA requires inmates who are confined to their cells for more than 10 hours a day to have at least 80 square feet in their cell with at least 35 square feet of that space being unencumbered (for one inmate). The restrictive housing cells that are double bunked at NSP contain 78 square feet with 36 square feet of that space unencumbered. While this nearly meets the standard for one person it clearly does not meet the standard when you place two inmates in that cell. The NSP Warden responded to concerns that NSP was not meeting this standard in a 2018 Internal ACA Audit by stating:

*The inmates in restrictive housing are involved in programming which encourages behavior modification and provides incentives for appropriate behaviors. Inmates in restrictive housing have yard, showers, visits and law library time outside of the cell. The current square footage provides the necessary space for an inmate to possess all the approved property afforded to inmates in restrictive housing.*⁶³

This is an interesting response. It does not address the reason why the ACA has the standard, and it does not address any concern for the quality of life for the inmates in those situations. It also makes it sound as though the inmates in those cells have more out of cell time than they actually do. In fact, they receive very little out of cell time. For most of these men they spend all but ten hours per week constrained to a very small area, where every noise, gesture, bowel movement, etc., takes place within a few feet of another human being. It is important to remember that these inmates have been placed in these cells for a specific reason, many for assaults, threats, or their inability to conform their behavior to meet the standards of their previous living unit. A significant number of restrictive housing practices have changed in the last several years due to correctional leaders being made aware of the impact of those practices on the inmates in those settings. The OIG believes that it is likely that this is another practice that will eventually be addressed due to the fact that there is no evidence that housing two inmates in this setting (at least in the conditions currently maintained by NDCS) promotes positive behavior or results in positive outcomes.⁶⁴ On the contrary, it probably does just the opposite.

Out-of-Cell Hours

In 2015, the Nebraska Legislature defined restrictive housing as “conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and

⁶² https://nebraskalegislature.gov/pdf/reports/public_counsel/2017_oig-ncs.pdf (pages 39-42)

⁶³ Attachment 9: April 18, 2018 Response to Internal ACA Audit

⁶⁴ It should also be noted that the double bunked restrictive housing cells at TSCI were originally double bunked to house general population inmates. This did not work out so those cells reverted back to restrictive housing cells except they now had two bunks. A similar situation played itself out at NSP as well.

out-of-cell time of less than twenty-four hours per week.”⁶⁵ This works out to 4.34 hours per day of out-of-cell time. The reality is that nearly every inmate who is placed in restrictive housing receives on average of less than one hour out of their cell each day. There is a unit at TSCI in which the inmates receive approximately four hours of out of cell time each day, but it is not considered restrictive housing by NDCS. This will be discussed later in this report.

Placements

There are six criteria for placement in longer term restrictive housing and they are found in Table A which has data from August 2017 and June 2018 regarding why inmates have been placed in restrictive housing.

Restrictive Housing Placement Criteria Usage	Snapshot on August 30, 2017	Snapshot on June 30, 2018
Serious Act of Violent Behavior	51.2%	48.6 %
Recent Escape or Attempted Escape	1.3%	0.8%
Threats of Actions of Violence	17.9%	13.0%
Active Membership in a STG (gang)	12.3%	17.1%
Incitement or Threats to Incite Group Disturbances	1.8%	1.8%
Presence in GP Will Create a Significant Risk of Harm	15.6%	18.6%

TABLE A

The 2017 OIG report shared concerns that had been expressed to NDCS regarding the high number of inmates being placed in restrictive housing because they fit the last criteria, that of creating a significant risk of physical harm (either to others or themselves) should they reside in general population. Director Frakes indicated that he believed that number should be lower and that NDCS was working to decrease that number. During the past year it has increased.

Another concern expressed in the 2017 OIG report regarded the use of the active STG criteria. It grew from less than 3% in early 2017 to 12.3% on August 30, 2017. During the past year it has continued to increase. During the past two years the OIG has heard from many men who have been placed in immediate segregation or longer term restrictive housing who have been told that they are in those placements because they are “active STG.” However, they had not been told what the definition of “active STG” was, and what it was that they have actually done to prove their “active STG” status. These concerns still exist and have been raised by the OIG to NDCS.

⁶⁵ Nebraska State Statute 83-170

In April 2017, 17 inmates were transferred from NSP to TSCI and placed in restrictive housing because they were identified as active STG. The OIG followed several of these cases and the Ombudsman's office worked on several as well. The OIG decided at that time to monitor two specific cases more closely than the others, in order to learn more about the placement process, restrictive housing conditions, and the pathway out of restrictive housing.

Inmate X was participating in the Violence Reduction Program and was working towards obtaining his GED while at NSP when he was moved to TSCI. Although he was placed there due to being considered an active STG member, the OIG was never presented with any actual evidence of this from NDCS. In fact, there was one response to the inmate that indicated that he was placed there for a past assault, despite his having received significant discipline for that specific assault in the past. At one point, the OIG was informed that Inmate X was being held there for his own protection. In January 2018, after many repeated efforts by the OIG and others to assist Inmate X, he was released from restrictive housing and allowed to re-enter the Violence Reduction Program. He successfully completed the program and the Board of Parole moved his parole hearing date up in order to recognize this effort and parole him. He is currently on parole and is employed. It is very likely that if the OIG and others had not advocated for the fair and impartial treatment of Inmate X he would still be in prison. The situation of Inmate X is not unlike many others currently in restrictive housing.

Inmate Y's case is similar in that he was also placed in restrictive housing because he was considered to be an active STG member. The reasons for Inmate Y's placement and continued placement has varied over time. In one document it stated "Given his past behavior, restrictive housing placement is necessary to mitigate the risk of his committing future serious assaults."⁶⁶ However, the OIG was unable to find any information that showed that Inmate Y had ever committed an assault. In discussing the current status of his case with NDCS officials, now that he has stayed in restrictive housing for over 500 days, the OIG has once again received conflicting information. One official shared that the inmate has stayed in restrictive housing because they cannot guarantee his safety in any location other than restrictive housing. Another official stated that he is staying in restrictive housing because he is a threat to others. Yet another official stated that the inmate gave other inmates countermending directions to harm others two years ago and unless he gives some sort of indication that he has given them new directions he will remain in restrictive housing. In January the Deputy Director of Prisons indicated that Inmate Y still had a program to finish before being considered for release from restrictive housing. He completed that program, and every other program that he was asked to complete, yet has not been released from restrictive housing. Since entering NDCS custody in 2012, Inmate Y has never received a misconduct report that resulted in a loss of good time or a placement in restrictive housing. As will be discussed later, The Challenge Program (TCP) was created by NDCS to transition some inmates out of restrictive housing. Despite it being provided to other inmates, including those who were involved in escapes, serious staff assaults, and serious STG related altercations, Inmate Y has not even been offered that pathway. It is unclear why someone who has never been involved in any of those serious events is not being provided with a pathway out of restrictive housing, while an inmate can escape from a maximum custody prison, or seriously injure a staff member in an assault, and be given a direct pathway out of restrictive

⁶⁶ April 25, 2017 LTRH Referral - not attaching due to confidentiality reasons

housing. In this case, the bottom line is that NDCS believes that Inmate Y has directed others to engage in assaultive behavior. If Inmate Y were in the community he would likely be charged with a crime. If that took place, then he would have his day in a court of law, and would be found guilty or not guilty based on the evidence duly presented. In NDCS, however, he does not have that opportunity. If he is guilty of what NDCS intelligence officials and leaders say he did, then it should merit his being charged with a crime. In his case he has not even received a misconduct report from NDCS, yet he has remained in restrictive housing for over 500 straight days.

During these over 500 days the OIG has met with various NDCS officials regarding the situation. After a recent meeting with an NDCS official, the OIG submitted four follow-up questions to him regarding this case. The NDCS official did not have the courtesy to respond to those questions.

Last year NDCS indicated that they would provide more information to the inmates regarding the reason that they are placed in Immediate Segregation or long term restrictive housing (LTRH). This was considered a necessary change, so the inmates would have some due process, and the ability to counter any information or charges levied against them. This has not been implemented to the degree that the OIG expected after initially bringing this concern to the attention of NDCS.

The Role of Intelligence

NDCS has a division within its agency specifically devoted to intelligence gathering (“Intel”). This has developed and grown over the past few years, and appears to have become much more involved with day to day operations of NDCS, according to many staff who have spoken confidentially with the OIG over the past two years. As a result of these confidential conversations, and the review of a number of documents, the OIG has specific concerns about the power and influence of this division, particularly since this is a division that is not normally thought to be part of the ordinary, ongoing day to day management of the facilities.

The Agency Intelligence Administrator sits on the MDRT group (the group that has a significant influence over the fate of those in restrictive housing) despite being the leader of the division that typically decides who is a threat, and needs to be placed on restrictive housing. During numerous conversations with low to high ranking staff within NDCS⁶⁷, concerns were repeatedly expressed to the OIG about the inappropriate influence of Intel on restrictive housing decisions, and the management and movement of inmates from facility to facility, and within facilities. Having the Intel administrator as a voting member of MDRT presents a conflict in the minds of many, including the OIG. While it would be appropriate to have Intel present at MDRT meetings to answer any questions regarding intelligence gathered on those being reviewed, allowing an Intel representative to have an actual vote is questionable. For instance, the current Intel administrator was personally involved in a serious incident involving inmates who were then placed in restrictive housing. When the case of one of those inmates was heard by MDRT, the Intel representative did not excuse himself from the vote or the review of the case. It would appear to be a clear conflict for that Intel representative to have that vote, yet apparently no one on MDRT expressed any reservations.

⁶⁷ These conversations were private and protected by the OIG due to concerns of many of the individuals with possible retaliation.

Inmates also believe that Intel has too much influence in these decisions. As one inmate stated to the OIG, “If I share a concern about something it is disregarded because I am an inmate. However, if I tell them that another inmate did something wrong then they willingly accept that accusation as though it is gospel.” In other words, some of the information relied upon by Intel may be inherently open to doubt, and unreliable.

Due to the private information provided to the OIG by numerous NDCS staff, the OIG has concerns about the potential for undue influence over various practices within NDCS by Intel. In addition, there are concerns about the mixing of correctional intelligence with a federal intelligence database that then restricts the ability of those outside to actually review the intelligence that is used to make these highly important decisions.

Intel also shared with the OIG, that if they receive information that an attempt is going to be made to bring contraband in a facility, that the Warden of that facility and the Deputy Director of Prisons are notified and this information is shared with them. Intel also contacts the NDCS criminal investigators and they decide if the Nebraska State Patrol will be notified. The OIG was told that they always try to intervene before it gets into the secure side of the institution. There have been cases shared with the OIG in which it is alleged that this did not take place, either the working with the Patrol or intervening before it gets into the secure side of the institution. In fact, a recent story in the Lincoln Journal-Star regarding visitors attempting to smuggle marijuana into LCC stated that the two visitors were arrested at the prison on June 6, 2018 after correctional staff saw one of the visitors pass an item to his relative during a visit.⁶⁸

As a result, the OIG would encourage Director Frakes to review the operations of Intel and possibly utilize outside entities to assist with this effort, in order to determine whether changes need to be made to improve this division, so that it more closely adheres to standards of fairness.

Close Management Units

In 2017 NDCS looked at establishing a new category of living units that were not restrictive housing, and yet not general population. They called them “close management units” and they existed at TSCI and NSP. The inmates placed in these units have been on lockdown status on a number of occasions, and have had little out-of-cell time and programming, as well as significant restrictions when it comes to their routine movement, and other activities. The OIG, and primarily the Ombudsman’s office, has been following these changes and have heard from a number of inmates who were upset about their placement in these units and their lack of activities, out-of-cell time and programs.

A May 22, 2017 memorandum from the OIG to the external restrictive housing work group stated the following regarding this situation:

First, since the March 2nd disturbance at TSCI, inmates have been housed in Unit 2B in a way that mirrors a restrictive housing setting. However, they are not considered as being in a restrictive housing setting by the Department. Neb. Rev. Statute 83-170 defines restrictive housing as the following:

⁶⁸ Attachment 10: “Accused Nebraska prison pot smugglers had been under investigation for months,” Lincoln Journal-Star. June 19, 2018.

“Restrictive housing means conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and out-of-cell time of less than twenty-four hours per week.”

For over two months, the men living in Unit 2B have had limited contact with others, have had their movements strictly controlled, and have very limited out-of-cell time. Yet, they are not counted as being in a restrictive housing placement.

In the last meeting of the external work group, the OIG suggested that a change needed to be made to NDCS regulations regarding these groups, since many times they are acting as a restrictive housing unit (primarily due to out-of-cell time), although NDCS does not follow its own regulations associated with restrictive housing units. The OIG suggested that if a housing unit is placed into a lockdown or other status, and meets the definition of a restrictive housing unit, then the NDCS restrictive housing regulations should go into effect after a certain number of days.

Peer Support Pilot Program

NDCS, as required by their rules and regulations, established a peer support pilot program at NSP in 2018. The program is still being developed but the intent of the program is to train qualified inmates to be peer supports for their fellow inmates, especially those in restrictive housing. This was an idea promoted by members of the external restrictive housing work group, and embraced by Director Frakes. It is a promising idea, and it is anticipated that as it rolls out more information regarding the success or lack of success of the program will be shared with interested parties. If it is successful, it will hopefully be started at other facilities.

The Challenge Program

NDCS has developed a transition programming for some inmates who have been placed in restrictive housing. It consists of a four phase program called The Challenge Program (TCP).

The first phase begins in restrictive housing and is called “Pre-TCP.” It lasts 5-10 weeks during which the inmate receives their long-term assignment to restrictive housing along with their approval for TCP. No programming related to TCP is offered during that Pre-TCP phase.

The second phase is actually called “Phase I – TSCI/SMU” and the inmate remains in restrictive housing at TSCI. This phase will last approximately 14 weeks, and will primarily consist of the inmate taking a program called Moral Reconciliation Therapy (MRT). However, taking MRT in a timely manner, just like with all programs, is dependent on the availability of teachers or facilitators to run those programs. Earlier this year, the OIG visited TSCI, and learned that MRT had not been delivered for two weeks due to the facilitator not being at work. A substitute facilitator was supposed to step in, but did not. However, the facility administration did not extend the program by two weeks, as they felt the inmates should not be negatively impacted by this.

The third phase is called “Phase II – TSCI/HU #2B” and is located in Housing Unit #2B at TSCI. This phase will last approximately 17 weeks. During Phase II the inmates complete a seven week

program called Challenge Series in which they read and respond to questions in a journal. They then complete a cognitive behavior program called Commitment to Change that is delivered in a group setting, and has a 1.5 hour session each week for ten weeks.

The final phase is called “Phase III – NSP/HU#4B” and is located in Housing Unit #4B at NSP. It lasts approximately 21 weeks and consists of two cognitive behavior programs called Thinking for Change (12 weeks in length and consisting of two sessions per week) and Getting It Right (nine weeks in length and consisting of three sessions per week). Together these last three phases should take approximately 52 weeks or one year to complete.

The fundamental intent behind TCP is to transition inmates who meet certain requirements back to general population. This is a worthwhile intention and is somewhat modeled after transition programs that exist in other states. However, NDCS should be using their quality assurance and research staff aggressively in order to learn whether the program meets the goals that have been set for it.

There have been concerns raised regarding TCP. First, NDCS is having a difficult time convincing those inmates selected for the program to complete it. As of August 26, 2018 there were only nine inmates residing in TSCI Housing Unit #2B, where Phase II participants are assigned, and only 13 inmates residing in NSP Housing Unit #4B, where Phase III participants are assigned. This means that Housing Unit #2B at TSCI can hold 64 inmates, but only 9 of the 64 beds are in use at this time.⁶⁹ Housing Unit #4B at NSP can hold 40 inmates, but only 13 of the 40 beds are in use at this time. As a result, in a system that is severely overcrowded there are 82 empty beds in these two units (if they are used as double bunked general population units). This is a slightly lower number than the number of state inmates that are currently staying in county jails at a cost to the state.

During a visit to TCP Phase II the OIG and a member of the Ombudsman’s office spoke with the participants and they shared the concern that they were looking at spending a year in TCP after spending additional time in restrictive housing. The years’ time was keeping several of them from receiving critical therapeutic programs (substance abuse treatment, violence reduction program, etc.) that they needed in order to be considered for parole. This concern was shared with NDCS, and it was generally agreed that this higher level of therapeutic programming should be a priority. The application of this has principle has, however, been inconsistent by NDCS.

It should be noted that although the inmates in Phase II and Phase III are not considered in “restrictive housing,” they are actually not in general population either. Title 72 of the Nebraska Administrative Code defines general population as:

002.04 GENERAL POPULATION. All inmate housing areas that allow out-of-cell movement without the use of restraints, a minimum of six (6) hours per day of out-of-cell time, and regular access to programming areas outside of the living unit.⁷⁰

⁶⁹ One inmate in this unit has refused to participate in Phase II for months but is still housed in the unit. At least two inmates were recently in Phase III but were not considered participants of that program.

⁷⁰ https://corrections.nebraska.gov/sites/default/files/files/1/title_72_nebraska_administrative_code_chapter-1_restrictive_housing.pdf (page 4)

The participants of Phase II are supposed to receive only four hours of out of cell time each day, although the goal by TSCI officials is to give them at least four and one-half hours of out of cell time each day. Four hours of out of cell time each day would equate to 28 hours of out of cell time in a week. In order to be considered as “general population” they must be out of their cell at least 42 hours per week. The participants of Phase III only receive five or six hours of out of cell time each day according to NSP officials, which equates to 35 to 42 hours of out of cell time each week. This would appear to potentially meet the first part of the statutory definition of “general population” in some cases. However, the second part of that definition states “...and regular access to programming areas outside of the living unit.” The TCP Phase III participants do not meet that part of the definition, so they should not be considered as being in “general population.” This raises the issue of what definition do the participants of these two phases meet? The answer right now is that there is no definition that they meet. This issue has been raised with NDCS several times by various individuals, but it has not been resolved.

What this all means is that, while TCP Phase II and Phase III participants may leave restrictive housing, they still end up spending at least 38 weeks in a setting that could be called “Restrictive Housing Lite.” It is certainly not general population. Even though the TCP program is designed to assist them with transitioning into general population, they have relatively few chances to begin this transition, especially in Phase II where their movements are severely limited, and they do not have access to a number of privileges available to those who actually do reside in general population. Director Frakes sends those inmates selected for TCP a letter that explains why they were selected for TCP, and what the program is and is not. In it he states, “TCP is a simple, easy way for you to engage in pro-social activities to demonstrate that you can safely transition to a less restrictive environment.” This may be why a number of inmates identified for this program do not choose to take part in it. They may be willing to wait out NDCS, to see if they will be released from restrictive housing without going through TCP. If they do this, will NDCS decide to keep inmates in restrictive housing for an indefinite amount of time?

Modified Operations

For the past year or more, NDCS has reacted to incidents in various housing units by placing them under “modified operations.” As a result, movements and privileges in these units are restricted in various ways and to various degrees. When this takes place, these units begin to operate more like a restrictive housing unit than a general population unit. In the past, the OIG has suggested that if a housing unit is placed into a lockdown or other similar status, and meets the definition of a “restrictive housing” unit, then the restrictive housing regulations go into effect after a certain number of days under that status.

Last year, the OIG requested that NDCS notify the OIG when a housing unit is placed under modified operations, and NDCS agreed to do so. The OIG has expressed concerns regarding this practice as these actions result in consequences to the many for the actions of a few. From the perspective of some inmates, at least, it is collective punishment.

Last fall, there were housing units placed in modified operations for extended periods of time. As a result, food trays were delivered under cell doors, and placed on floors which had been recently flooded by overflowing toilets. The food that was delivered was not the same as that provided to

the rest of the inmates within that facility, and concerns about the quality and quantity of the food were expressed by numerous inmates to the OIG and the Ombudsman's office. During that time, the men received very limited or no shower time, the units were unkempt and unsanitary, and some inmates had hygiene items, clothing and bedding taken away for extended periods of time.

Blue Rooms

During the past few years, a "blue room" has been in operation at NCCW. It is a cell that was turned into a room which female inmates can visit during times of stress or agitation.

It is based on similar efforts in other states, and is configured so that when the inmates go there they watch videos during which they feel as though they are walking through a nature setting. The room is painted blue, and also has a mural. The furniture was bought by the Warden, and is comfortable and adds to the calming and safe environment. The intent of the room is to calm the person down who is in there. One of the benefits of this is that it could keep the inmate involved from having to enter a restrictive housing setting by giving them some time to calm down and get their emotions under control.

This concept has been extensively reviewed, and according to one study 43 percent of the inmates who were allowed to watch the nature videos said the videos soothed them. The study also found acts of violence decreased as a result.⁷¹

These "blue rooms" could be expanded to other facilities throughout the correctional system. In fact they could even be utilized as an incentive for good behavior. In a restrictive housing unit one cell could be converted to such a room. Allowing inmates to utilize the rooms for a certain time period each day, if they exhibit good behavior, would not only allow them to receive more out of cell time, but it would also provide them with a type of release from the institution's otherwise harsh and sterile environment.

Programming Needs

There is limited programming available for inmates in restrictive housing. Most of the programming available are individual programs which may be repeated many times by frequent visitors to restrictive housing. Consideration should be given by NDCS to reviewing the short term programming that is offered to inmates in order to make it more individualized and effective. In addition, consideration should be given to providing it earlier in the process. Finally, if NDCS is going to continue the practice of placing inmates in restrictive housing for long periods of time, then consideration should be given to providing more intensive programs to this population. For instance, TSCI has implemented a more intensive form of violence reduction programming by a psychologist assigned there. It is considered to be working well and is in demand by those in those units. Dr. Deol, the NDCS Medical Director, has also begun to implement other programs facilitated by a mental health professional in restrictive housing. This is an important step forward.

Serious Mental Illness

A consistent challenge for NDCS is how to treat inmates with a serious mental illness, particularly those who have been placed in restrictive housing. The 2017 Restrictive Housing

⁷¹ <https://www.nbcnews.com/mach/science/can-blue-rooms-make-prisons-safer-more-humane-ncna799496>

Annual Report by NDCS shared that one of the Department's most significant concerns is this particular challenge. The secure mental health unit at LCC has mental health staff specifically assigned to the unit to provide a higher level of mental health treatment. The report found that the total number of inmates in restrictive housing in Fiscal Year 2017 who had one or more serious mental illness diagnosis was 465, or approximately 28% of that population.⁷² The Ombudsman's office has worked continually with NDCS to address the concerns of this population and to make efforts to identify those inmates with a serious mental illness who need to have an alternative placement to restrictive housing.

In the report, NDCS stated:

Reducing the assignment of individuals diagnosed with a mental illness to restrictive housing and limiting the time spent in restrictive housing are priorities for NDCS. This is accomplished by providing mental health treatment to individuals in restrictive housing and developing behavior and programming plans which will allow individuals to demonstrate they can safely be housed in a less restrictive environment and transition to the mental health unit or general population.⁷³

Life in Restrictive Housing

A recent series on Netflix, *I Am A Killer*, consisted of interviews with inmates in prisons who committed a murder. The first episode covered a Florida inmate who spent a considerable amount of time in restrictive housing, before eventually murdering his cell mate. His description of the conditions in restrictive housing were similar to those expressed by inmates in Nebraska's correctional system. As a result, the OIG contacted two inmates who have been in restrictive housing for over 500 days, and asked them to describe what a day in restrictive housing is like.

The following are excerpts from letters written by these individuals:

Breakfast, lunch, dinner, are all small portions and cold food, served on dirty trays with various writings on them...Right after breakfast the C.O. starts asking who wants yard and or shower (showers, 3 days a week) (yard is 5 days a week). One cell at a time is allowed to go to yard a little bigger than our cell by our self for one hour a day then straight back to my cell where I remain for the rest of my day and night til next yard day...If I do [have an appointment outside restrictive housing] 2 C.O.'s come to my door and place a pair of hand cuffs on me connected to a chain and open my door, then place another pair of hand cuffs on me connected to a belly chain with a master lock, then the leg irons, they connect the chain from cuffs to the leg irons, then I'm escorted to my Dr. appointment where the C.O. never leaves my side, so they know everything the Dr. tell me, no confidentiality at all...When I sign up to make a phone call it must be 2 days in advance, and when that day comes I have to ask the C.O. numerous times to bring me the phone, if the C.O. feels like it they bring the phone to my cell door where I'm allowed to make a 15 minute personal call. If there is a disruptive inmate acting up ALL things stop and all the C.O.'s working put all their attention to that inmate, which frustrates all other

⁷² https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services_Department_of/602_20170915-165720.pdf (page 9)

⁷³ Ibid (pages 9-10).

inmates...If the C.O.'s have to pepper spray the inmate the same pepper spray goes into the ventilation system in every cell and all inmates get affected and start coughing, sneezing. I'm segregated to my cell 23 hours a day, two days a week for 24 hours a day. I pace in my cell, 5 steps from my bed to my cell door, back and forth, on days when I'm real anxious its 4 steps from my bed to my door. I've caught myself getting angry for the dumbest of reasons. I've been getting really frustrated in everything I do. I've also noticed I've been stuttering in my conversations. I keep thinking to myself, it's been 537 days. How much longer will I endure? I feel real tired all the time. I sleep sometimes a whole day away, but it's usually 12 to 14 hours a day. Mental health approved me to do a program. TSCI administration denied me the program with no legit reason...it seems as if NDCS has free reign to do anything they want, whether it's with or without the rules...

I wake up at 6:30am, wash my face and watch the correctional officers serve breakfast. With all of the meals they start serving at the back of the gallery and work their way to the front of the gallery. With all meals, as they get closer to the front of the gallery they start to run out of food, so the portions get smaller...This happens at most meals, but varies depending on which staff member is serving. At breakfast they pour the bags of cereal in a big pan on the serving cart and use a 4 ounce scoop to portion the cereal onto the trays. Knowing that they will dump the excess cereal in the trash, after they've eaten what they've wanted, the scoops of cereal are shaken off or leveled out, depending on which staff member is serving. The bowls of cereal are never full, even though there is plenty of cereal that remains and is thrown out. Now sometimes they run out of trays from the kitchen and they switch to Styrofoam trays and bowls which are exceptionally smaller. These styrofoam bowls are not even filled up half way. Sometimes you may only get four to five bites of cereal. I know, hard to believe, but it's true. Once they are done serving any meal there is supposed to be allotted 20-30 minutes to eat before they pick up trays. Well at breakfast staff is in such a hurry to run showers and yards, they are picking up trays within 10-15 minutes...they come ask if you want yard or shower. Depending on where they start, you are forced to go to yard or shower right when they decide it's your turn. Sometimes without being able to use the restroom first. And with them it's go now or lose your chance. But what can we do, they run the gallery. And who do we complain to? The sergeant? Then the staff just lie or twist the truth to benefit their side of the story. Then they wonder why we react or act up so often, not for no reason...Lunch is typically served between 11am and 12pm. As with all meals, the kitchen at most meals does not send enough food. Staff try to make the food stretch by limiting the portion sizes rather than calling for more food. Sometimes they do this so they have some left over for themselves to eat...Keep in mind, this is not the case with all staff...Then you spend the rest of the day in your room until dinner is served and we go through the same process...I watch tv and go to sleep around 12am. That is my day. Then I wake up and do it all again every day. Same thing.

Summary

As this section outlines, the OIG does have continuing questions and concerns regarding the restrictive housing practices of NDCS. The OIG continually communicates with NDCS regarding these and other issues. An example of this communication can be found in a July 21,

2018 memorandum sent to Director Frakes and others regarding restrictive housing. It included the following:

Last week I visited with Deputy Director Madsen regarding an inmate in restrictive housing but my point of the conversation was to use that individual's circumstance to talk about bigger issues than that of just one individual. After reflecting on our conversation I felt like I didn't do a good job of communicating my thoughts and decided it might be best to put something in writing that better captures my thoughts.

First, some observations:

- *Right now, there are a significant number of individuals are being held for long periods of time in a restrictive housing setting;*
- *The circumstances involving the placement of these individuals in such a setting are not uniform and in some circumstances can be quite unique;*
- *The needs of the individuals in such a setting can vary as well and are not uniform;*
- *Safety and security of facilities, staff and other inmates is a legitimate concern;*
- *The concern for the community beyond the correctional facilities should also be on the minds of decision-makers in Nebraska's correctional system;*
- *NDCS faces a significant challenge in addressing the needs of the individuals in a restrictive housing setting;*
- *Individuals in this setting need a pathway to return to a more normal environment;*
- *Deciding when it is safe and appropriate to remove an individual from a restrictive housing setting is a decision that can result in positive outcomes but also very negative outcomes; and,*
- *Intel appears to be more involved in the movement of individuals in the restrictive housing setting than in the past.*

With those observations made, I would like to offer some thoughts/ideas/suggestions that I have regarding the state of restrictive housing:

- *While I understand the intent of The Challenge Program (TCP), it does not appear to be having the impact that was hoped for it. Many individuals who have been offered it still have a negative view of this potential pathway or they are being influenced by others not to take it. It may be time to rebrand TCP and/or to make it more flexible, and as part of that process NDCS should receive input from inmates and staff. For instance, if someone is doing relatively well and not causing problems yet they don't want to participate in TCP, a decision could be made that one or two of the pieces of TCP could work well for him. In that case, the offer may be made to him that the chances of him being released from restrictive housing will be quite high if he completes T4C and stays relatively free of misconduct reports. He would still receive a quality aspect of TCP that would hopefully set the stage for better behavior. If NDCS still thinks he would benefit from another component of TCP (such as MRT) then that could be offered to him*

upon release from restrictive housing. I think NDCS faces a serious challenge since there are some individuals who believe agreeing to enter TCP, which could last a year or longer, is giving into NDCS. Thinking outside the TCP box might be a necessity in order to jump start the removal process.

- *There are many individuals looking for a pathway out who have not been offered TCP as they do not meet the criteria for the program. It would appear that there are a couple of primary factors that are keeping them from moving forward: behavior and STG issues. I have met many men who have taken a lot of programming yet are not being released. Many of them have also exhibited good behavior. They are seen or perceived as threats to individuals in general population or to the operation of a correctional facility. The question I have regarding these men is what else can be offered to them by NDCS or done by them to make NDCS more comfortable with moving them out of restrictive housing. A lot of the men that I have talked to tell me that they would just like the opportunity to prove themselves. Some have said that they have received the message loud and clear since they have been in restrictive housing for over a year. There are currently over 50 empty beds in Unit 2B. I would suggest working with a small number of men who have exhibited decent behavior and completed all of the programming placed before them and move them to Unit 2B. They can be told that this will be a 4-6 week transition time and if they continue to exhibit positive behavior they will be moved to general population. I would make it clear that they are not participating in TCP and that they do not have to meet with Intel prior to or after moving to Unit 2B.*
- *There are many individuals who enter restrictive housing multiple times. Each time it appears they are told that they need to complete the Transformation Project even though it might not have done them any good the first time (or second or third...). Could NDCS identify a different program (even T4C or MRT) that they could receive right away instead of waiting for many months to receive? One size does not fit all in restrictive housing and individualized behavior plans are what NDCS strives for so this could be one way to carry out that practice. In other words, implement individualized plans from the beginning as it may result in better outcomes and more buy-in from individuals.*
- *NDCS could explore more opportunities to allow individuals to leave their cell for more than one hour of recreation five days per week. At NCYF there are attempts to let individuals go to the gym or other places yet in a highly supervised way. Consideration could be given to turning one cell on each gallery into a “blue room” or a room with a couple of more comfortable chairs where one or two individuals could visit. Cameras and microphones could be placed in those rooms so they could be monitored. If two individuals were allowed in such a room at a time they could be given the opportunity to exhibit better social skills. In addition, if they could actually talk to someone face to face they might exhibit better choices when they are walking past cell doors in the gallery.*
- *As part of the process of deciding whether or not an individual should be removed from restrictive housing the decisions made at the local facility level should not be influenced by the actions of MDRT. The local facility decision-makers should be able to make a recommendation based on the behavior and known risk of that*

individual. Unless they are able to understand and possibly view the intelligence information that MDRT is reviewing they should not accept it at face value that the individual shouldn't be moved out of restrictive housing. In other words, if they believe an individual is doing everything asked of them in restrictive housing then they should recommend that they be removed and let the next round of decision-makers make the next call.

- *MDRT should take votes and record them when it comes to their decisions on whether or not an individual stays in restrictive housing. More detailed information regarding their discussion and their decision should be documented and provided to the Director. This should also be a part of the individual's restrictive housing records.*
- *If NDCS decides that it will be their policy to continue long term placements in restrictive housing, then consideration should be given to providing more significant programs in those settings. For instance, substance abuse and violence programs could be offered as men would likely be motivated to take them as they know this would help those with parole eligibility dates. If this is done, a system should be in place that would allow them to move into those programs in general population should a decision be made to move them out of restrictive housing prior to their completing these programs.*

These are just some thoughts/ideas/suggestions that I have that I wanted to share with you based on my observations, conversations and reviewing of records over the past several months. The current restrictive housing situation is a serious systemic issue. It is a top priority of my office to better understand the process and the system. I am more than willing to meet with any NDCS staff to better understand restrictive housing and I hope that this memo demonstrates my interest in improving the system.

I also want to express my appreciation for your interest in addressing any deficiencies you have found in the restrictive housing process. While I have concerns with TCP I think it shows that NDCS was looking to improve outcomes and create more defined pathways with the development of that program. It wasn't the status quo. There have also been some other attempts to expand programming and I recognize those and am encouraged by those efforts. I finally want to share that I definitely appreciate the work of the staff in the restrictive housing units. They are faced with difficult situations every single day and many of them are working long hours. It is a challenging assignment that they carry out every day.⁷⁴

As more is learned about the impact of restrictive housing on the inmates placed there, additional changes in the use of restrictive housing and restrictive housing practices will take place across the country. Dr. Craig Haney recently released a study that analyzed research findings on the psychological impact on people in segregated housing. A copy of that study is attached to this report.⁷⁵

⁷⁴ Attachment 11: June 21, 2018 OIG Memo

⁷⁵ Attachment 12: Haney, Craig. 2018. "Psychological Effects of Solitary Confinement"

Along with this, there is a restrictive housing webinar and a restrictive housing videoconference sponsored by national groups interested in reforming restrictive housing practices in September 2018. The OIG plans to participate in both, and several NDCS staff plan to participate in the videoconference. The videoconference will share how states manage their restrictive housing reforms and will also include a number of related topics. The webinar will share information on efforts in Colorado.

CONTRABAND

Contraband in correctional facilities may consist of a number of categories of items, including drugs, weapons and cell phones. Preventing the introduction of and detecting these items can assist staff in preventing the illegal use of drugs, the committing of other crimes and various violent activities. Contraband can be used in a number of ways, including as substitute currency within the correctional facility. The sources of contraband can also vary. Items can be thrown over fences, dropped by drones, smuggled in by visitors or staff, created out of items already in the facility, or stolen from the facility.

Last year, Daelan Lamere died after ingesting drugs that were smuggled into TSCI. The OIG investigated this death, and made numerous recommendations to NDCS as a result, including:

- Utilize substance abuse treatment staff to initiate a drug awareness campaign to educate inmates and staff regarding the dangers of using illegal drugs;
- Increase the frequency and thoroughness of searches of staff as they enter the prisons;
- Utilize drug dogs on a more frequent basis at the entrances of the prisons in order to act as a deterrent and to catch any illegal drugs that are being brought into the prisons;
- Consider working with law enforcement agencies to assist with staff searches so that an outside entity is conducting the searches on a random basis;
- Review the search policy for visitors in order to determine whether or not it needs to be adjusted to conduct enhanced and appropriate searches of visitors; and,
- Conduct a review of visitor and staff searches at each prison, including whether or not the searches are being done in the manner prescribed by DCS, whether they are fairly and uniformly administered, and whether the ability to conduct such searches is impacted by staffing levels.

NDCS accepted all of these recommendations, and action has been taken especially in the area of searches. Recently, the NDCS Chief of Operations shared with the OIG some of the efforts made regarding searches. They included:

- Discussions were conducted at monthly executive level meetings relative to improving basic security practices, including staff searches;
- Review of front entrance procedures at the facilities and more attention being provided to ensuring consistent adherence to policy/procedure;
- Reconfiguring of the front entrance at LCC;
- Reviewing and revising of the list of staff prohibited items;
- Rewrite of cell phone policy;
- Unannounced staff searches at all facilities by a special team;
- New expectations for the number of staff searches that are to be conducted at each facility along with a new recording system of those searches;
- More attention given to visitor searches, including the forming of a work group in early 2018 to develop a visitor dress code; and
- Specific to visitor searches, procedure assessments/systems checks are routinely conducted to ensure consistency in compliance with policy and procedure.

Cell Phones

According to a news story, NDCS seized 79, 64 and 166 cellphones annually in 2014 through 2016.⁷⁶ Cell phones are used in facilities to coordinate gang activity, to communicate with the outside world, and for numerous other purposes. They are a significant safety concern. One of the more interesting cases viewed by the OIG was when an inmate at a male facility called a female inmate at NCCW. The officer who received the call quickly figured out that there was more to the phone call, and believed it to be coming from a person at a different facility. He had them call back a few minutes later to talk to the inmate at NCCW, and in the meantime he alerted staff at the other facility. While the two inmates were talking staff at the second facility interrupted the conversation when they went to the inmate's cell.⁷⁷

At this time NDCS does not have a system for keeping track of how many cell phones are found in each facility, and throughout the system. In order to obtain the data, each facility was asked to determine how many they had found during those time frames.

Weapons

During reviews of a number of reports and documents the OIG frequently learns about weapons being found throughout the correctional system. Some are homemade and others may be a stolen utility knife or another type of weapon brought in from the outside of the facility. When an NDCS officer was stabbed in November at TSCI in the restrictive housing unit a complete search of all of the cells in that gallery resulted in several weapons being found or turned over by the inmates.

As with cell phones, there is no tracking system within NDCS for the number and types of weapons found in each facility or throughout the system. Without any historical context it is difficult to state whether the quantity of weapons being found now is low or high, but it seems like a significant number to the OIG. Below are pictures of two weapons recently found by NDCS staff. The one on the right was used in a serious incident.



FIGURE 41



FIGURE 42

Drugs

As in most, if not all, correctional systems, the flow of drugs may be difficult to prevent and creates a number of dangerous situations within the system. The categories of drugs can include such items as pills, K2, marijuana, cocaine, and illegal homemade alcohol. As with cell phones and weapons, the quantity and type of drugs found within the correctional system are not tracked

⁷⁶ https://journalstar.com/news/local/911/a-drone-packed-with-drugs-prisons-adapt-to-new-methods/article_3ab8a727-2bab-57d1-8443-e71b354ec729.html

⁷⁷ This appears to be a case of some excellent staff work at each facility.

by NDCS. The OIG constantly is looking at a number of NDCS reports and documents, and has seen a large number of cases that involve drugs in the facilities.

When an inmate misbehaves they are sometimes taken to “holding,” which is a central location where they detain inmates away from their living units for short periods of time. From a review of holding reports covering a recent month at TSCI and NSP, the OIG found that a significant number of inmates were brought to holding for drug related reasons. On one day at TSCI, four inmates were suspected to be under the influence of drugs, and two large bags of illegal homemade alcohol were found. Illegal homemade alcohol can be brewed in very small batches, all the way up to incredibly large batches, some exceeding 50 gallons. An example of a bag of illegal homemade alcohol is seen in the picture below. A review of a report related to drugs from the NDCS information system found that in a recent month at TSCI and NSP the following drugs were confiscated:

- Pills were found 28 times;
- Illegal homemade alcohol was found 21 times;
- Admitted K2 was found five times;
- White powdery substance was found three times; and,
- A brown or green leafy substance was found 51 times.

While this is certainly a helpful report, the OIG has reviewed other reports that indicate this NDCS report does not fully capture all of the incidents of confiscated drugs.

A recent incident at a facility resulted in an inmate being caught with four bags of marijuana, including one that he swallowed, based on reports reviewed by the OIG. Illegal homemade alcohol appears to be the most common drug confiscated at TSCI, and K2 appears to be the most common drug confiscated at NSP.



FIGURE 43: ILLEGAL HOMEMADE ALCOHOL

Other reports and meeting minutes reviewed by the OIG shared significant concerns regarding contraband at other correctional facilities. K2 has been particularly rampant at the community corrections centers, and is also found frequently at WEC. One internal report reviewed by the OIG stated, “[Redacted facility] staff is conducting alcohol checks when staff is available” which

would appear to indicate that there is more to be found, if they had the staff and the time to do appropriate checks. This mirrors concerns that staff have shared with the OIG on a number of occasions.

The National Institute of Corrections team that investigated the March 2017 riot at TSCI stated the following in their report:

It is unusual in corrections to have large and frequent discoveries of homemade alcohol. The dangerousness of alcoholic beverages in a prison environment urgently requires that this problem be addressed at TSCI...The night before the March 2, 2017 disturbance, four (4) inmates were discovered drunk in 2AB, taken to medical, and then sent back to their HU 2A/B cells...The next morning unit staff conducted hooch search, the presence of hooch was clearly evident from its odor in the housing unit and was a precipitating factor in the disturbance...Staff are so used to it and with no consequences resulting even when inmates are drunk that they are wondering why we can't enforce more appropriately to cut the supply for hooch out or give more of a sanction than loss of TV or cell restriction (which we can't really enforce).

Earlier this year staff at one NDCS facility found inmates who had made illegal homemade alcohol and were intoxicated. The inmates then threatened staff, who left the unit. A tense situation emerged, but staff at the facility handled the incident in a professional manner, which eased the tension and resulted in the inmates backing down. The amount of illegal homemade alcohol and other drugs currently being found at facilities should cause significant concerns for the facilities and NDCS.

Drug Tests

NDCS conducts random drug tests of inmates as well as targeted drug tests, when there is a belief that someone has recently used drugs. During the past year NDCS switched to an oral swab test, and only uses a urinalysis when the oral swab tests positive or is inconclusive, as well as for new admissions, medical reasons and some limited target testing. The cost for an oral swab test is \$5.00 and the cost for a urinalysis is approximately \$6.50. Some concerns have been expressed to the OIG about the ability of inmates to “beat” the oral swab test. The window of detection is also much smaller for oral swab tests, and there are different quality levels of these tests as well. Some advantages of these tests are that the collection of the sample is much less invasive, and it is likely to have a greater ability to detect a current state of intoxication. Below is a chart provided by NDCS which shows the positive results produced by their drug testing program. The OIG will review this data in the next year to see if there have been changes in the results of the drug tests.

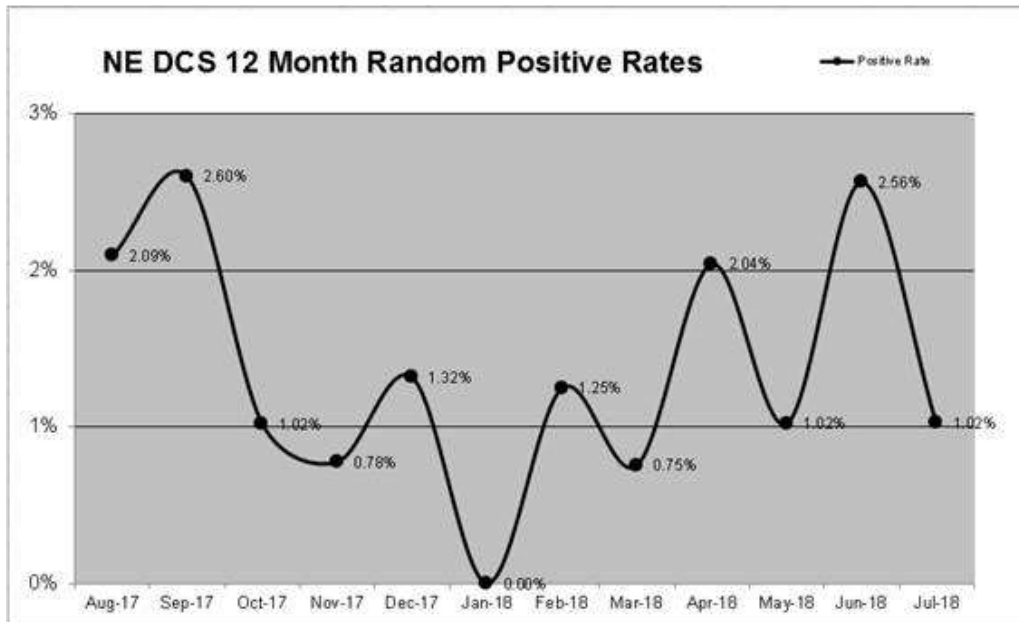


FIGURE 44

MEDICAL

In 2016, NDCS hired Dr. Harbans Deol as the Department's Medical Director, and promoted Dr. Alice Mitwaruciu to the position of Behavioral Health Administrator. Dr. Deol held a similar position in Iowa, and brought a great deal of experience to the position. He has been faced with many challenges as the Division of Health Services attempts to move forward in its role of providing care for its patients. Dr. Deol has made considerable progress despite these challenges and has demonstrated a strong degree of caring for the patients at NDCS. One example of this was his spending a considerable amount of time with the OIG and five inmates at LCC who are certified nursing assistants. They wanted to share their thoughts and experiences with him in the hopes that positive change would result. He listened to them and engaged with them and then started taking action on the points that they raised. This sent a strong message to these men and others at that facility, including staff.

Staffing

As stated previously in the report, the Division of Health Services faces staffing challenges. These were discussed previously, and even though the number of vacancies is an issue, the OIG believes that progress has been made. Dr. Deol and NDCS are aware of the issues facing them in this regard and attempts are being made to address them. However, it is vital that action continue to be taken to fill these vacancies, as they create many challenges for the health system within NDCS.

Cost Savings, Care Enhancement and Collaboration

Dr. Deol and former Chief Operating Officer John Wilson commenced several initiatives over the past few years that resulted in cost savings, and also the enhancement of the level of care. These initiatives included such items as:

- Negotiating and re-negotiating contracts to receive additional discounts;
- Receiving a donation of four licenses to operate skilled nursing facility beds;
- Pharmacy improvements;
- Cost reductions in radiology practices; and
- Cost savings related to the implementation of eMAR (electronic medication administration record). As part of the eMAR NDCS is now starting to use blister packs of medication which are scanned when an individual pill is dispensed so that only one pill at a time goes to the correct inmate.

The Division of Health Services is also increasing their collaboration with the Lincoln Regional Center and with the University of Nebraska Medical Center and the Creighton University Medical Center.

Another significant change has been the policy implemented by Dr. Deol regarding the use of four and five point restraints. These are restraints used to restrain an inmate to a bed. In the past, the use of these restraints were somewhat widespread and an inmate would be placed in such a restraint for up to 24 hours. Dr. Deol reduced the maximum amount of time in these restraints to four hours, which matches new standards in the therapeutic community. As a result of paying more attention to the use of these restraints, use within the Department of four and five point

restraints has dropped by a significant amount. The inappropriate use of these restraints had been a point raised on a number of occasions by the OIG since 2016.

Other Medical Changes

There are many other changes being made throughout the Division of Health Services, including:

- Changing the level of care provided in the LCC mental health unit from a restrictive housing model to a medical model;
- Reviewing all 46 NDCS medical policies on a regular basis;
- Adjusting procedures for tracking patient checks;
- Providing front cell visits every week for everyone in restrictive housing;
- Expanding programs and changing their length and intensity;
- Restraint policy changes;
- Addressing the high number of medical travel orders;
- Providing medical professionals with more flexibility;
- Being more proactive on care for individuals with a mental illness; and
- Addressing concerns about the ability of patients to receive appropriate medications when they reenter the community.

Ombudsman's Office

During the past two years the Ombudsman's office has increased their level of communication and collaboration with the Division of Health Services. Regular meetings are held between representatives of the two offices, and the flow of quality communication and positive interactions have increased as well. It is a relationship that appears as though it will only improve over time. Anecdotally, the Ombudsman's office reports that the number of medical cases that they received in the past year has decreased.

The Future

As past OIG reports have shared, the Division of Health Services faces many challenges and has many needs. One of these needs is the move to an electronic health record system, an idea which was proposed to the Legislature in 2018, but not advanced. This would move the Division forward in a number of ways. Other future needs would be an assessment of their technology requirements, and their current medical equipment, as well as developing a better understanding of their staffing issues. In addition, it is key that they continue to build partnerships with medical and behavioral health contacts in the community.

In order to educate and better inform policy makers and the public it may be beneficial to ask the Division of Health Services to produce a report no later than January 1, 2020 that does a complete assessment of their present situation and future needs and challenges.

DEATHS AT NDCS

Each year there are a number of deaths that take place at NDCS. The OIG is required to review these deaths and the circumstances surrounding them. NDCS promptly shares information with the OIG when an inmate dies and provides any reports, videos or other documents regarding the death when requested by the OIG. As a result all deaths of inmates in the custody of NDCS were appropriately reviewed during the past year by the OIG.

Suicides

So far in 2018, two inmates have committed suicide while residing in a correctional facility. The first took place on March 20, 2018 at TSCI and the second took place on April 28, 2018 at TSCI. After both suicides, the OIG reviewed pertinent information and video related to the suicide, including utilizing the NDCS Internal Critical Incident Report (ICIR) that was completed for each suicide.

March 20, 2018 Suicide

The first suicide took place on March 20, 2018 in TSCI Housing Unit #2D. The inmate was found hanging by his cell mate when he returned to his cell. He notified staff who responded in a quick and professional manner beginning at 1430 hours. ERT (Emergency Response Team) and the Johnson County emergency medical services were called at 1431 hours. CPR was initiated almost immediately and medical staff was on-site three minutes after CPR was initiated. At 1445 hours the inmate arrived at the medical department and the Johnson County ambulance arrived at 1455 hours (24 minutes after being called). Staff and then Johnson County ambulance staff provided care for him before he was placed in the ambulance and driven to the Johnson County Hospital. Nine minutes after arriving at the hospital he was officially declared dead.

The OIG interviewed staff and inmates from the unit and learned that at times the inmate had emotional telephone calls with a family member. A review of telephone records revealed numerous calls or attempted calls to this person prior to his death. The OIG listened to recordings of his final calls with the person and the conversation was emotional. The family member, in the opinion of the OIG, responded in a supportive and caring manner and tried to reason with him. They did what they could do. It was learned during other interviews with those that lived around him that he would say things like this when he was upset on the telephone so this type of emotional outburst by him was not unusual.

In this case, the ICIR made numerous findings and recommendations, including:

- Staff need to be briefed and trained on quality gallery checks as the ICIR found a lack of gallery checks and that the quality of the checks that did take place were poor;
- There were a lack of supervisor rounds; and
- Language should be added to the gallery post orders that indicate that a staff member is to complete a gallery check within a specified amount of time after assuming the post.

April 28, 2018 Suicide

The second suicide took place on April 28, 2018 in TSCI Special Management Unit Lower F Gallery (restrictive housing unit). On that day at 0655 hours a sergeant looked into the inmate's cell and he was given two directives. The inmate appeared to be standing in the cell and did not

respond. The sergeant then sprayed chemical agents on the inmate. He did not respond. At 0702 hours a no response call was made on the radio. The ERT entered the cell at 0707 hours, cut him down, turned him on his stomach on top of the gurney and restrained him. They did not initiate CPR. He arrived at the medical department at 0715 hours and 911 was called at 0720 hours (18 minutes after the no response call was made). CPR was initiated at that time. The Johnson County ambulance arrived at 0745 hours and left the facility at 0753 hours. It arrived at the Johnson County Hospital at 0757 hours and he was declared dead at 0758 hours.

The inmate hung himself from an upper locker that was installed in the cell when the gallery was temporarily converted to a general population unit and double bunked. The sergeant had issues with the key that turned on the light to the cell because the lights did not function properly, which was identified as a common issue on those galleries. He did not have a flashlight with him so he was unable to identify that the inmate had actually hung himself until after he utilized chemical agents on him.

The OIG also interviewed staff and reviewed videos of this incident, as well as discussed the case with OCC Warden Barb Lewien who was in charge of the ICIR. The ICIR found that four things were done well including the quickness of the ERT call and the response of the ERT. It also found that the medial and custody staff had an excellent response when the inmate was in the medical department. The ICIR did make several recommendations related to the incident. Besides finding that chemical agents should not have been utilized on the inmate and that the inmate should not have been restrained behind his back, it also recommended the following:

- Additional training on how to use the hook knife when responding to an inmate who has hung himself;
- Review how security checks/rounds documentation should be completed;
- Have the SERVES team contact each staff member involved in the incident;
- Provide adequate advance notice of the debriefing; and
- Review the video surveillance system to determine the need for camera upgrades and additions because ICIR said having one low quality video camera on the gallery was a negative.

In 2016 there was a different suicide in the restrictive housing unit at TSCI. An ICIR was completed for that suicide (the OIG was invited to participate in that ICIR and was a member of the ICIR team). The ICIR made many recommendations, some of them are similar to the ones related to the April 28, 2018 suicide. Some of these recommendations and the action that was actually taken are found in the table below:

RECOMMENDATION	ACTION
Consideration should be given to installing audio recording capabilities in the SMU galleries.	This is not fiscally feasible at this time.
Additional video surveillance cameras at the opposite ends of the SMU galleries should be installed.	This will continually be reviewed as new upgrades continue.
After a traumatic event, Mental Health/Victim Assistance contacts should be scheduled during the shifts that the involved staff work.	TSCI has been using our own staff for this purpose...
The Johnson County Emergency Responders (911) were not called for 7 minutes after the initial report.	Staff are trained about emergency procedures during in-service, pre-service, SMU and OJT training.

Correctional staff should be trained to recognize acute injury or illness that requires lifesaving emergency care and to immediately notify 911.	
A security assessment should be completed to evaluate the adequacy of the night lighting in each cell.	It was determined that night-lighting is sufficient. Staff can supplement night-lighting with flashlights when needed.
Remove the second bunk and cabinet from all SMU cells.	This will not be done. Double bunks will stay in SMU at the present time. ⁷⁸
Feedback from the attendees of a...debriefing...recommended additional training with an adult size/weight faux inmate to use the hook knife and practice the safe method to sever the noose while concurrently assisting the inmate to the ground.	TSCI does possess these...AIII Ilic is going to plug this into In-Service beginning July 1, 2017.
TSCI Administrators should request to pilot Electronic Time Check Cell Observation technology to replace hand written observations of 30 minute checks.	Per Cpt Morris he has received information that although he submitted a proposal for electronic cell checks at TSCI, Central Office is looking into a more comprehensive electronic cell check logging system Department-wide...Although this is not fiscally viable at this time, it will be considered when the budget improves.

After these two suicides, and at least two suicide attempts during that same period of time, Dr. Deol established a work group to look at suicides. It was led by Dr. Mitwaruciu and included several staff from the Division of Health Services. Dr. Deol also asked the OIG to participate and become an active member of the work group.

As a result, the OIG attended all of the meetings of the work group and was an active participant. The work group met several times and made several recommendations. These recommendations will be enacted in the months ahead and will include:

- Creating a brochure on suicide that will be distributed to inmates and in visiting areas for friends and family;
- Making changes to the staff training manual;
- Streaming a suicide prevention video in all facilities;
- Utilizing an additional screening tool at transfer times and intake; and
- Advertising a telephone number that people can call when they are concerned about a loved one who is in a state correctional facility so that staff can initiate action related to the contents of the call.

There were several other excellent ideas discussed but it was decided that these were the ones that should be addressed at the current time. The work group addressed this issue in a serious and professional manner and their work product was excellent.

⁷⁸ The inmate who committed suicide in 2016 in SMU hung himself from the upper cabinet just like the inmate who committed suicide on April 28, 2018.

NATIONAL INSTITUTE OF CORRECTIONS SECURITY REVIEWS

After the March 2, 2017 riot at TSCI Director Frakes asked the National Institute of Corrections (NIC) to visit Nebraska and conduct a review and assessment of the riot and the conditions surrounding the riot. At the end of the NIC report it stated:

Subsequent to this assessment, Director Frakes requested that the National Institute of Corrections return to the agency and provide security audit training for the staff at Tecumseh and the facilities in the Lincoln area. This training will further demonstrate the agency's commitment to safety and security.

In conversations with a member of the NIC Team, the OIG learned that the Team had received information that resulted in concerns for the safety and security of three other facilities. As a result, they offered to return to Nebraska to assess those facilities and provide security audit training for the staff at these facilities and to conduct a security assessment at each facility. Since this NIC report was issued in 2017 the OIG has contacted the NIC Team in order to learn the status of these suggested reviews. Both times the OIG has been told that NDCS did not follow-up on this request.

VOCATIONAL/EDUCATION

When the LR 127 Committee visited each correctional facility in 2017 a constant theme expressed to the Committee from inmates was that they would like to have access to additional higher education, and to have additional vocational education opportunities available to them. As a result, the LR 127 Committee's 2017 report included the following two statements:

The Department and the Legislature should work together to increase opportunities for inmates to acquire vocational or other skills during incarceration that will help ensure their success upon reentry to the community.

The LR 127 Committee believes that the desire expressed by inmates for more work and vocational skills opportunities should be pursued. There is reason to believe that increasing such opportunities will assist in both managing the inmate population, and in preparing inmates for a successful return to the community. Both of these outcomes are essential to the success of Nebraska's justice system.⁷⁹

The OIG is in agreement with the LR 127 Committee.

When visiting correctional facilities the OIG meets a number of incarcerated individuals who have many ideas on how to improve the correctional system. One such individual is David W. He has been in the correctional system for a number of years, but has put his time in prison to good use. He is aware of a number of initiatives that have taken place in other states, and has shared those with the OIG. One of these initiatives is The Last Mile project in San Quentin State Prison in California.⁸⁰ The program trains inmates in the technological arena so that they can build skills that are needed when they return to society. In 2014, The Last Mile started an inclusive computer coding curriculum so that participants can learn how to become computer programmers. According to The Last Mile there is anticipated to be a shortage of over one million software engineers by 2020. They overcame the challenge of not having the internet in their facility by creating a programming platform that simulates a live coding experience. The Last Mile continues to expand their curriculum and has branched out to other correctional facilities in California. San Quentin is also the home of the San Quentin Prison University Project which received a National Humanities Medal in 2015 for their work educating inmates. A RAND Corporation study showed that "inmates who took classes had a 43 percent lower likelihood of recidivism and a 13 percent higher likelihood of getting a job after leaving prison."⁸¹

Another initiative the inmate shared with the OIG is the Hudson Link program. This program provides college education, life skills and re-entry support in New York and in the past 20 years has awarded over 600 degrees utilizing nine colleges. It is located in six correctional facilities in the State of New York. The recidivism rate for those who go through this program is less than two percent and the cost of the program is approximately \$5000 annually per inmate.⁸²

⁷⁹ https://nebraskalegislature.gov/pdf/reports/committee/select_special/cso/2017_lr127.pdf (pages 27-28)

⁸⁰ <https://thelastmile.org/>

⁸¹ Attachment 13: "Turn Prisons Into Colleges." New York Times. March 7, 2018

⁸² <http://www.hudsonlink.org/>

One suggestion provided to the OIG was for the Legislature to create an Education and Employment Work Group. The Work Group would consist of NDCS staff, but more importantly, representatives of the Nebraska Department of Labor, businesses community, higher education (especially community colleges), formerly incarcerated individuals, reentry organizations and others interested in these areas. The Work Group would then be assigned tasks, including the assessing of the current state of education and employment training within NDCS, reviewing leading edge efforts happening in other states and making recommendations to the Governor and the Legislature by the end of 2019. An example of this effort that should be reviewed is the work of Senator Dwite Pedersen in 1991. Senator Pedersen, along with Senator John Lindsay, introduced Legislative Resolution 477 that year and convened a group of stakeholders that reviewed the activities of the Correctional Industries program within NDCS and conducted a number of analyses of the program and related issues. The OIG would urge those interested in this area to review the LR 477 Report.⁸³

Another idea comes from former Governor Tommy Thompson of Wisconsin. Earlier this year, Governor Thompson put forward a proposal to create a “Second Chance Skills Institute” in Wisconsin by converting a prison (or possibly building a new one) into a job and skills training facility for future parolees. The Institute would work with state government, employers, unions, businesses and others to identify needed skills and to provide instruction and support. Governor Thompson wrote an article on his idea and one the more interesting quotes from the article was this, “Looking back, I regret not spending more time considering, ‘What does tomorrow look like for that parolee, and can we work together to help provide the necessary tools to reap a new opportunity.’”⁸⁴ One possible location for such an institute could be the conversion of the 600 minimum beds at NSP. These overcrowded dormitories which were supposed to be temporary housing decades ago could be “right-sized” and made into a specialized unit that inmates would strive to enter. Other possibilities could be to convert part of OCC into such a facility or build a stand-alone facility in either Douglas, Lancaster or Sarpy Counties. If a stand-alone facility were to be built it could end up being a facility that is actually two facilities in one. One part could be the job and skills training institute and the other part could be a therapeutic facility in which clinical programming could be delivered in a therapeutic setting to minimum custody inmates before their parole eligibility date. Should this be considered by policy makers there would be a number of options available to move forward on this proposal.

⁸³ Attachment 14: LR 477 Report

⁸⁴ Attachment 15: “Tommy Thompson: Help solve Wisconsin’s coming labor shortage by rehabilitating prisoners”

UPDATE ON ASSESSMENT TOOLS

Over the past two years, NDCS has undertaken two different projects to attempt to improve its assessments of inmates. The Department's new classification tool is designed to determine an inmate's custody level, and the STRONG-R is a risk assessment instrument.

Classification Tool

The purpose of a classification tool is to match the needs of an inmate with the resources in a correctional facility. As a result of the use of the tool, an inmate is classified at a particular level, which may be community custody, minimum custody, medium custody or maximum custody. At various times, the tool can be utilized to determine whether or not an inmate's appropriate classification has changed.

A new classification tool was developed for NDCS and implemented in 2017.⁸⁵ In 2017 preliminary data shared with the OIG by NDCS indicated that more male inmates were being classified at lower custody levels by the new tool, and more female inmates were being classified at higher custody levels than anticipated. These trends have continued and are of some concern to NDCS.

The OIG visited with two NDCS staff in July 2018 who are intimately involved with the classification tool to better understand how it works. The meeting was initiated by the OIG after it was learned that the two inmates who escaped from LCC in 2016 were considered "low-risk" by the classification tool.

The staff explained that the classification tool is designed to project an inmate's behavior on the inside of the correctional facilities. It is based on a score that is received from the results of a number of factors, including age, education, types of prior offenses, misconduct reports, release date, and programming. The score results in the inmate being classified as "Low Risk," "Non-Serious," "Serious" or "Violent." This is then paired with a custody score that results in a recommendation ranging from Community A or B Custody to Maximum Custody (see the below chart).

Score Risk	Score Custody
Low Risk	Community A or B; Minimum B
Non-Serious	Minimum A
Serious	Medium
Violent	Maximum

According to the Hamilton-Kigerl report that presented how the tool was developed, the new tool "informs staff of an offender's likely infraction type and risk following a transfer to a new facility, providing the opportunity to differentiate supervision strategies once an offender is residing in their new facility."⁸⁶ However, the report also recognized that there may be difficulties implementing the tool, since its use was a significant change for NDCS. Focusing on

⁸⁵ <https://www.unomaha.edu/college-of-public-affairs-and-community-service/nebraska-center-for-justice-research/documents/hamilton-kigerl-ndcs-classification-final-report-2016.pdf>

⁸⁶ <https://www.unomaha.edu/college-of-public-affairs-and-community-service/nebraska-center-for-justice-research/documents/hamilton-kigerl-ndcs-classification-final-report-2016.pdf> (page 4)

the risk of infraction might allow longer term serious offenders to qualify for community or minimum custody because of their low risk for infractions, and that this could delay shorter term offenders from progressing through the system.

For instance, a minimum custody facility such as OCC might end up being filled up with longer term serious offenders, and those inmates who enter the system later might have some issues progressing from maximum or medium custody to minimum custody and then community custody because their progress is blocked by long term inmates. Now that 90% of male inmates have been classified as “Low Risk” many, if not all of these inmates, believe that this means that they should be immediately promoted to lower custody levels. This has caused some difficulties with the male inmate population. However, when reviewing the impact of the classification tool on the female inmate population it appears as though many female inmates are being classified as “Serious” or “Violent” (over 50%), and this is keeping some female inmates from progressing through the system. This may become much more apparent when additional community custody beds for female inmates open later this year or in early 2019. Data from NDCS regarding the reclassification of inmates is found in Figure 45.

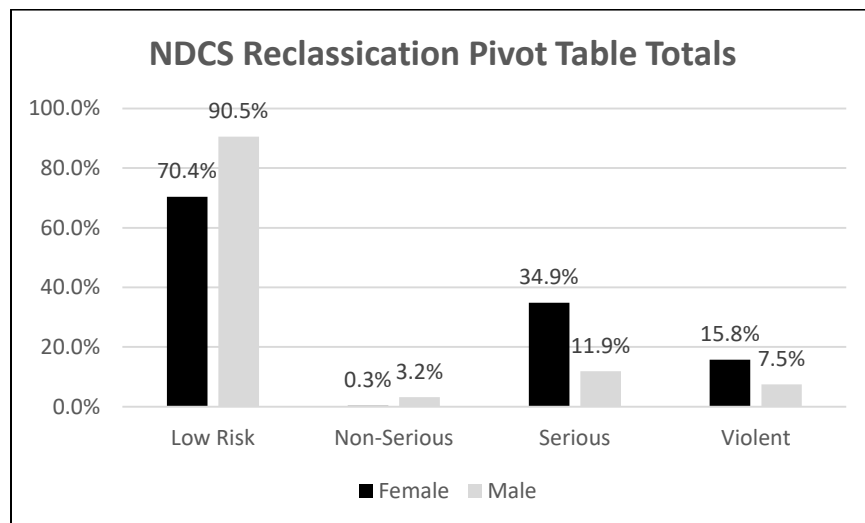


FIGURE 45

In the past, Director Frakes issued a memorandum to the inmate population explaining how the new tool was being utilized, in an attempt to explain to inmates why they are not in facilities that correspond to their risk and custody score. The OIG recently discussed this issue with Director Frakes and asked that he consider sending out that information on a regular basis since new inmates are arriving every day and would not be aware of his past memorandum. He agreed to do this in the future.

It is imperative that NDCS continue to work with this classification tool in an attempt to improve it and have it become more accurate and better understood.

STRONG-R

On July 1, 2016 NDCS began to implement a new risk and needs tool for their population called the STRONG-R (Static Risk and Offender Needs Guide – Revised). The STRONG-R is an

actuarial risk assessment tool that is used to predict recidivism, determine custody levels, and determine the needs of inmates coming into the correctional system. When Legislative Bill 605 was adopted in 2015, it required the Board of Parole to use a validated risk and needs assessment tool to determine the risk of parolees to reoffend. As a result, the Board of Parole and the Division of Parole Supervision also adopted and used the STRONG-R until earlier this year when they switched to using the ORAS (Ohio Risk Assessment System). The OIG has been informed that Parole had many specific concerns regarding the usefulness of the STRONG-R in their work with parolees.⁸⁷ Parole attempted to work with the STRONG-R so that it would meet their needs, but they eventually determined that this was not possible, and so they replaced it with the ORAS.

The contract for the STRONG-R originally established that it would run through December 27, 2018, and that Vant4ge would be paid \$476,200. The contract has been amended by NDCS and the cost of the total contract now appears to be \$621,032 according the Department of Administrative Services.⁸⁸

As stated previously Parole has now moved to utilizing the ORAS, which has several components or tools designed to follow a person through the justice system. The tools provided in the ORAS include:

- Pre-Trial Tool (PAT);
- Community Supervision Screening Tool (CSST);
- Community Supervision Tool (CST);
- Prison Screening Tool (PST);
- Prison Intake Tool (PIT);
- Reentry Tool (RT);
- Supplemental Reentry Tool (SRT);
- Misdemeanor Screening Tool (MST);
- Misdemeanor Assessment Tool (MAT); and
- Static Tool (ST);

Results from the use of the ORAS assist parole officers in case planning and deciding the level of supervision, type of program needed and treatment intervention. Parole paid a one-time cost of \$32,500 for ORAS to the University of Cincinnati in April 2018. According to Parole their ongoing annual costs to utilize this assessment instrument will be \$20,000.⁸⁹

When the original NDCS Request for Proposal for a new risk and needs tool was issued there were few vendors who responded to it. After that process took place the OIG contacted two vendors who have such instruments and found that one did not respond to the request due to the following language in the request:

⁸⁷ The 2017 OIG report stated: "In addition, Parole had shared a number of concerns with NDCS and Vant4ge regarding scoring errors, website issues, assessments being shown as being completed when they had not yet been completed, the lack of a needs report to assist them with their work, and training issues."

⁸⁸ <https://statecontracts.nebraska.gov/Search/Index>

⁸⁹ The difference in costs between the STRONG-R and the ORAS would appear be over \$500,000 during a 36 month time period if the same contract terms are renewed for the STRONG-R.

Risk and needs assessment means an actuarial tool that has been validated in Nebraska to determine the likelihood of the parolee engaging in future criminal behavior.⁹⁰

Since their tool has already been validated on populations around the country, the vendors explained that they do not validate tools based on an individual state's data. The vendors believed that this disqualified them from responding to the request. This language was included by NDCS in the RFP due to language in **Neb. Rev. Stat.** § 83-1,100.02 that required Parole's tool to be validated in Nebraska.

When the Request for Proposal (RFP) is issued this year it would be prudent for NDCS to review the language in the request, and be open to contracting with any vendor that responds to the request. The OIG contacted NDCS in August 2018 to seek more information regarding the upcoming Request for Proposal, and was informed that they had not made any decision to step away from Vant4ge and that the contract has two three-year renewal options available. Therefore, this contract has the potential to not be put out for bid at the present time. On August 29, 2018 the OIG sent a letter to Director Frakes asking him to consider issuing an RFP for the reasons outlined above. He indicated that he appreciated the recommendation by the OIG, and that they are considering all of their options.⁹¹

⁹⁰ <https://statecontracts.nebraska.gov/Search/ViewDocument?D=TqmeB5V9fiKq2XqaWA3vhA%3D%3D> (page 36)

⁹¹ Parole did not issue an RFP when they contracted with the ORAS. In the future they should consider using an open bidding process for the tool so that they will know about all of their options. In addition, Parole should seek legislation to amend the language regarding validation found in Neb. Rev. Stat. § 83-1,100.02.

ESCAPES

In 2016, two inmates escaped from LCC via a laundry cart and a laundry truck. During the recent trial of one of those inmates video of the incident was released. The video of the escape can be found on YouTube.⁹² Viewers of the video of the escape may find it interesting, but also quite troubling due to how easy the two men made the escape look. It was a well-planned exercise by these two men, but LCC is a maximum security facility immune to escapes.

LCC Escapees Update

As mentioned earlier in the report, the OIG initiated the meeting regarding the classification tool with NDCS after learning that the two former escapees had been classified as “Low Risk,” and were recommended for Minimum B or Community A or B Custody. Classifying someone who recently escaped from a maximum security correctional facility in that way was to say the least confusing. It was also learned that the two inmates had recently been allowed to be cell mates at TSCI and NSP, as they moved through TCP. Having the two inmates who conspired together to escape living together was also difficult to comprehend.

Upon being asked by the OIG about their “Low Risk” classification scores, NDCS promptly reviewed these inmates’ scores. As a result, one inmate remained “Low Risk,” while the other was classified as “Violent.” It was explained to the OIG that there is a quality assurance component related to the tool, and that NDCS recently hired quality assurance specialists to assist with this and many other areas within NDCS. It may be necessary for NDCS to either hire an additional quality assurance specialist that focuses on this area or require a current employee in that position to spend more time on this area. While it was adequately explained why the one inmate is scored “Low Risk,” it does cause some concern regarding what the goal of the classification tool actually is, and how well it works in application. In addition, it was explained that the inmate who was classified as “Violent” will likely be reclassified as “Low Risk” in the near future, once he completes TCP. Having the completion of one program move an inmate from a “Violent” score to a “Low Risk” score also raises concerns about the practical validity of the tool.

After learning that the two former escapees had been cell mates on two recent occasions, the OIG contacted NDCS Deputy Director of Prisons Robert Madsen, and Director Frakes, and expressed concerns about those placements. It was suggested that the two inmates could have had their time in TCP staggered, so that they were kept separate, and that even when they were in the same units they could have been kept in different cells.

Deputy Director Madsen responded to the OIG with the following:

These are good questions and had we been aware of the situations, they would have been handled differently. Ideally, their time for beginning TCP should have been staggered. When they advanced in Phase II, TSCI assigned them as cellmates. It is likely that it is more challenging to find appropriate cellmates for each of them; however, it would have been best to have them separated. When they progressed to Phase III, NSP staff allowed them to continue being cellmates since they have been for some time. During this time, they have been housed in areas of with more controlled movement and supervision. Upon

⁹² Video can be viewed at <https://www.youtube.com/watch?v=qnBEMQtRZCo>

successful completion of TCP Phase III, facility staff will work to identify appropriate facility placement at which time we will look to separate them by facility.

The OIG believes that NDCS should have been aware of the situation with these high-profile inmates, and that at some point in time either a Warden or someone beneath them should have raised concerns about the two of them residing in the same cell together. Even prior to their escape an Intel memo had recommended that they either be separated or removed from LCC, due to concerns about their desire to escape from LCC.

While Director Frakes shared with the OIG that he had been tracking their progress (but not their specific cell assignment) he believed that at the present time their current housing assignment provided them with an appropriate level of oversight and restricted movement.

In a case like this, it should not have taken a contact by the OIG to raise these concerns. However, this concern was appropriately raised by the OIG, and it is the hope of the OIG that NDCS will take action to address the gaps in the system that allowed this to happen.

McCook Work Ethic Camp Escapes

In August 2018 there were two escapes from the Work Ethic Camp (WEC) in McCook. WEC started out as a small facility that originally was run by the Nebraska State Probation Administration. It was eventually placed under the control of NDCS, and is now a minimum security correctional facility that typically houses approximately 200 male inmates. WEC is an evolving facility that in general terms is becoming more focused on providing various treatment programs for inmates before they are classified as community custody. The OIG believes it is quite possible that NDCS will ask for funds to expand the facility during the next legislative session.

On August 12, 2018, at approximately 2030 hours WEC staff determined that Aaron Schlieker was likely missing from the facility. By 2038 hours they determined this was accurate and immediately notified the McCook Police Department and the Red Willow Sheriff's Department. Within 15 minutes the appropriate WEC leaders and the Nebraska State Patrol were also notified. It was determined that he had escaped and video showed that he climbed over a fence at 1905 hours. Mr. Schlieker was apprehended the next day by the Red Willow Sheriff's Department. Mr. Schlieker had been placed in NDCS custody on May 23, 2018 after being convicted of burglary, and his parole eligibility date was April 20, 2019. He had a previous stint in NDCS custody beginning in 2010.

On August 23, 2018, WEC staff determined that Christian Reinke was missing from the facility during the 2100 hour count time. A review of video determined that he had climbed over a fence at 2017 hours. The Warden was notified of the escape at 2117 hours, as were two other members of the WEC leadership team. However, there was a delay in contacting the appropriate law enforcement agencies. The McCook Police Department was notified at 2135 hours, the Red Willow Sheriff's Department was notified at 2140 hours, and the Nebraska State Patrol was not notified until 2151 hours. The notification process was less timely than in the case of the Schlieker escape, and Mr. Reinke was apprehended the next day in Omaha. He had stolen a vehicle and a shotgun in Farnam, Nebraska after he escaped. He was also in prison after being

convicted of burglary. He entered NDCS custody on March 6, 2018 and his parole eligibility date was May 21, 2020.

The OIG will examine these two WEC escapes more closely, but at first glance there are two obvious concerns regarding these escapes. First, the notification of law enforcement in the Reinke case appeared to take quite a bit longer than in the Schlieker case. Second, both inmates escaped over a fence that only has barbed wire on the top. Most correctional facilities utilize razor wire on the top of the fence. There is some razor wire on various parts of the perimeter fence but not the entire fence, despite past requests by WEC to implement this security upgrade. NDCS has initiated internal critical incident reviews of these escapes, and the OIG has requested copies of those reports as soon as they are finished.

NDCS is not required under state statute to notify the OIG when inmates escape. In these cases the OIG did not receive any notification from NDCS. The OIG has requested that NDCS provide notification of all escapes in the future.

PROGRAMS

As shared in previous OIG reports, programming is a key part of the correctional experience and can have a major influence on overpopulation. The programming at NDCS can be divided into three categories: clinical, non-clinical and other.

Clinical programming is provided by a trained clinician and focuses on three main areas: violence/anger, substance abuse and sexual offender treatment. The two clinical programs that are currently being provided in NDCS for violence/anger are: (1) the Violence Reduction Program, and (2) Anger Management. The two clinical programs that are currently being provided in NDCS for substance abuse are residential and non-residential substance abuse treatment programs. The two clinical programs that are currently being provided in NDCS for sexual offenders are iHelp (inpatient) and oHelp (outpatient).

Non-clinical programming does not need to be provided by a trained clinician, but those that do provide it must have received the appropriate training. The two most significant non-clinical programs currently being provided at NDCS are Moral Reconciliation Therapy (MRT)⁹³ and Thinking for a Change (T4C)⁹⁴. These are both evidence-based cognitive behavioral programs that generally assist individuals in making better decisions. These programs are not required by the Board of Parole in order to qualify for parole but they are recommended by NDCS, primarily through the use of the STRONG-R.

Other programs will be discussed later, but these would be programs or even activities that may or not be evidence-based, but are delivered to inmates with the goal of assisting them with promoting positive behavior.

Programming can not only help to provide inmates with what they need to make better life choices, but it can also assist a housing unit, facility or correctional system in operating in a more safe and efficient manner. If inmates receive programming that assists them with making better decisions, then it impacts those around them, which then impacts a facility and eventually a correctional system.

Programming can also influence the number of inmates in the correctional system. Many times an inmate will not be paroled, if they need certain clinical programming and they have yet to receive it. In addition, some programs can assist inmates in changing their behavior so that they will make better decisions, and receive fewer misconduct reports, which can also impact their good time. There are times when an inmate is recommended for a clinical program in order to be paroled, but is not allowed to participate in that programming due to their behavior. The OIG has reviewed a number of cases where an inmate, who has been recommended for the Violence Reduction Program or Anger Management, acts out in a violent or angry way. Due to this behavior they are then not allowed into the program, even though that program may possibly assist them with changing that behavior.

⁹³ <https://www.ccimrt.com/>

⁹⁴ <https://nicic.gov/thinking-for-a-change>

Council of State Governments (CSG) Justice Center

As shared in the 2017 OIG report, the CSG Justice Center issued a report in June 2016 that was a six month assessment of programming within NDCS. It recommended the adoption of a more evidence-based program assignment and sequencing strategy, and the creation of a continuum of care in the community that is connected to programs found in NDCS. One of their most significant findings was that NDCS typically delayed the start of most programming until just prior to parole eligibility, or even later. In many cases, inmates were not even aware that they needed specific programs until they received a case review from the Board of Parole. The CSG Report provided a strategy for effective programming, analyzed the programs currently in use, and presented a new programming model to NDCS. The OIG believes it would be productive, if the NDCS research team reviewed this CSG report and analyzed what has been done by NDCS as a result of the work of CSG.

Data

In 2017, the OIG met with NDCS staff and an arrangement was made so that NDCS would provide the OIG with average population data for program participation on a quarterly basis for 18 different programs. This was in conjunction with NDCS efforts to continually track some of this data in an electronic database. The OIG received the first quarterly report from NDCS on March 29, 2017, and NDCS is now including this data in the NDCS quarterly data sheets that are produced by NDCS after an arrangement was made between NDCS, the OIG and Senator John McCollister.

In addition, a Program Analyst for NDCS issued a report in July 2016 that provided a qualitative analysis of the Violence Reduction Program, the Sex Offender Programming, both iHeLP and oHeLP, and the Residential Treatment Community. This was completed over a six month period and was the first of a three phase report. Unfortunately, the analyst left the employment of NDCS and due to changes made in the delivery of programming the report is no longer relevant. As a result, the second and third phases of the report were not completed and the first phase actually needs to be redone. At this time, NDCS has no immediate plans to conduct this analysis.

As mentioned previously, NDCS provides quarterly data on clinical and non-clinical programming. This data has been provided for just over a year. At this time, it is difficult to make any definitive statements about this data, as there are a number of factors that influence it, along with changes made in the delivery of the programming over the past two years. It should be noted that NDCS has made efforts to expand programming and the Division of Health Services has worked diligently to staff its allotted psychiatrist and psychologist positions. This has allowed some programs to become fully staffed, which then has allowed them to generate waiting lists for programs that are much more accurate.

Using DCS quarterly data reports, the OIG has attempted to share data on these programs in the following charts that is helpful to those trying to understand the impact of changes that have been made by NDCS.

The first chart shows the number of inmates on waiting lists for the clinical programs. The data may be difficult to decipher, as there are some large swings in the number of people on the waiting lists. The sexual offender treatment program waiting lists saw significant increases and

that is mainly due to having the appropriate level of staffing and an emphasis on screening inmates for placement on the waiting lists.

PROGRAM	March 2017 Waiting List	June 2017 Waiting List	Sept. 2017 Waiting List	Dec. 2017 Waiting List	March 2018 Waiting List	June 2018 Waiting List
Violent Reduction Program	148	144	159	195	236	139
Anger Management	240	208	158	262	196	157
Anger Replacement Therapy	28	30	26	4	8	14
Sex iHeLP	52	57	57	86	178	179
Sex oHeLP	93	115	152	208	391	389
Substance Abuse Non-Residential	150	150	151	213	251	223
Substance Abuse Residential	291	221	238	220	256	305

The second chart has data on the number of people on the waiting list who are past their parole eligibility date. CSG made this a significant part of their report and NDCS has stressed this as well. There is an expectation in state law that this take place.

WAITING LIST	Post-PED, June 2017	Post-PED, September 2017	Post-PED, December 2017	Post-PED, March 2018	Post-PED, June 2018
Anger Management	47	44	58	109	34
Violence Reduction Program	29	33	49	61	30
iHelp	32	27	30	30	14
oHelp	28	30	25	20	12
Residential Substance Abuse	25	28	33	43	37
Non-residential Substance Abuse	36	56	45	29	21

The third chart has data on the number of participants in each clinical and non-clinical program at the end of each quarter.

PROGRAM	Program Participants, March 2017	Program Participants, June 2017	Program Participants, September 2017	Program Participants, December 2018	Program Participants, March 2018	Program Participants, July 2018
Violent Reduction Program	42	28	37	14	37	30
Anger Management	34	51	58	37	98	56
Anger Replacement Therapy	4	3	0	0	27	0
Sex iHeLP	54	49	32	51	48	51
Sex oHeLP	39	36	32	34	58	72
Substance Abuse Non-Residential	140	158	96	158	196	131
Substance Abuse Residential	272	261	261	202	263	197
GED (Education)	405	401	401	405	474	409
Destination Dads	90	53	79	22	25	24
Thinking For A Change	49	36	75	93	86	54
7 Habits	8	7	0	18	15	11
Beyond Anger	15	21	8	0	0	13
Moral Reconciliation Therapy	384	378	362	173	178	166

The fourth chart has data on the number of successful completions of the clinical and non-clinical programs during each quarter. This data is key, since it shows how many people actually were able to complete these programs. An additional data point that would be helpful to have would be the percentage of those who actually completed each program.

PROGRAM	Successful Completions, Second Quarter 2017	Successful Completions, Third Quarter 2017	Successful Completions, Fourth Quarter 2017	Successful Completions, First Quarter 2018	Successful Completions, Second Quarter 2018
Violent Reduction Program	7	0	17	13	14
Anger Management	29	16	23	19	47
Anger Replacement Therapy	2	2	12	6	0
Sex iHeLP	4	4	1	3	12
Sex oHeLP	6	0	13	3	12
Substance Abuse Non-Residential	139	177	110	183	208
Substance Abuse Residential	107	125	107	112	113
GED (Education)	29	18	25	32	26
Thinking For A Change	19	58	103	126	115
Moral Reconciliation Therapy	141	112	89	83	88

These data charts are important but they are also difficult to decipher at this point in time. It would be beneficial for policy makers and the public if the LR 127 Committee or the Judiciary Committee held a briefing in which NDCS could explain this data, and any other data related to programming prior to the beginning of the legislative session.

Delivery of Non-Clinical Programs

An issue regarding the delivery of non-clinical programs has been raised with NDCS by the OIG during the past few months. Currently, existing staff volunteer to receive training so that they can facilitate MRT and T4C classes. The staff are expected to fit the preparation time for the classes, and the facilitating of the classes, within their normal hours of work. While this may be practical in some facilities that are fully staffed, it has proven to be difficult to do in facilities that have staffing issues. If a facility is understaffed it will be very difficult for a facilitator to find someone to cover their regular duties, while they prepare and lead the classes. At some point, staff were receiving overtime pay to teach these classes, if it was outside of their regular hours or took place at a different facility. However, NDCS ended this practice, and that has begun to impact the number of facilitators and the time that they have to carry out this responsibility. At NSP there were two facilitators who worked on different shifts. They taught a class together, but they no longer could do this because neither could work during the other's shift.

The OIG discussed this concern with former Deputy Director Mike Rothwell and Director Frakes in late May and early June. It was shared with them that facility leaders had tried to raise these same concerns because they realized the need to do something on this, or else they would see a drop in facilitators. The OIG recommended that NDCS allow for overtime or straight time pay for facilitators at understaffed facilities during their preparation time and their class time for at least the next year. In addition, the OIG recommended that NDCS consider creating additional staff positions that are dedicated to facilitating these classes at understaffed facilities or hire additional unit staff whose purpose is to provide coverage at various posts when needed. As of the writing of this report, the OIG was unaware of any action that had been taken on this issue.

Clubs/Social Groups/Non-NDCS Programs

There are a number of other groups that meet within NDCS facilities that are not considered to be NDCS programs. However, many of them have a significant value to institutional life and culture, and are desired by the inmate population. Some are groups begun by the inmates themselves, and others may be run by volunteers or other groups from outside the facilities.

- Several of the Vocational and Life Skills grant recipients provide classes inside the facilities, ranging from gaining an OSHA certification by ABC Construction to completion of the WRAP (Wellness Recovery Action Plan) class taught by the Mental Health Association.
- A Restorative Justice class at NSP was originally taught by volunteers, but is now being taught by members of the Circle of Concerned Lifers along with one volunteer. They are in the midst of completing their third 40 hour class and the OIG will be attending their upcoming graduation ceremony.
- A group of women started their own support group at NCCW that is now called Water Walkers. They first started meeting in the yard, but then a staff member volunteered to come in on his own time and supervise them so they could meet in a building. Last fall,

Senators Laura Ebke and Anna Wishart joined the OIG at NCCW to attend one of their meetings.

- A group called Inner Circle started at LCC and is comprised of inmates whose original purpose was to assist their fellow inmates with reentry. One of the events that they sponsored was a reentry fair for their fellow inmates.
- NCYF recently received a grant that has allowed them to provide opportunities for their youth to participate in music, the arts, yoga, meditation and strength and conditioning.

These are just a few of the many examples of positive events taking place that have the purpose of providing supports, guidance or some type of skill to those willing to participate.

For decades there have been a number of social groups or inmate clubs that meet on a regular basis at the facilities. However, according to veteran inmates, these opportunities have declined over the years due to changes in yard practices and security measures. There are a number of these veteran inmates who have shared with the OIG the positive impact that these have had on their lives and they would like to see an increase in these opportunities in the future.

COMMUNITY CORRECTIONS

NDCS has two facilities designed to house inmates who are eligible to work outside the NDCS facilities, the Community Corrections Center-Lincoln (CCC-L) and the Community Corrections Center-Omaha (CCC-O). These two facilities currently house both male and female inmates. Together they can house over 600 inmates, but they are both operating above their design capacity.

Expansion

In September 2017, CCC-L expanded by 100 male beds when a dormitory style housing unit was opened. This was funded by legislative action in 2016 at a cost of approximately \$1.8 million. Male inmates reside in their housing unit and it primarily consists of men who are near their release date and are on work detail.⁹⁵

A 160-bed female unit at CCC-L is currently under construction and is expected to be completed no later than January 2019. This project will be a separate building that will also include a separate food service unit, an expanded canteen and additional offices and program space. When this is completed NDCS will likely close the approximately 20 female beds at the CCC-O, which will allow CCC-O to expand their male population by the same number. In addition, the current female unit at CCC-L will convert to a male unit which result in an expansion of male beds at CCC-L by approximately 84 beds. This project is projected to cost slightly more than \$20 million.

As stated in past OIG reports, the OIG still has concerns regarding the elimination of female community custody beds in Omaha. According to NDCS data, over 30% of the women in Nebraska's correctional system are from the metro Omaha area and the closing of these beds will not allow these women to begin the transition process from prison and back into society in their home community. When they are discharged from CCC-L they will then have to restart the employment process when they move to Omaha. In contrast, if they were able to serve the end of their sentence in Omaha, then they would be able to rebuild relationships with their children, who many are expected to parent once they are released, and find other supports such as housing, treatment options, employment and education.

Work Release vs. Work Detail

In the 2016 OIG report, there was a section that compared work release opportunities with work detail opportunities. The 2016 OIG report described the differences as follows:

At each community corrections center, inmates are assigned to either a work detail position or are on work release where they obtain a job in the community. Work detail positions are ones in which NDCS has a contract to fill either internally or with another state agency. The daily pay for these positions is \$1.21, \$2.25 or \$3.78. Work release positions are actual jobs working in the community for a business. These positions pay regular wages.

⁹⁵ Work release is when an inmate works in the community for a private employer. When someone is on work detail they pay \$12/day to NDCS for rent. Work detail inmates receive a very small wage from NDCS for their work within the facility or for another state agency.

In order to be housed at a community corrections center, an inmate has to be classified as community custody. Most inmates qualify for work detail positions before qualifying for work release positions. In recent correspondence with an official at a center, they said that the goal is to have all inmates employed in work release positions 30 days or more before their final Board of Parole hearing or their tentative release date (mandatory discharge date). If an inmate has a work release position they are able to save more money for their eventual transition to the community.⁹⁶

One of the keys for work release inmates is that they actually pay rent of \$12 per day to NDCS, which helps pay for the costs of their incarceration at the community corrections centers. As the community custody beds increase in number it will be important to track the number of work detail and work release opportunities.

Possible Improvements at the Community Corrections Centers

As shared in the 2017 OIG report, a consistent concern expressed by inmates and staff at the community corrections centers are the difficulties involved with transportation for those who have work release jobs. Currently, inmates are mainly reliant on the public transportation system and this can create barriers to obtaining and maintaining employment. In addition, some work detail inmates have shared with the OIG that they do not always get picked up on time from their work detail jobs, and if they miss a class as a result, then there is the potential for them to be disciplined. These are challenges that NDCS should seek to address.

When most people apply for jobs they utilize the internet to fill out an application. The inmates eligible for work release at the community corrections centers do not have computers with internet that they can use to apply for employment. NDCS should provide these inmates with access to computers, with appropriate safeguards that will enable them to apply for employment.

A greater emphasis should be placed on the casework component at the community corrections centers, in order to better prepare inmates for their transition into the community. This would also assist the mission of the community corrections centers, if programming was completed prior to the inmates reaching this stage of their incarceration. In addition, reentry staff should continue to meet with inmates according to their policies.

When an inmate with a mental illness promotes to a community corrections center their mental illness does not go away. Concerns have been shared with the OIG regarding a consistent lack of mental health treatment for those individuals in community corrections. NDCS and the Division of Health Services should assess the quality of the mental health treatment provided in those centers in order to determine whether changes need to be made in the providing of that care.

The OIG is contacted by inmates at CCC-L on a regular basis regarding their concerns. The OIG has developed a relationship with CCC-L administration in which these concerns are shared with them. The OIG has also attended two inmate council meetings at CCC-L this year as part of developing that relationship.

⁹⁶

http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Inspector_General_of_the_Nebraska_Correctional_System/600_2_0160915-141014.pdf (pages 41-42)

Other Community Custody Options/Innovative Ideas

In 2016, the OIG presented information to Director Frakes and the Legislature regarding other options for inmates who have been classified as community custody and are eligible for work release opportunities. These options included the establishment of smaller community facilities such as those that exist in the State of Washington, or the contracting with county jails who have available work release beds. They could also be connected in some manner with an existing state correctional facility. At that time, the OIG shared with NDCS that Hall County and Scotts Bluff County were definitely interested in working with NDCS on such an endeavor and that at least four other counties were interested in learning more about it. NDCS, Parole and the Nebraska Department of Labor could all work together to identify communities that would meet certain criteria, including having a consistent number of inmates returning to those communities, an unmet employment demand that could be filled with work release inmates, and a desire by the community to support such a facility. In February 2016, Director Frakes testified before the Appropriations Committee and stated:

The Washington model has been brought forward as a good example of using...rehabbing apartment buildings and other spaces and turning them into small community work release centers. I think that is something that we should explore in the future, recognizing that the experience in Washington was most of those were sited in the '70s and '80s. And when they went to site one in the late '90s, it was a two-year process and it ended up in an industrial park because of the "not in my backyard" syndrome that, you know, became part of at least the West Coast.

These facilities could be housed with inmates who have already completed either work detail or work release assignments in Omaha or Lincoln and are identified by NDCS as meeting a criteria established for a final stage of community custody. These inmates would be placed in facilities in or near the communities to which they will eventually transition. This would allow them to actually gain employment in their home communities, and they could also begin to reestablish family and community contacts which would assist with their successful transition. They would pay “rent” for their stay in that facility which would assist with the operation of the facility. A key potential outcome of this idea is that it would allow the existing community corrections centers to begin to right-size, and allow them to operate closer to their design capacity, as well as allow inmates to stay in community custody for a longer period of time. Lower level minimum custody inmates could also be given opportunities to compete for work detail positions in those centers. This would then benefit the inmates at those facilities (as well as NDCS staff at those facilities). Consideration could be given to having Parole Administration run these new facilities, as that would then allow for a smooth handoff to their oversight when the inmates are paroled or released. This could be considered as part of the work of a Coordinated Reentry Council as discussed later in this section.

There are a number of inmates who are never classified as community custody. As a result, they are paroled or discharged without having an opportunity to find a job, gain employment experience, or have any direct contact with the world outside of their facility before release. NDCS should conduct a careful review to determine the exact number of inmates who fall under this category. If a sufficient number are identified, then consideration should be given to creating

transitional housing units for this population. In these housing units inmates could be provided with opportunities to plan for their transition and receive the skills needed to assist them when they return to their communities.

Related to this, there are a number of specific groups of inmates who may have other difficulties in either being placed in community corrections centers, or reentering society. Two examples would be elderly inmates, and those individuals with a developmental disability. NDCS should explore the concept of providing specialized transitional programming and housing for the individuals in these categories in order to provide them with additional supports for a successful transition.

When inmates are in community corrections centers, they could be asked to provide exit interviews, as part of the process of their being released. During these exit interviews, they could be asked a series of standardized questions regarding their experiences within NDCS. They could share information on programs or people that assisted them with successfully moving forward in their rehabilitation. They could also share information on barriers to their successful rehabilitation. However, should these be conducted, there would need to be a thorough and objective effort to review the results, identify positives and negatives within the correctional system, and follow up by determining whether action should be taken as a result of the information collected.

One other interesting possibility would be to expand the role of the Division of Parole Supervision in the future and have them work with community custody individuals who are eligible for work release. This could potentially lead to a much smoother transition from NDCS custody to being on parole, for those individuals. This approach might also require that the re-entry element of NDCS be transferred to Parole. Should this possibility be explored the first pilot project for Parole could be a smaller female community custody facility in the metropolitan Omaha area.

Re-entry

The Vocational and Life Skills Program was established by the Legislature in 2014. It is a grant program that contracts with community groups to provide reentry services for individuals who are about to leave or have left the custody of NDCS. The first grant cycle began in early 2015, and the second began on July 1, 2016. The third grant cycle began on July 1, 2018.

Approximately \$7 million is provided to grant recipients during the two year grant cycle. The grant recipients are offering services in areas throughout Nebraska, including a combination of programs, such as housing, employment services, education, and vocational training. In addition, more services are being provided within the correctional facilities by these groups.

As part of the NDCS reentry effort, NDCS reentry specialists meet with inmates at least three times during their incarceration. These include contacts during the beginning, middle and end of their sentences. The purpose is to work with the inmates to establish a reentry plan. The plan is intended to assist the inmate with determining where they are going to reside, identifying the relationships that they have in their home community, deciding what type of employment they will seek, and confronting the fact that they need to save money to assist with their reentry

efforts. For those in restrictive housing near the end of their sentence, the specialists meet with them one-on-one prior to their discharge date to give them extra time to plan and prepare.

Parole has also created its own reentry positions that go into the correctional facilities to work with inmates that are about to be released. Consideration should be given to placing the reentry specialists and the Vocational and Life Skills Program under the oversight of Parole, due to the obvious connection between parole and reentry efforts. During the 2018 legislative session, LB 1118 was introduced which would have created a Coordinated Reentry Council.⁹⁷ LB 1118 would have provided the Council with several duties related to reentry of inmates, including reviewing current practices and making recommendations to the Governor and the Legislature. The re-introduction of LB 1118 would allow for a thoughtful and thorough examination of reentry practices in Nebraska, and would also create a guide for the future evolution of reentry efforts in our correctional and parole systems.

⁹⁷ <https://nebraskalegislature.gov/FloorDocs/105/PDF/Intro/LB1118.pdf>

COUNTY JAIL PROGRAM

Over the past few years, NDCS has contracted with a number of county jails to house state inmates. NDCS pays a contracted rate to each county jail for each inmate housed there, and the sole purpose of this program was to assist with the overpopulation issue. Although NDCS previously announced that the program would end on June 30, 2017, it did not, in fact, end as planned. NDCS continued the program using unused funding that was originally provided for the program. When those funds were eventually exhausted, they began to use other correctional funds from other sources for this purpose. NDCS suggested to the OIG that they hope to end the use of this program when the new housing unit is opened at CCC-L.

During the past legislative session a legislative bill was introduced that would provide some guidelines in state law for the use of this program (LB 853). The legislative bill was not advanced. However, after it was introduced, the OIG visited all but one of the county jails that housed state inmates in January of 2018 (Lincoln County, Phelps County, Johnson County, Hall County, and Platte County). While there, the OIG met with the county jail staff and the state inmates who resided at each facility.

Several issues were shared with the OIG during those visits, including:

- Barriers existed regarding the timely placement of funds for individual inmates expenses into county accounts;
- There was miscommunication among NDCS staff regarding what property inmates could bring to each county;
- Informal grievances from inmates to NDCS staff were going unanswered;
- Inmates were receiving no case worker contacts;
- There were concerns about the lack of professional treatment by NDCS staff;
- There were complaints about the lack of timely medical care at the county jails; and
- A lack of information being shared with county jails regarding the inmates being transferred to their facility.

Upon returning from the tour, the OIG contacted Director Frakes and shared that concerns had been provided to the OIG. As a result, the OIG met with NDCS staff who oversaw the county jail program, and brought these issues to their attention. The OIG later followed up with those staff and learned that they had taken action regarding the concerns shared with them. The OIG plans a follow-up tour to each of the counties later this fall. Information regarding the original tour was provided to the Judiciary Committee during the legislative session.⁹⁸

⁹⁸ Attachment 16: March 21, 2018 Memorandum from the OIG to the Judiciary Committee

LCC CHANGES

At the beginning of 2018, a new warden was hired at the Lincoln Correctional Center. This position also covers the Diagnostic and Evaluation Center.⁹⁹ The new warden was hired from outside Nebraska. He was the first warden hired from outside the Nebraska correctional system since the 1980's. In the 2017 OIG report it was recommended that NDCS look at bringing in "new blood," and this hire was an encouraging sign by NDCS. The OIG has been impressed by the new warden's leadership skills and the changes to the facility that have taken place as a result of his efforts. He has brought new ideas and practices to the facility ranging from a change in recycling, to the expanding use of data as a means to identify concerns, as well as tracking positive results within the facility. The most significant change brought by the warden, in the eyes of the OIG, was a positive and productive engagement with the staff and inmates at each facility. Numerous times the impact of his engaging with each population in an empowering and positive manner has been mentioned to the OIG by both staff and inmates. In the next year, the OIG will continue to monitor the changes taking place at these two facilities, and will share any findings in the 2019 OIG report.

⁹⁹ These are two facilities but one warden runs them both.

INMATE LETTERS

During the past three years, the OIG has received numerous letters from inmates in the state's correctional system. They come from all facilities and cover a multitude of issues. While the OIG has the intent to respond to all correspondence, keeping up with these letters has proven to be a challenge due to other demands of the position. However, each of these letters is read as it is received, and all letters from inmates continue to play a significant role in educating the OIG about the Nebraska correctional system. While many of the inmates shared personal circumstances or concerns that are more applicable to the work of the Ombudsman's office, they do present an idea of what is happening across the system. Many times the OIG will refer the inmate to the Ombudsman's office, but ask that person to keep them updated on their situation. Other letters express concerns or raise issues surrounding the correctional system and fall under the domain of the OIG. The challenge of responding to all of them in a timely manner remains. The OIG should develop a response system that provides an initial response to each inmate within ten days of receiving the letter.

NSP AND TSCI CONCERNS/FUTURE REPORT

The OIG has several concerns regarding the operation of the Nebraska State Penitentiary over the past year, including staffing, housing practices, core needs and other issues. The OIG will complete a special report regarding these concerns no later than October 5, 2018.

The OIG continues to have concerns regarding the operation of the Tecumseh State Correctional Institute. While the temporary use of the Omaha employees is definitely helpful, it is not likely that this can continue as a permanent change. The OIG will continue to spend time at TSCI in the next year and keep policy makers apprised of the situation that is found at that facility. A number of significant incidents continue to occur at TSCI, and many staff have expressed to the OIG that they are fearful of another major incident in the near future. Even the OIG was informed by an inmate in a specific restrictive housing unit that the presence of the OIG was no longer welcome by the inmates on that gallery, despite the efforts of the OIG to understand their situations and listen to their concerns.

CENTRAL OFFICE RESTRUCTURING

In early 2018, Director Frakes shared with his executive team that a consultant was going to visit NDCS from the Association of State Correctional Administrators (ASCA) to review their organizational structure. The consultant visited during part of a week in late January and met with the members of the executive team. On April 10, 2018, Director Frakes notified NDCS staff that he had utilized a consultant to make the executive-level organizational structure more efficient and that the recommendations resulted in the creation of two new positions, Chief of Operations and Chief of Staff, who both directly reported to the Director. Director Frakes shared that he considered these recommendations for the past several weeks but knew they would be difficult to implement because he had established a “no new” Central Office positions rule at the beginning of this process. However, he shared that two recent resignations allowed for the creation of these two new positions. As a result, four Deputy Directors now report to the Chief of Operations instead of the Director. Two of those positions were retitled to Deputy Director – Prisons and Deputy Director – Programs.¹⁰⁰

As a result of this action, the OIG requested information from NDCS regarding the work of the consultant, including asking for a copy of the report provided by the consultant. The OIG was informed that “There is no work product. Everything was done through conversation.”¹⁰¹ The OIG then approached staff who were involved in the process and concerns regarding the process were shared with the OIG, including the brevity of the interviews completed by the consultant and his refusal to accept any background information from at least some of the staff, including refusing offers to receive copies of resumes. The OIG also learned that revised organizational charts were already being created by NDCS staff that created the positions of Chief of Staff and Chief of Operations prior to the consultant visiting Nebraska.

During the past three years, the OIG has had a number of discussions with Director Frakes and NDCS staff about the importance of bringing “new blood” into NDCS. The creation of these two new high ranking positions provided opportunities to do so but the positions were never made open to any other candidates. This is not to say that the two people who were named to these positions are not quality candidates but that these were two opportunities to conduct a nationwide search to find the best candidates for these positions.

As part of these changes, the Deputy Director – Prisons position became vacant and was filled by NSP Warden Robert Madsen. Once again, NDCS did not advertise another open position, the position of NSP Warden. The Deputy Warden was promoted to that position. Again, this is not to

¹⁰⁰ Neb. Rev. Stat. § 83-922 provides the Director with guidance on the Divisions within NDCS. The statute is as follows:

Department of Correctional Services; duties; divisions enumerated.

The Department of Correctional Services shall fulfill those functions of state government relating to the custody, study, care, discipline, training, and treatment of persons in correctional and detention institutions. There shall be separate divisions within the department to assist in fulfilling these functions. The divisions shall be the Division of Community-Centered Services, the Division of Administrative Services, and the Division of Adult Services. The Director of Correctional Services shall appoint an assistant director as head of each division and may remove or change the powers and responsibilities of the assistant director of any of the divisions at his or her discretion.

The Divisions now operated by NDCS do not match state statute and NDCS should request legislation to make them match. It is important to note that they did not exactly match prior to this change.

¹⁰¹ NDCS email to the OIG

say that the person selected for this position was not a quality candidate but NDCS could have conducted a nationwide search to fill this position. The Deputy Director – Programs position is currently vacant as Deputy Director Mike Rothwell left NDCS in August 2018. This position was advertised and several candidates applied.

OIG INVESTIGATION REPORTS

A number of issues are presented to the OIG to review or investigate during the course of a year and some of those issues may result in a formal investigation which includes the writing of a report that is submitted to the Public Counsel for his review. Within 15 days of submitting the report to the Public Counsel it has to be provided to NDCS or Parole. Once it is submitted to that specific agency, the Director has 15 days to respond to the recommendations contained in the report and can either accept, reject or seek a modification of each recommendation. If they seek a modification then the OIG has 15 days to respond to the agency. During the past year the OIG completed one formal investigation in this manner.

The one formal investigation that was completed in this manner involved an allegation by James Papazian that a weapon was planted in his cell by a NDCS staff member. The report can be found on the Nebraska Legislature's web site.¹⁰²

As stated in the 2017 OIG report, these investigative reports are in the beginning stages of their development, and it is the goal of the OIG that they will evolve and improve over time. The challenge with these investigations is the time and effort that they take to complete. The OIG has limited resources and while there are many incidents that take place that could result in a formal investigative report, the OIG has to be selective and thoughtful in deciding which ones to investigate in this manner. Many times the OIG may begin to review an incident or allegation and it is resolved or more completely understood without going through the full formal investigatory process. Despite this, it is clear that the OIG needs to be more transparent and conduct and complete additional investigations in the future, so that policy makers and the public are more aware of the work product completed by the OIG.

¹⁰² https://nebraskalegislature.gov/pdf/reports/public_counsel/2018papazian.pdf

DIVISION OF PAROLE SUPERVISION

In 2015, the Legislature passed Legislative Bill 598 to transfer the administration of the Division of Parole Supervision (Parole) from NDCS to the Board of Parole effective July 1, 2016. This resulted from a recommendation made by the Department of Correctional Services Special Investigative Committee in 2014. Prior to the transfer being made, Julie Micek was hired as the Director of Supervision and Services and Nicole Miller was hired as the Staff Attorney. The transition to the Board of Parole was made on July 1, 2016.¹⁰³

Parole Report

It has now been two years since Parole was placed under the Board of Parole. Previously, it was administered by NDCS. In the past two years many changes and advances have taken place. The OIG visits with staff of Parole on a regular basis and also communicates with members of the Board of Parole when necessary. Parole has been extremely open and transparent with the OIG.

Each of the last two years, the OIG asked Director Micek if she would be willing to prepare a document that discusses the activities of the Division of Parole Supervision during the past year, along with any successes, challenges, and plans for the future. Director Micek provided one last year and this year's document is attached to this report. Some of the activities of Parole found in that report and other documents shared with the OIG include:

- Implementation of a new assessment tool. The Ohio Risk Needs Assessment (ORAS) is the assessment tool for clients who have been paroled by the Board. The tool assesses risk of reoffending and criminogenic needs and includes a quality assurance process to ensure implementation is successful;
- The Parole Resource Center is now located in the Lincoln Regional Office;
- Eight jails have been contracted with throughout the state to provide custodial sanctions;
- Specialized Officers have been trained in the University of Cincinnati's cognitive Program- Cognitive Behavioral Interventions- A Comprehensive Curriculum (CBI-CC);
- In Lincoln and Omaha, caseloads are being built on risk, not caseload number size;
- The Norfolk Regional Office moved from its location at the Regional Center to office space more centrally located in Norfolk;
- A reentry division was developed within parole supervision;
- Completed first Request for Proposal (RFP) for treatment/life skills groups/classes for clients on parole;
- Established a monthly honor a staff member who has gone "Above and Beyond";
- Participation in an effort led by the Sherwood Foundation to explore reentry on a larger scale in relationship to criminal justice in Nebraska;
- Collaboration with the Department of Labor to bring employment classes to clients on parole;
- Development of data dashboards to assist staff in using data to guide their daily work and to make informed decisions;
- Development of a set of Quality Assurance processes that are shared with officers and supervisors via EPICS Progression spreadsheets, assessment tracking to ensure policy

¹⁰³ The transition report can be found at http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Parole_Board/585_20160603-101354.pdf

- adherence, and case audits to ensure officers are providing and updating information on all clients;
- Created 'report cards' to provide feedback to supervisors and staff on quality assurance findings and connected those with training and coaching opportunities;
- Utilized grant funding in order to purchase and pilot test tablets for field use with officers;
- Distribution of new equipment (laptops and phones) for the majority of officers to bring equipment up-to-date;
- Creation and use of a fully-functional training space complete with state-of-the-art audio and video equipment to connect officers across the state as well as provide a space and the necessary resources to complete safety training on-site;
- Obtained funding to provide support for a full-time programmer to revitalize the data management system;
- Participation in the Project Integrate grant program which provides additional funding for indigent parole clients to obtain supportive transitional housing;
- Partnership with the Mental Health Association/Honu House to increase transitional living opportunities and programming for clients;
- Supervisors started meeting with Officers 1:1 in the month of October and beginning in November all staff began 1:1 sessions with their immediate Supervisor;
- Started work with the Valley Hope program for short-term residential treatment for clients currently on parole who need a higher level of care or who the Board feels meets the criteria to participate in treatment at Valley Hope followed by very structured living options rather than staying in prison to receive this treatment;
- Purchase of the Lynda.com bundle, which grants Parole staff unlimited access to over 6,500 e-learning courses, with over 60 new courses added each month. Topics range from software training, to business, to communication and project management skills; and
- Initiated planning for transitioning to a paperless system agency wide.¹⁰⁴

Summary

Parole has taken significant steps in the past two years but many challenges remain as they attempt to move forward. However, they have a vision and a plan and the means to move forward on both. They have even created a blog.¹⁰⁵ In the past year, the OIG has not been contacted by either a Parole staff member or a parolee with any concerns regarding Parole and its practices. Currently, the OIG is following the case of a person who was recently placed on parole in order to learn more about the parole process.

¹⁰⁴ Attachment 18: Division of Parole Supervision Annual Update FY 2018

¹⁰⁵ <https://dpsscienceandart.wordpress.com/>

NDCS REPORTS

During the past few years, NDCS has published a number of reports, some of which are referred to in this report. To assist those who have an interest in learning more about Nebraska's correctional system, the reports and a link to each of them are listed below:

- 2017 Restrictive Housing Report - https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services_Department_of/602_20170915-165720.pdf
- 2017 Strategic Plan Progress Report - https://corrections.nebraska.gov/sites/default/files/files/41/fy17_strategic_plan_progress_report_0.pdf
- The Effects of Sex Offender Treatment in a Correctional Setting - https://corrections.nebraska.gov/sites/default/files/files/46/2017_sex_offender_programs_evaluation.pdf
- Vocational and Life Skills Report - https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services_Department_of/490_20180628-083643.pdf
- Mandatory Discharge Report - https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services_Department_of/577_20180201-165507.pdf
- Update on 2016 \$1.8 Million Appropriation - http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Correctional_Services_Department_of/628_20161230-121647.pdf
- 2016 Vera Institute of Justice Report on Restrictive Housing - <http://www.corrections.nebraska.gov/pdf/Vera%20Institute%20Final%20Report%20to%20NDCS%2011-01-16%20v2.pdf>
- Retention Funds – http://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Correctional_Services_Department_of/595_20170421-184706.pdf
- Long Term Plan for Restrictive Housing - http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Correctional_Services_Department_of/591_20160630-181951.pdf
- Strategic Plan Update - <http://www.corrections.nebraska.gov/pdf/Strategic%20Plan%20Progress%20Summary%202015-2016.pdf>
- Mandatory Overtime Reduction Report – http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Correctional_Services_Department_of/559_20151231-152325.pdf
- Behavioral Health Assessment - http://nebraskalegislature.gov/FloorDocs/104/PDF/Agencies/Correctional_Services_Department_of/558_20151231-152218.pdf
- Culture Study, Part One - http://www.corrections.nebraska.gov/pdf/NDCS_percent20Culture_percent20Study_percent20-percent20Part_percent201.pdf
- Culture Study, Part Two - http://www.corrections.nebraska.gov/pdf/NDCS_percent20Culture_percent20Study_percent20-percent20Part_percent202.pdf

- CSG Justice Program Assessment - <http://www.corrections.nebraska.gov/pdf/2016percent20Nebraskapercent20Councilpercent20ofpercent20Statepercent20Governmentspercent20Justicepercent20Programpercent20Assessment.pdf>
- 2014 Master Plan Report - <http://www.corrections.nebraska.gov/pdf/NDCSpercent20Masterpercent20Planpercent20Finalpercent20Report.pdf>

RECOMMENDATIONS

Throughout the report there were many observations made by the OIG that resulted in these specific recommendations.

The following are recommendations by the OIG related to the Nebraska Department of Correctional Services (NDCS):

- Begin to calculate staff turnover rates in the same manner as the Nebraska Department of Administrative Services, but also continue with the current calculation method until a later date;
- Provide the OIG and policy makers with a plan for transitioning away from the use of Omaha staff at TSCI;
- Review the ability of NDCS to pay an additional bonus or stipend to staff who speak and utilize a foreign language during their employment;
- Revisit the past recommendation of presenting salary proposals to the Department of Administrative Services that would either result in longevity pay or the establishment of a tiered plan system where an employee can be rewarded for reaching certain work goals, achievements or certifications. For example, positions of Corporal I, Corporal II, and Corporal III could be created. To move from one tier to the other the individual would have to be in their position for a certain period of time, take outside classes, gain a special certification or accomplish goals established by NDCS. Health services staff could achieve something similar if they receive a form of health professional certification;
- Revisit the past recommendation of providing additional pay for employees who participate in extra duties that require additional training;
- Meet with the leaders of Nebraska's community college community to discuss the possibility of working with them to establish career tracks and other classes or training programs to recruit, develop and grow the NDCS work force;
- Conduct a follow-up study to the 2016 Culture Study to learn what has changed regarding the culture of NDCS, including making use of employee surveys;
- Provide a plan for improving and expanding core support needs to the Governor and the Legislature no later than December 1, 2018;
- Provide a plan for addressing the maintenance backlog of over \$60 million in projects to the Governor and the Legislature no later than December 1, 2018;
- Meet with the OIG prior to November 1, 2018 to review **Neb. Rev. Stat. § 47-905** and determine if any language in the statute needs to be amended so that the OIG and NDCS have consistency and agreement in the reporting of serious injuries and deaths;
- Contact the Nebraska State Patrol whenever a staff member is assaulted in the line of duty, including any sexual contact or possible offenses;
- Review the numerous suggestions made by the OIG to NDCS in 2018 regarding restrictive housing practices;
- Review statistics related to the racial breakdown of those in restrictive housing, TCP, Protective Management, and living units that are being run under modified operations, and determine if changes need to be made in this area;

- Review the operations of Intel and possibly utilize outside entities to assist with this effort, in order to determine whether changes need to be made to improve this division, so that it more closely adheres to standards of fairness.
- Review the success of the “Blue Room” at NCCW and determine whether or not this could be replicated at other facilities;
- Continue the work being done to review, improve and expand programming in all living units, including restrictive housing units;
- Create methods of tracking contraband in each facility, and in the entire correctional system;
- Require the Division of Health Services to produce a report no later than January 1, 2020 that conducts a complete assessment of their present situation, as well as future needs and challenges;
- Support the work of the NDCS Suicide Work Group;
- Continue reviews of the effectiveness and accuracy of the classification tool;
- Request the National Institute of Corrections to visit Nebraska and assess security at DEC, LCC and NSP, as well as provide security audit training for staff at those facilities;
- Issue a Request for Proposal for the risk and needs tool that is currently being provided by Vant4ge this fall;
- Provide overtime pay for facilitators of non-clinical programs in facilities that currently have understaffing issues and consider hiring of staff on a temporary basis to run non-clinical programs in understaffed facilities;
- Review the need for razor wire around the fence at WEC;
- Consider reviving the plan for a qualitative analysis of clinical programming;
- Provide secure opportunities for inmates at the community corrections centers to apply for jobs using the internet;
- Assess the quality of the mental health treatment provided in community corrections centers in order to determine whether changes need to be made in the providing that care;
- Conduct exit interviews of inmates who are released from community corrections centers;
- Review the innovative changes being made at LCC and other facilities to determine whether they can be expanded to other facilities; and
- Establish a long-term plan to fund the renovation and right-sizing of the current correctional facilities and present it to the Governor and the Legislature by October 1, 2019;

The following are recommendations by the OIG related to the Division of Parole Supervision:

- Review the capabilities of having Parole expand their role to provide re-entry services and community corrections opportunities;
- Continue to work with the Office of Probation Administration to jointly use community resources, including the day reporting centers;
- Seek legislation that clears up the language requiring Parole to utilize a risk and needs instrument that needs to be validated in Nebraska (**Neb. Rev. Stat.** § 83-1,100.02); and
- Issue a Request for Proposal when the contract for the ORAS expires.

The following are recommendations by the OIG for state policy makers:

- Determine what the population goal should be for the Nebraska correctional system;
- Consider introducing legislation that would phase in the correctional overcrowding emergency;
- Review the necessity of adding a 100 bed minimum custody living unit at NSP due to the staffing and security issues that are currently taking place at NSP;
- Review the core support needs provided by NDCS and determine whether additional funding is needed to improve and expand related space;
- Begin the process of funding an indoor recreation center for NCCW;
- Review the legislation passed in the State of Washington regarding staff security and determine whether or not a similar effort needs to be made in Nebraska;
- Review the work product of the External Restrictive Housing Work Group to determine whether it has met the goals of the Legislature and whether or not it should be terminated or have its membership and/or duties amended;
- Consider introducing legislation to create an Education and Employment Work Group that would assess the current state of education and employment training within NDCS;
- Review the plan by former Governor Tommy Thompson to establish a “Second Chance Skills Institute” within NDCS;
- Ask NDCS to present more detailed information on the expansion and effectiveness of programming throughout the system to the Judiciary Committee and/or the LR 127 Special Committee; and
- Reintroduce LB 1118 from 2018 that would have established the Coordinated Reentry Council. The Council would be given several duties related to reentry of inmates, including reviewing current practices and making recommendations to the Governor and the Legislature.

The following are recommendations by the OIG for the OIG:

- Meet with NDCS prior to November 1, 2018 to review **Neb. Rev. Stat.** § 47-905 and determine if any language in the statute needs to be amended so that the OIG and NDCS have consistency and agreement in the reporting of serious injuries and deaths;
- Provide a response to senators regarding the NDCS restrictive housing report;
- Develop a better system for tracking assaults of inmates and staff;
- Develop a better system of responding to inmate letters so that an initial response is completed within ten days of receiving the letter;
- Issue a report on NSP no later than October 5, 2018;
- Visit a majority of the county jails that house state inmates and interview county jail staff and state inmates;
- Conduct at least one inmate survey; and
- Conduct and complete additional formal investigations in the future so that policy makers and the public are more aware of the work product completed by the OIG.

Status of Past NDCS Recommendations

During the past three years, the OIG has made numerous recommendations to NDCS. At the request of the OIG, NDCS recently provided the OIG with an update or feedback on those recommendations. The recommendations are attached to this report.¹⁰⁶

¹⁰⁶ Attachment 17: NDCS Recommendations Spreadsheet, August 2018

OIG RESOURCES AND GOALS

As the OIG enters the fourth year of the existence of the Office, there are a number of goals and expectations for the work ahead. One of the challenges facing the OIG is the lack of additional staff to assist with the work. Over the past three years the demands on the OIG have increased and the result is that the OIG has to prioritize issues and understand that there will be issues or parts of the correctional and parole systems that will not be able to be closely examined due to a lack of time or resources. Should the Legislature decide to provide an additional staff member to assist the OIG the investment will be well-spent.

The goals for year four of the OIG are similar to previous years:

- Continue to work to establish better tracking and review systems for serious injuries, deaths and assaults within the correctional system (staff and inmates);
- Attend an inmate council meeting at each facility;
- Continue to increase interaction with NDCS staff;
- Provide detailed special reports or updates on specific issues;
- “Shadow” a parolee to learn more about issues impacting parolees;
- Continue to maintain contact with each program that receives funding from the Vocational and Life Skills Program;
- Conduct surveys of NDCS employees and employees of the Division of Parole Supervision;
- Conduct at least one survey of inmates at a facility;
- Continue to communicate with policy makers and be responsive to their requests for information; and
- Always be open to suggestions for improvements.

CONCLUSION

Writing an annual report is an adventure but it is also an educational endeavor as one learns that a lot of ground can be covered in a year. However, when one reflects back they also realize that there is a lot of ground that was not covered, or was not covered to the extent that it should have been covered. Just like with Parole and NDCS the OIG faces challenges as well.

This report has been filled with information and data in an attempt to share as much with the reader as is possible so that they understand the activities of NDCS and Parole. It has been the hope of the OIG that these annual reports will not only provide such an understanding but can also be a resource for those interested in these areas. Hopefully, the third annual report achieves that goal.

While the majority of this annual report and the past two annual reports focus on NDCS, Parole has also faced their share of challenges. They continue to make excellent strides forward under their leadership team. As a result, they should continue to work closely with the Governor and the Legislature to share their plans for the future and to identify the resources that they will need to become an even better component of the justice system. The OIG must spend more time in year four to review their activities and to learn more about the challenges they face.

Meanwhile, NDCS continues to face serious challenges. They are understaffed. The staff at many facilities are overworked and tired. Overtime is incredibly high. Turnover rates indicate an “unhealthy agency.” The correctional system is overcrowded. Assault and serious incidents take place. Facilities need upgrades. Core support services need to be enhanced or expanded at the facilities. The culture is viewed by many within NDCS as in desperate need of repair. Staff have a desire to be a part of the solution but many feel that they are not given that opportunity. These are just some of the challenges facing NDCS. Despite this, there are positive steps being taken within NDCS and many of them have been shared in this report.

However, NDCS, in the view of the OIG, could be a more transparent agency. Prior to the writing of this report, the OIG asked Director Frakes and various members of his executive team if they had additional information that they thought would be helpful in the writing of this report.

An example of this is found in one email to Director Frakes in which the OIG wrote:

Second, as you know I request some data from NDCS that I use in the report. However, I know there is likely a lot more data that I don't know about that might shed light on what is going on in NDCS. If there is data or information that you think would be relevant for my report that I don't have I would be more than willing to receive it and review it for inclusion in my report.

Another email to the Personnel Administrator of NDCS Human Resources stated:

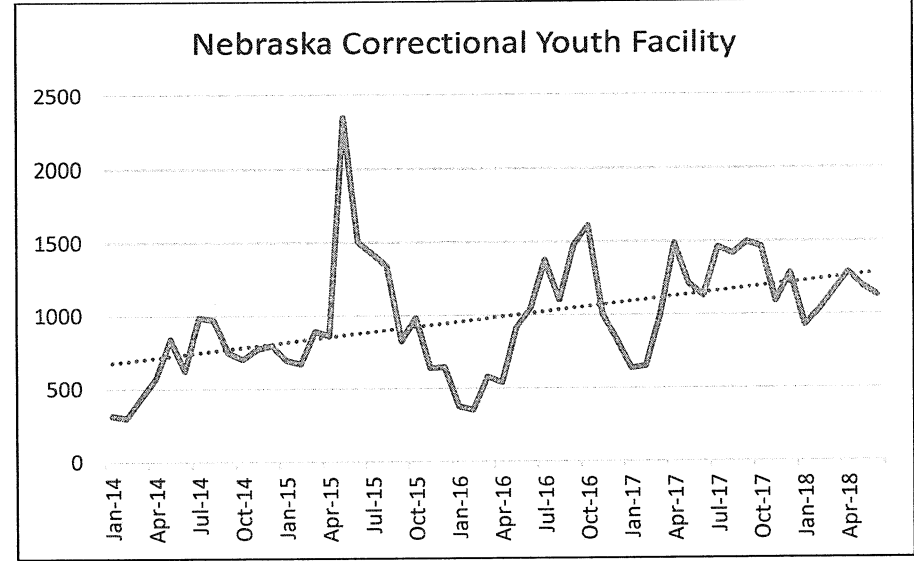
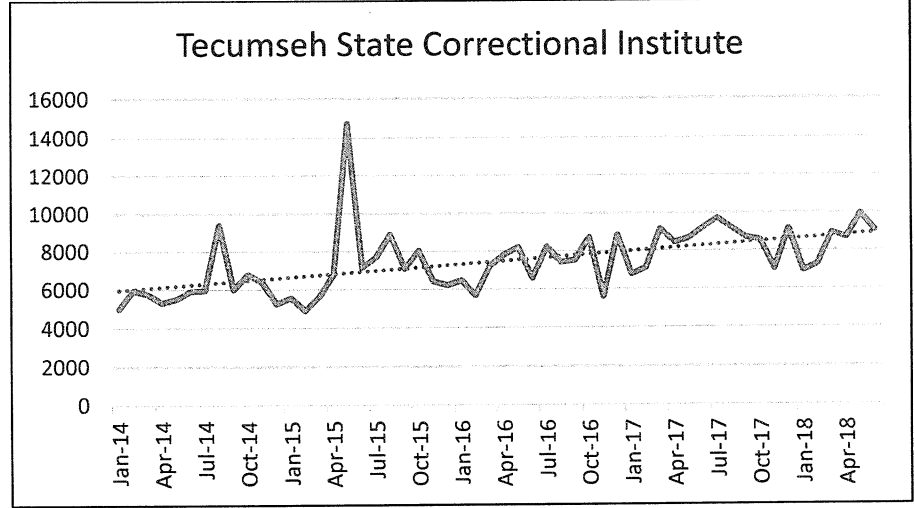
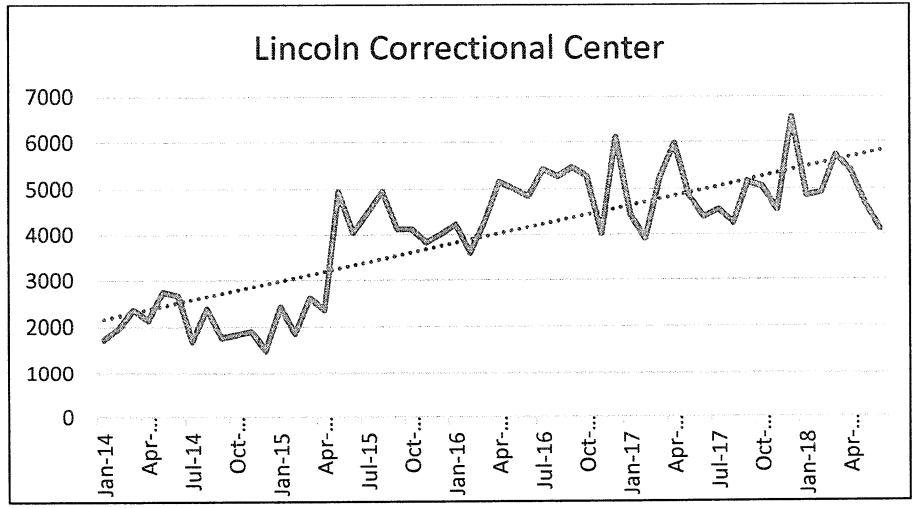
As always, I am open to meeting with you to discuss any of this data/information and would be more than happy to receive any other data or information related to staffing in order that I may present the most accurate picture of staffing possible.

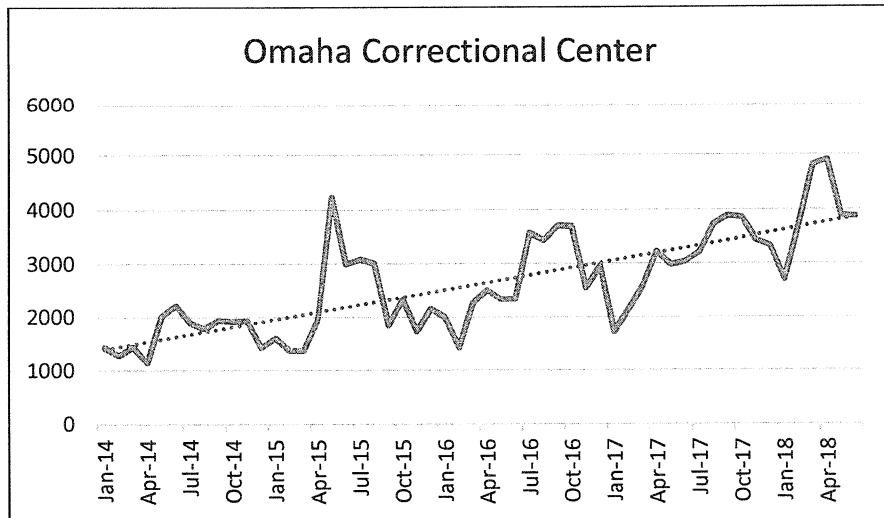
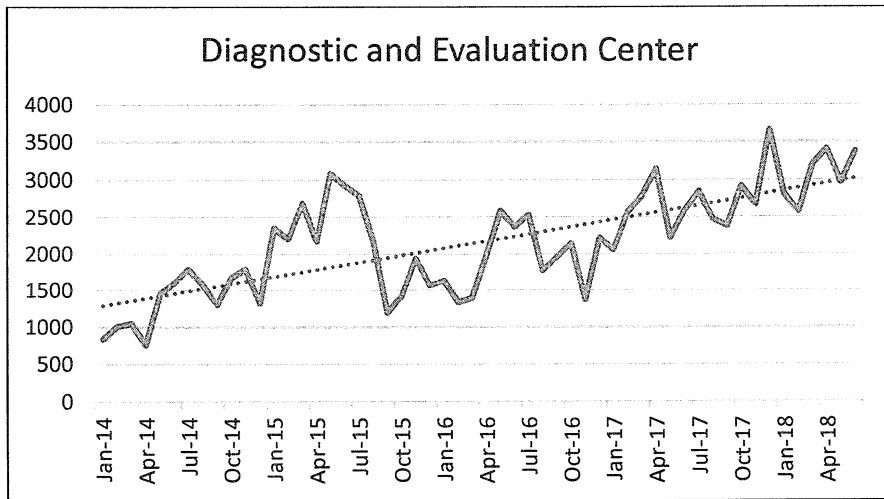
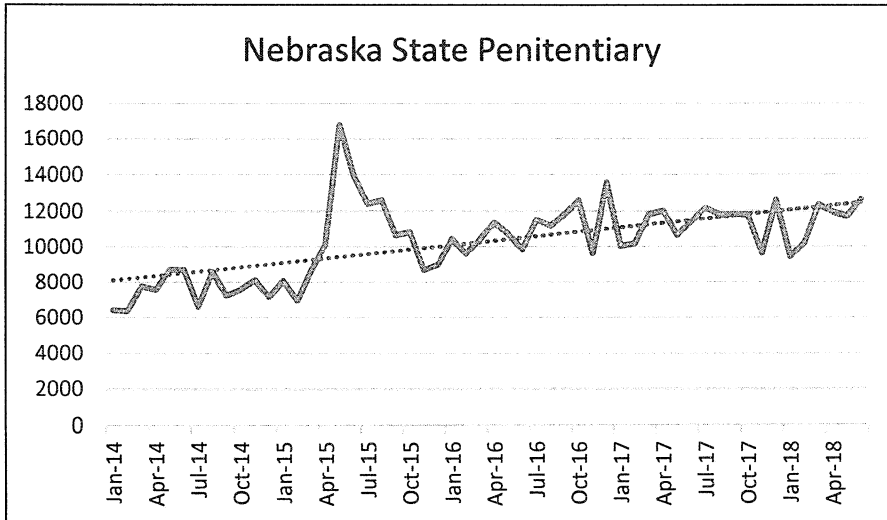
Director Frakes and the members of this executive team never provided any additional data or information to the OIG despite being given multiple opportunities.

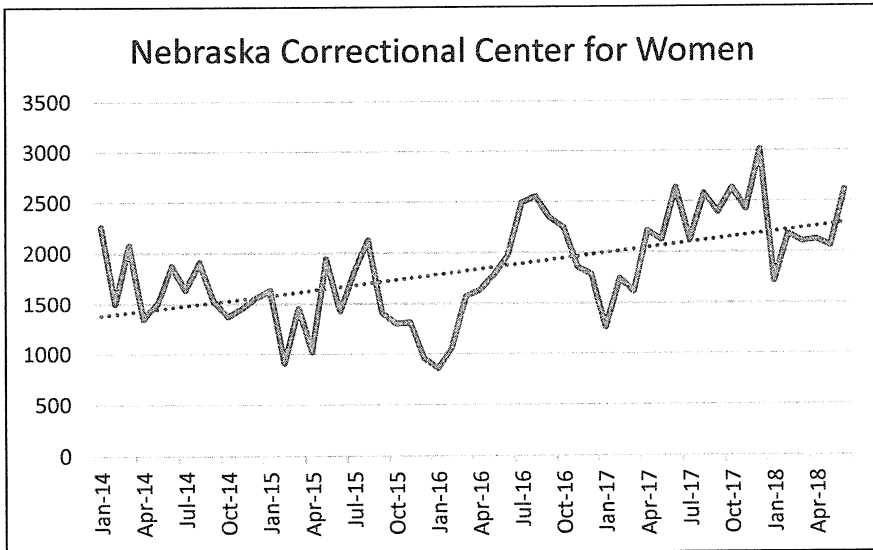
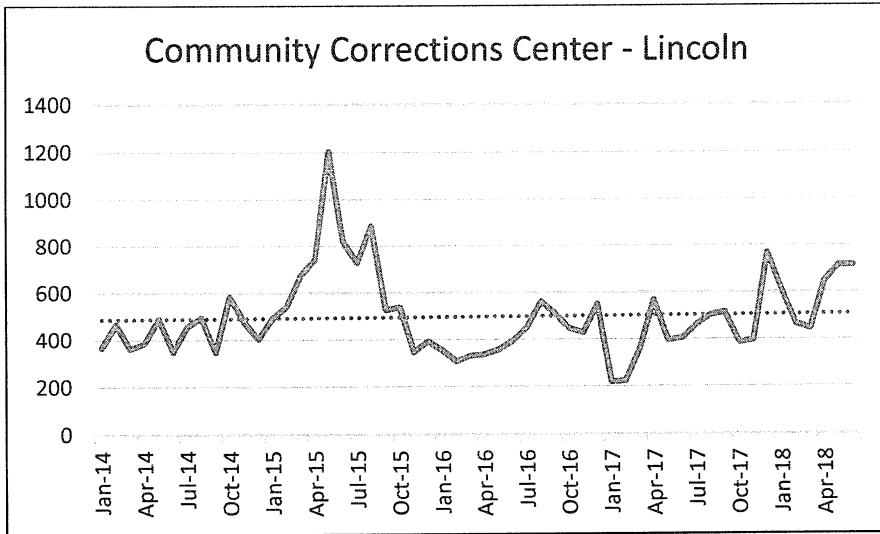
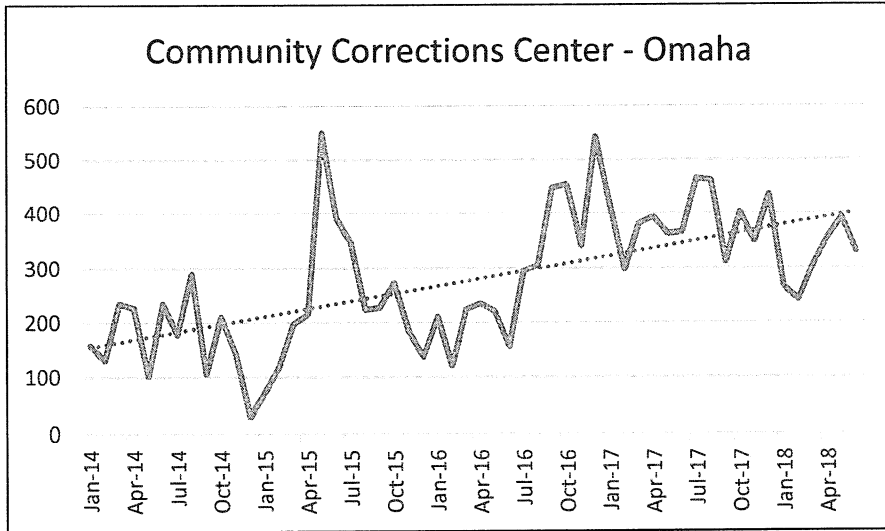
During each of the past two years, the OIG asked Parole and NDCS if they would be interested in providing a document that outlined a summary of where their agencies stood, including any positives taking place, challenges faced, plans for the future, etc. The reason for this request was to give the two agencies a chance to share more information than the OIG had received during the past year and to include any documents as attachments to the report for policy makers and the public to review. Parole has provided a document to the OIG each year. NDCS did not provide such a document either year.

NDCS knows the challenges that they face. They also indicate that they have a vision and a plan to move forward in addressing those challenges. NDCS will be coming to policy makers to ask for much needed resources in 2019. It is the hope of the OIG that this report will provide those policy makers with key information and data regarding NDCS that will enable them to ask good questions and assist NDCS in addressing their challenges in the months and years ahead. The staff of NDCS deserve those challenges to be addressed, the inmates of NDCS deserve those challenges to be addressed, and the public deserves that these challenges be addressed as well.

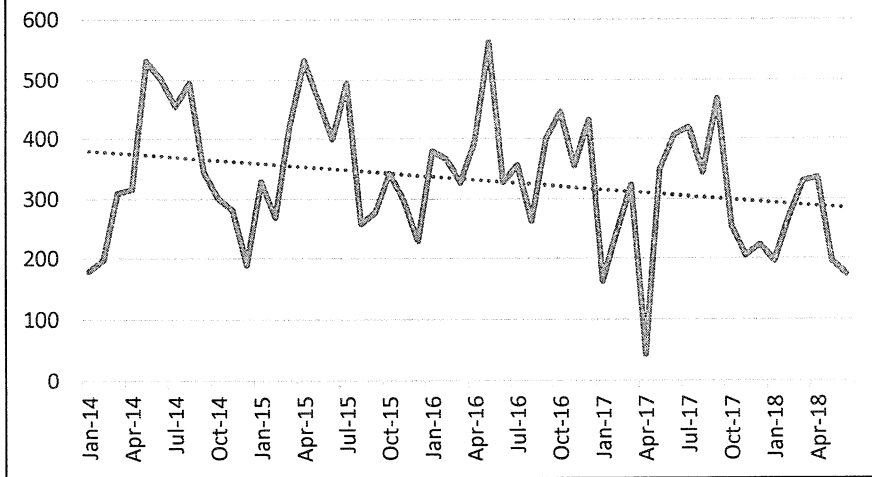
OVERTIME FOR NDCS PROTECTIVE SERVICES EMPLOYEES SINCE 2014







Work Ethic Camp



Section H: Turnover Data

Total Turnover by Agency

2016 Rank	Agency	2016 Total Turnover %	2015 Total Turnover %	2014 Total Turnover %	2013 Total Turnover %	2012 Total Turnover %	2011 Total Turnover %	2010 Total Turnover %	2009 Total Turnover %	2008 Total Turnover %	2007 Total Turnover %
1	Indian Affairs Commission	66.7%	25.0%	25.0%	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	0.0%
2	Real Property Appraiser Board	66.7%	66.7%	33.3%	50.0%	100.0%	0.0%	0.0%	0.0%	0.0%	50.0%
3	Ethanol Board	50.0%	0.0%	0.0%	33.3%	25.0%	0.0%	0.0%	0.0%	0.0%	25.0%
4	Engineers & Architects	42.9%	16.7%	14.3%	28.6%	14.3%	0.0%	28.6%	28.6%	28.6%	16.7%
5	Com Board	33.3%	16.7%	33.3%	0.0%	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%
6	Deaf & Hard of Hearing Commission	33.3%	14.3%	41.7%	27.3%	33.3%	0.0%	20.0%	16.7%	7.7%	15.4%
7	Public Accountancy Board	33.3%	0.0%	0.0%	33.3%	33.3%	0.0%	0.0%	0.0%	0.0%	0.0%
8	Corrections	31.7%	25.3%	22.2%	17.8%	12.3%	18.5%	14.8%	14.8%	20.6%	18.2%
9	Nebraska Tourism Commission***	30.0%	9.1%	0.0%	37.5%	---	---	---	---	---	---
10	Banking & Finance	27.0%	7.7%	17.5%	11.3%	3.3%	15.5%	6.5%	11.5%	6.2%	5.1%
11	Health & Human Services	25.4%	23.5%	24.1%	21.6%	16.6%	23.0%	20.7%	17.5%	21.4%	19.1%
12	Motor Vehicles	23.0%	21.6%	13.0%	12.0%	9.8%	17.3%	6.8%	12.4%	4.9%	8.6%
13	Military	22.0%	12.9%	12.4%	14.9%	5.4%	15.0%	9.2%	9.7%	13.5%	11.1%
14	Veterans Affairs	20.0%	26.7%	11.8%	0.0%	0.0%	5.6%	6.7%	7.1%	7.1%	8.3%
15	Economic Development***	18.3%	8.2%	6.5%	22.2%	10.3%	15.9%	14.5%	4.1%	11.4%	20.3%
16	Labor	17.0%	20.6%	17.3%	14.3%	24.9%	15.5%	19.0%	12.7%	22.3%	8.3%
17	Crime Commission	16.3%	13.5%	10.2%	8.9%	11.6%	23.8%	9.1%	11.1%	16.7%	16.7%
18	Liquor Control	15.8%	5.0%	6.3%	5.9%	0.0%	16.7%	9.1%	6.7%	13.3%	20.0%
19	Equal Opportunity Commission	14.8%	11.5%	11.1%	11.5%	7.7%	23.1%	8.3%	17.2%	12.9%	19.4%
20	Agriculture	14.5%	10.0%	12.2%	12.3%	12.6%	14.4%	11.6%	5.3%	9.7%	9.1%
21	Environmental Quality	13.7%	11.4%	8.4%	7.3%	6.4%	8.8%	5.8%	7.7%	9.8%	9.2%
22	Insurance	13.3%	8.6%	11.8%	12.6%	5.9%	14.9%	2.9%	2.9%	11.9%	4.0%
23	Oil and Gas Conservation Commission	12.5%	14.3%	0.0%	0.0%	11.1%	0.0%	0.0%	0.0%	0.0%	0.0%
24	Revenue	11.6%	12.2%	8.9%	11.7%	10.3%	8.5%	9.6%	5.0%	8.6%	7.6%
25	Roads	11.4%	12.1%	11.8%	7.8%	7.7%	7.8%	6.4%	5.3%	6.8%	7.8%
26	Aeronautics	11.1%	15.8%	21.1%	13.6%	0.0%	4.2%	4.0%	7.7%	11.5%	12.0%
27	Administrative Services	11.0%	11.5%	13.0%	5.7%	10.2%	7.0%	7.6%	6.3%	8.5%	10.7%
28	Electrical Board	10.5%	21.1%	5.3%	0.0%	5.3%	5.6%	0.0%	10.5%	5.3%	11.1%
29	Historical Society	9.9%	15.5%	10.4%	11.5%	7.6%	14.9%	6.2%	9.6%	12.3%	12.8%
30	State Patrol	9.9%	8.8%	11.9%	10.4%	5.3%	9.3%	7.4%	6.0%	6.5%	8.0%
31	Foster Care Review Office	9.7%	20.0%	10.3%	10.7%	20.0%	3.6%	3.7%	14.8%	28.0%	23.1%
32	Retirement Systems	9.6%	7.8%	5.9%	6.0%	6.1%	4.0%	10.6%	0.0%	10.0%	6.3%
33	Fire Marshal	9.5%	3.1%	14.1%	6.1%	7.4%	7.7%	4.3%	7.2%	8.7%	3.2%
34	Real Estate Commission	9.1%	0.0%	30.0%	9.1%	0.0%	0.0%	0.0%	9.1%	0.0%	0.0%
35	Natural Resources	8.7%	10.4%	11.3%	17.3%	5.9%	5.9%	7.9%	6.2%	7.1%	4.0%
36	Blind & Visually Impaired Commission	7.8%	8.3%	12.8%	10.9%	4.3%	13.3%	8.3%	2.0%	8.0%	14.3%
37	Game and Parks	7.8%	7.3%	5.4%	11.6%	22.7%	8.7%	10.6%	12.3%	21.8%	8.2%
38	Library Commission	4.8%	14.6%	7.0%	6.8%	4.7%	8.9%	4.3%	4.3%	4.3%	4.4%
39	Educational Telecommunications	4.3%	10.7%	1.7%	13.1%	9.1%	3.3%	14.8%	1.4%	11.6%	5.8%
---	Accountability & Disclosure	0.0%	0.0%	0.0%	12.5%	0.0%	16.7%	0.0%	0.0%	0.0%	14.3%
---	Arts Council	0.0%	40.0%	30.0%	30.0%	0.0%	0.0%	10.0%	10.0%	0.0%	20.0%
---	Barber Examiners Board	0.0%	0.0%	0.0%	50.0%	0.0%	0.0%	50.0%	0.0%	0.0%	0.0%
---	Energy**	0.0%	0.0%	23.5%	33.3%	24.0%	11.1%	17.9%	5.0%	13.3%	---
---	Investment Council	0.0%	0.0%	11.1%	12.5%	22.2%	33.3%	0.0%	14.3%	14.3%	0.0%
---	Latino-American Commission	0.0%	0.0%	0.0%	0.0%	0.0%	33.3%	0.0%	200.0%	0.0%	0.0%
---	MV Industry Licensing Board	0.0%	11.1%	25.0%	0.0%	0.0%	0.0%	10.0%	0.0%	25.0%	0.0%
---	Parole Board	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	0.0%	0.0%	16.7%	0.0%
---	Power Review Board	0.0%	0.0%	0.0%	0.0%	33.3%	0.0%	0.0%	0.0%	0.0%	0.0%
---	Racing Commission	0.0%	0.0%	25.0%	0.0%	20.0%	16.7%	0.0%	0.0%	50.0%	16.7%
---	Wheat Board	0.0%	33.3%	50.0%	0.0%	0.0%	0.0%	33.3%	0.0%	100.0%	0.0%
	Total *	22.0%	18.6%	18.2%	15.8%	12.9%	16.2%	14.1%	12.4%	15.6%	15.0%
	% Change from Previous Year	+15%	+2%	+13%	+18%	-26%	+13%	+12%	-26%	+4%	+14%

* Includes turnover from Classified Agencies. Does not include Constitutional agencies. Includes retirees, voluntary & involuntary terminations & transfers between agencies.

** Energy became its own code agency on 7/1/08, separating from Governor/Policy Research.

*** Tourism became its own agency on 7/1/2012, separating from Economic Development.

Source: Workday Turnover 2016 Report; Workday Transfer 2016 Report & Workday Employee 12-31-16 & 12-31-15 Report.

NDCS Leadership Academy- Supervisor Essentials

Leadership Positions selected:

Behavioral Health Supervisor	Case Managers	Lieutenant
Maintenance Managers	Recreation Managers	Program Manager
Supervisory Sergeant	Training Specialists	Special Teams leaders
Food Service Supervisor/Manager	Unit Case Manager	

Location: Nebraska Department of Correctional Services, Central Office

Length: 40 hour training; 1 week 8:00 – 4:30 p.m.

Attendance: Variety of the above positions selected from each NDCS facility.

Presenters: Christina Carter (Christina.carter@nebraska.gov), Professional Development Administrator serves as the coordinator and lead presenter for the material; Presenters from within the agency address various topics to highlight a variety of leadership and presentation styles.

Guest Presenter: Each session one guest instructor is invited to share his/her leadership journey, tips/tricks they have learned along the way, any key's for success managing others and/or addressing change. We also allow time for Q/A if time permitting.

Pre-work: complete online Strengths Finder Assessment

Key topics (list not inclusive):

ADA from the Supervisor perspective- resources and support, Communication, Collaboration, Active Listening; Handling Difficult Conversations; Creating a high trust environment, Delegation/ Developing Direct Reports; Driving Organizational Culture and serving as a CHANGE AGENT; Emotional Awareness / Strengths Finder assessment; Managing Change; Mentoring / Coaching- practiced in role play scenarios; NDCS Mission, Vision, Value- extended (what does this look like from the Supervisor seat); Problem Solving and Decision Making; Staff support/wellness resources; Teambuilding

Days 2 – 5 will include Role Play based on their specific duties and the various topics we discuss during training. Leaders will have the opportunity to actively be engaged in their growth through this process. Additionally, we will wrap the week up with a *Leadership Panel* filled with various leaders from within the organization and a *Graduation* ceremony.

Action Plans- each participant will complete an action plan to take to their facility to implement and share with their Supervisor/Manager and Warden.

NEBRASKA

Good Life. Great Mission.

DEPT OF CORRECTIONAL SERVICES



Pete Ricketts, Governor

DATE: December 26, 2017

TO: NDCS teammates

FROM: Erinn Criner, Human Talent Director *EC*

RE: SMART goals

The time to implement SMART goals is now! We shared information a couple of times regarding how this will happen. Based on feedback and the timeline for implementation, we have changed direction from our previous communication.

For 2018, all NDCS employees will have uniform SMART goals that tie directly to the agency's strategic plan. These goals will be automatically uploaded into the Employee Development Center (EDC) this week.

If you have already developed or started developing your SMART goals, that's great. You can keep that information and use it to build more specific goals for the coming years.

These uniform SMART goals will be used in determining pay for performance for team members covered by the Nebraska Classified Personnel Rules and Regulations. Team members who supervise others will have one set of goals and team members who do not supervise will have a similar, but different, set of goals (goals attached).

We have identified activities and methods to measure each of the goals. For example, we are developing recognition cards that will help us measure the retention goal. We will be sharing more information with you very soon.

This process is new to most of us and will take a little time to fully implement. It moves us along in our goal to be a data-driven agency. Your patience through the process is appreciated.

Scott R. Frakes, Director
 Dept of Correctional Services
 P.O. Box 94661 Lincoln, NE 68509-4661
 Phone: 402-471-2654 Fax: 402-479-5623
corrections.nebraska.gov

Non-Supervisor SMART Goals

SMART Goal	Rating Scale	Measurement	Related Strategic Plan
Demonstrate commitment to safety and security by following all NDCS policies, procedures, protocols, promulgated rules and other published regulations by not having more than 1 discipline, letter of warning or lower.	1: Does not meet	2 or more statement of charges	Transparent and accountable
	2: Somewhat meets	1 discipline more than letter of warning	
	3: Meets	1 discipline letter of warning or lower	
	4: Exceeds	0 disciplines	
	5: Greatly exceeds	0 disciplines and 1 or more commendable performance log or award nomination	
Impact retention by appreciating 12 team members with recognition cards.	1: Does not meet	0-8 recognition cards	One Team – One Vision
	2: Somewhat meets	9-11 recognition cards	
	3: Meets	12-17 recognition card	
	4: Exceeds	18-21 recognition cards	
	5: Greatly exceeds	22 or more recognition cards	
Engage in cultural transformation by participating or serving in 4 activities. Included but not limited to: EPIC, general staff, town halls, process improvement teams, Director's dialogue sessions, guest instructor, agency workgroups, QDIP huddles, special events/ activities.	1: Does not meet	0-1 activities	One Team – One Vision
	2: Somewhat meets	2-3 activities	
	3: Meets	4-5 activities	
	4: Exceeds	6-7 activities	
	5: Greatly exceeds	8 or more activities	
Model accountability by reporting to work on time by not being late more than 5 times.	1: Does not meet	10 time or more late to work	Transparent and Accountable
	2: Somewhat meets	6-9 times later to work	
	3: Meets	5 times late to work	
	4: Exceeds	2-4 times late to work	
	5: Greatly exceeds	1 times late to work	
Build professional skills by completing all required NDCS training and additional training.	1: Does not meet	No required training completed	Transforming Corrections
	2: Somewhat meets	Any, but not all required training completed	
	3: Meets	Completed all required NDCS training.	
	4: Exceeds	16- 23 hours of additional training completed.	
	5: Greatly exceeds	24 hours or more of additional training completed.	

Supervisor SMART Goals

SMART Goal	Rating Scale	Measurement	Related Strategic Plan
Impact retention by appreciating 12 team members. Included but not limited to: recognition cards, commendable performance logs, award nominations.	1: Does not meet	0-8 recognitions	One Team – One Vision
	2: Somewhat meets	9-11 recognitions	
	3: Meets	12-17 recognitions	
	4: Exceeds	18-21 recognitions	
	5: Greatly exceeds	22 or more recognitions	
Demonstrate leadership by providing your team with 6 messages from the Leadership Library.	1: Does not meet	0 messages	Transforming Corrections
	2: Somewhat meets	3-5 messages	
	3: Meets	6 -8 messages	
	4: Exceeds	9-11 messages	
	5: Greatly exceeds	12 or more messages	
Engage in cultural transformation by participating or serving in 8 activities. Included but not limited to: EPIC, general staff, town halls, process improvement teams, Director's dialogue sessions, guest instructor, agency workgroups, QDIP huddles, special events/ activities.	1: Does not meet	0-3 activities	One Team – One Vision
	2: Somewhat meets	4-7 activities	
	3: Meets	8-11 activities	
	4: Exceeds	12-15 activities	
	5: Greatly exceeds	16 or more activities	
Model accountability by approving KRONOS by stated deadline for 13 pay periods.	1: Does not meet	0-7 pay periods met KRONOS deadline	Transparent and Accountable
	2: Somewhat meets	8-12 pay periods met KRONOS deadline	
	3: Meets	13-17 pay periods met KRONOS deadline	
	4: Exceeds	18-25 pay periods met KRONOS deadline	
	5: Greatly exceeds	26 pay periods met KRONOS deadline	
Build professional skills by completing all required NDCS training and additional leadership training.	1: Does not meet	No required training complete	Transforming Corrections
	2: Somewhat meets	Any, but not all required training complete	
	3: Meets	Completed all required DCS training.	
	4: Exceeds	16-23 hours of additional training completed	
	5: Greatly exceeds	24 hours or more of additional training completed	

What does it mean to 'huddle'?

Daily huddles are the basic stepping stone of Nebraska's Lean Six Sigma culture.

What is a 'huddle'?

At its most basic level, a huddle is a 5 to 15-minute team meeting where daily metrics are reviewed, a metric board is updated, and the team discusses obstacles. Daily huddles:

- Ensure everyone is on the same page.
- Give the team time to remove obstacles.
- Provide a clear understanding of operations through metrics review.

The goal is not to have all green days—that is not realistic as events happen that make reaching a goal impossible. A huddle is like looking at the dashboard of your car. All the passengers in the car—your team—can see if you need gas, have low tire pressure, etc. The goal is NOT to avoid ever having low oil, gas, or tire pressure – that would be impossible! The point is to know what is going on and plan how to fix it!

Process improvement has a unique vocabulary.

What isn't a huddle?

It may be tempting to call short meetings with your team a 'huddle' or to say "let's huddle about that". While productive and no doubt needed, these meetings are not 'huddles'. Using 'huddle' to mean both a quick meeting and your daily metric review causes confusion. Given the central importance the daily huddle has to Nebraska's Lean Six Sigma culture, it is important to only use 'huddle' to refer to your daily huddle that reviews the team QDIP Board, Swim Lanes (if applicable), and Team Time.

A huddle has three parts: QDIP board; Swim Lanes; and Team Time.

Parts of a Huddle

QDIP Board The QDIP Board records daily progress on a metric or goal in four categories:

- Quality - Addresses rework and defects.
- Delivery - About timeliness, how quickly we produce.
- Inventory - About addressing backlogs, inventory, and/or waiting.
- Productivity - About the number we produce.

Swim Lanes A Swim Lanes (Kanban) chart helps manage projects and track activities by visually depicting how a project moves through each step of the process. Swim Lanes help identify and resolve bottlenecks that hinder project progress.

Team Time Team Time allows everyone in the group a chance to briefly see what they are working on or what obstacles they are encountering and need assistance with. Resolving issues raised during Team Time often requires a side meeting.



Daily Huddle Best Practices

- Meetings need to be in front of the QDIP board.
- Goals clearly stated above each QDIP category.
- Clear legend (thresholds for Red, Yellow, Green) for each category.
- Bold and highlighted goal thresholds clearly visible on data charts.
- Leader acknowledgement of staff achievements and efforts.
- Determination of Red vs. Yellow vs. Green needs to be data driven and not determined by simple group consensus.

STATE OF NEBRASKA

6

DEPARTMENT OF CORRECTIONAL SERVICES
Scott R. Frakes
Director



Pete Ricketts
Governor

May 30, 2015

To the staff of NDCS,

I'm sending this letter because I'm concerned about us all. Staff vacancies, heavy workloads, two years of negative media coverage, and excessive mandatory overtime are just some of the challenges we face. Since I wrote the first draft of this letter, we've dealt with a major disturbance at TSCI. NDCS employees are tired, and it might be difficult to believe that things are going to get better. It is going to get better. I've asked the legislature and others to accept on blind faith that good changes will come to our Department. Now I'm asking you to do the same. It took several years to get us to where we are at, and we won't fix all of our problems in a few months. Working together, we can and will fix our problems.

Ensuring staff safety and addressing the issues with staff vacancies and mandatory overtime are my top priorities. We are building capacity for recruitment, hiring, and training. Using data to determine needs, we will be hiring and training custody staff in anticipation of vacancies rather than waiting for vacancies to occur. We will also be recruiting qualified part-time employees to supplement custody staffing needs. We have started working on an initiative to fill vacancies within Health Services and Behavioral Health.

Retaining staff is even more important than finding new staff. In the publication Why Employees Stay, Dr. Charles Hughes writes

"The key is improving attitudes about the work itself, supervisor competence, confidence in the fairness of management, work group cooperation, consistency in treatment, feedback about performance, opportunities to get ahead, and other positive aspects that relate to the work context."

Wages and benefits are important contributors to employee satisfaction, and I am working with the Department of Administrative Services to explore improvements to compensation. But research shows that job satisfaction is the main reason people stay with an organization. We are going to work together to make NDCS an employer of choice.

There are things that we are working on changing right now. Supervisors and managers must have the tools and the authority needed to coach, train, guide, and mentor their staff. Formal investigations and discipline must be reserved for significant issues, and most of our supervisory energy will go into training staff and praising good work. Accountability shouldn't be used to force people to perform. It is a badge of honor that we should all wear proudly. We are accountable for the safety of our neighbors, friends and family – and each other. That is an incredible responsibility to be entrusted with. When we embrace accountability as a core value, there's rarely a need for a disciplinary process.


Over the next few months NDCS will build a Strategic Plan that will guide our work in the years to come, and be directly tied to our budget process. There will be opportunities for staff at many levels of the department to help shape the plan, and future efforts will connect everyone's work to the strategic plan. To paraphrase Lewis Carroll, "If you don't know where you are going, any road will get you there." We will have a roadmap, and some specific destinations (goals).

We will continue to increase the use of data to measure and improve performance. We have a huge amount of data available to us, and some incredibly talented research analysts working in NDCS. Over the months ahead we will be cascading information throughout the organization, giving us all opportunities to use data in our work. It is not about working harder. It is all about working smarter. This will come in part from training and access to information, but we also need better technology. We will be asking for technology that improves productivity and performance, including electronic records systems and hardware. Here is another area where our strategic plan will support our budget requests.

Over-crowding remains a significant concern. There was legislation passed (LB605) that will reduce the number of inmates coming to prison, ultimately reducing the overall prison population. There is a project underway that will consolidate protective custody and secure mental health beds, adding approximately 200 beds to our system. The jail rental bed program will continue to be funded, providing approximately 200 beds. We are still exploring the potential to repurpose existing beds, and the need to construct additional beds and support space.

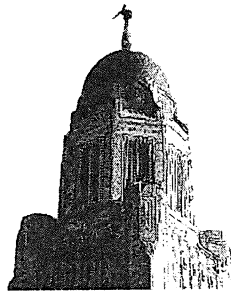
I opened this letter by expressing my concern for us all. I know you are tired. But I also know that you are dedicated to helping NDCS succeed, because that's what you continue to tell me. You've said to me that you like (love) your job, you are proud of NDCS, and that you want the public to recognize the value of your work. I want the same thing for all of us. Don't lose focus on the importance of your work. Draw upon the patience and tenacity that is a part of the Midwest spirit. Together we can make NDCS the best it has ever been.

Sincerely,



Scott Frakes, NDCS

DOUG KOEBERNICK
Inspector General



STATE OF NEBRASKA
OFFICE OF INSPECTOR GENERAL OF CORRECTIONS
State Capitol, P.O. Box 94604
Lincoln, Nebraska 68509-4604
402-471-4215

Memorandum

To: Judiciary Committee and Appropriations Committee
From: Doug Koebernick, Office of Inspector General
Re: NDCS Population Data
Date: February 15, 2018

In the past few weeks, your committee has heard testimony on bills related to the Nebraska Department of Correctional Services (NDCS). When I started my position I began to input population data on a monthly basis into a spreadsheet so I could track any changes in overall and facility population. I was able to retrieve some data from the three years prior to that but it was not from each month. However, it does provide a good guide to population changes within the Department. I thought I would share some of this data with you as you move forward on deliberations related to the Department.

The first table is a snapshot of the NDCS population on February 15, 2018. Each facility is listed along with their design capacity, their actual population and the percentage of design capacity as of that day. For instance, you will see that CCC-L (Community Corrections Center – Lincoln) has a design capacity of 300 inmates. Their current population is 454 which means they are operating at 151% of their design capacity. You will find that seven facilities are operating at over 140% of design capacity. The table also includes the total population of all facilities, as well as the number of state inmates in a county jail. In addition there is data as it relates to design capacity and how many inmates NDCS maintains that are over the 125% and 140% design capacity levels. For instance, you will see that NDCS currently has 613 more inmates than their 140% design capacity level and has 1119 more inmates than their 125% design capacity level. These figures become more important when the Overcrowding Emergency Act comes into play in 2020. According to state law, “The board shall continue granting parole to offenders under this section until the director certifies that the population is at operational capacity.” Operational capacity is defined in state law as 125% of design capacity. In other words, while most of the focus has been on the 140% of design capacity concept, the reality is that under the law inmates would have to be released until the Department reaches 125% of design capacity. If the Governor declared an overcrowding emergency today 1119 inmates would have to be released from the Department’s custody, not 613 inmates.

There are two charts included with this memorandum as well. The first shows the Department's population growth since 2012. It peaked in 2015 but has been fairly steady since mid-2014. The second chart displays the number of inmates that would have to be released to reach the 125% and 140% of design capacity levels since 2012. In September 2012 the Department only had 62 inmates more than the 140% of design capacity level. You will see that recently the number of inmates that would have to be released has decreased slightly even though the Department's population has not changed. This is due to an additional 100 beds being added to the system at CCC-L this past fall. 160 additional beds will be added to the system at CCC-L in January 2019 which will also impact this data.

If you have any questions regarding this data or would like additional information or data please feel free to contact me.

PROGRAMMING INFORMATION

Violence Reduction Program*

	<u>On Waitlist</u>	<u>In programming</u>	<u>Total</u>
Past PED	27	24	51
NOT Past PED	108	9	117
Total	135	33	168

oHeLP- Sex Offender Program*

	<u>On Waitlist</u>	<u>In programming</u>	<u>Total</u>
Past PED	26	24	50
NOT Past PED	73	9	82
Total	99	33	132

High Risk/Need Anger Management*

	<u>On Waitlist</u>	<u>In programming</u>	<u>Total</u>
Past PED	52	9	61
NOT Past PED	188	25	213
Total	240	34	274

iHeLP- Sex Offender Program*

	<u>On Waitlist</u>	<u>In programming</u>	<u>Total</u>
Past PED	22	43	65
NOT Past PED	30	11	41
Total	52	54	106

bHeLP- Sex Offender Program*

	<u>On Waitlist</u>	<u>In programming</u>	<u>Total</u>
Past PED	3	4	7
NOT Past PED	41	2	43
Total	44	6	50

Substance Abuse Program- Residential*

	<u>On Waitlist</u>
Past PED	28
NOT Past PED	210
Total	238

* Based on March 31, 2017 data.

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DEPT OF CORRECTIONAL SERVICES

NDCS Quarterly Data Sheet

April - June 2017

Programming Information³ cont.

bHelp Waitlist by Facility

Facility	Post-PED	Pre-PED
NCCW	0	2
NSP	1	22
OCC	1	15
TSCI	0	6
LCC	0	2
COJL ⁴	0	1
<u>DEC</u>	<u>0</u>	<u>6</u>
Total	2	54

Programs: Successful Completions 4th Quarter (April - June 2017)

Program Name	Successful Completions
<u>Clinical Programs:</u>	
Sex Offender Program-iHeLP	4
Sex Offender Program - oHeLP	6
Sex Offender Program -bHeLP	5
Violence Reduction Program (VRP)	7
Anger Management High Risk/Need	29
Aggression Replacement Therapy (ART)	2
Substance Abuse-Residential	107
Substance Abuse- Non Residential (IOP & OP)	139
Drug & Alcohol Education	18
<u>Core Non-Clinical Programs:</u>	
GED	29
High School	1
Thinking for a Change	19
Moral Reconciliation Therapy	141
Living in Balance	0

Non-Clinical Programming⁵

GED/High School/ESL

In Programming

401

Destination Dads

In Programming

53

Thinking for a Change

In Programming

36

7 Habits on the Inside

In Programming

7

Beyond Anger/From the Inside Out

In Programming

21

Moral Reconciliation Therapy (MRT)

In Programming

378

3. Programming data provided from NDCS data system (NICaMS). Substance Abuse Data was provided by program supervisors/managers. Note that inmates have the opportunity to participate in programs more than once and, if they unsuccessfully complete a program, could be past their parole eligibility date (PED) when they re-enter the program at a later time.

4. COJL = Inmates housed in a County Jail

5. Education and non-clinical programs are not categorized by PED because NICaMS cannot currently distinguish those recommended for programming from volunteers.

Programming Information⁴ cont.

Non-Clinical Programming⁶

Programs: Successful Completions July -Sept 2017	
Program Name	Successful Completions
Clinical Programs:	
Sex Offender Program-iHeLP	4
Sex Offender Program - oHeLP	0
Sex Offender Program -bHeLP	3
Violence Reduction Program (VRP)	0
Anger Management High Risk/Need	16
Aggression Replacement Therapy (ART)	2
Substance Abuse-Residential	125
Substance Abuse- Non Residential (IOP & OP)	177
Drug & Alcohol Education	2
Core Non-Clinical Programs:	
GED	18
High School	0
Thinking for a Change	58
Moral Reconciliation Therapy	112
Living in Balance	0

GED/High School/ESL
In Programming
401

Destination Dads
In Programming
79

Thinking for a Change
In Programming
75

7 Habits on the Inside
In Programming
0

Beyond Anger/From the Inside Out
In Programming
8

Moral Reconciliation Therapy (MRT)
In Programming
362

4. Programming data provided from NDCS data system (NICaMS). Substance Abuse Data was provided by program supervisors/managers. Note that inmates have the opportunity to participate in programs more than once and, if they unsuccessfully complete a program, could be past their parole eligibility date (PED) when they re-enter the program at a later time.

5. COJL = Inmates housed in a County Jail

6. Education and non-clinical programs are not categorized by PED because NICaMS cannot currently distinguish those recommended for programming from volunteers.

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DEPT OF CORRECTIONAL SERVICES

NDCS Quarterly Data Sheet
October-December 2017

Population and Demographics

Inmate Population¹

October - December 2017

	Average Daily Population	Operational Capacity	% Operational Capacity	Design Capacity	% Design Capacity
CCC-L ²	425	300	141.67%	300	141.67%
CCC-O	167	135	123.70%	90	185.56%
DEC	486	275	176.73%	160	303.75%
LCC	521	468	111.32%	308	169.16%
NCCW	338	318	106.29%	275	122.91%
NCYF	45	70	64.29%	68	66.18%
NSP	1,332	1,139	116.94%	718	185.52%
OCC	775	666	116.37%	396	195.71%
TSCI	1,027	976	105.23%	960	106.98%
WEC	174	200	87.00%	100	174.00%
TOTAL					
2017	5,290	4,547	116.34%	3,375	156.74%
2016	5,214	4,547	114.67%	3,275	159.21%

NDCS County Jail Population

October - December 2017

County	Average Daily Population
Buffalo	8
Dawson	18
Hall	15
Lincoln	13
Phelps	20
Platte	8
Total	82

Gender³

Gender	# of Inmates
Female	434
Male	4,922
Total	5,356

Average Age³

37.64 Years

Most Serious Offenses³

Offense Category	Number	Percent
Sex Offenses	1,040	19.42%
Drugs	715	13.35%
Assault	682	12.73%
Weapons	664	12.40%
Homicide	606	11.31%
Robbery	420	7.84%
Theft	310	5.79%
Burglary	304	5.68%
Motor Vehicle	261	4.87%
Fraud	106	1.98%
Other	104	1.94%
Restraint	59	1.10%
Morals	22	0.41%
Arson	19	0.35%
Safekeepers	44	0.82%
Total	5,356	100.00%

Race³

Race	# of Inmates	% of Inmates
White	2,823	52.7%
Black	1,521	28.4%
Hispanic/Latino	708	13.2%
American/Alaskan Native	219	4.1%
Asian	39	0.7%
Hawaiian/Pacific Islander	4	0.1%
Other	34	0.6%
Data unavailable	8	0.1%
Total	5,356	100.0%

3 Year Recidivism Rate (FY 14)

Facility	25.5%
Parole	35.2%
Total	31.8%

Crime Type³

Type	# of Inmates	Percent
Part I*	1,981	37.0%
Part II**	3,375	63.0%
Total	5,356	100.0%

Inmate Classification³

Custody Level	Female	Male	Total
Maximum	94	894	988
Medium	64	1,693	1,757
Minimum	145	1,446	1,591
Community	107	572	679
Intake(Not Classified Yet)	24	317	341
Total	434	4,922	5,356

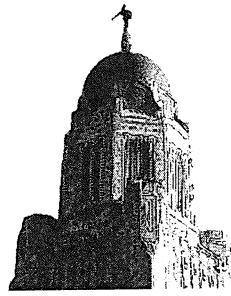
*Murder (1st and 2nd Degree), Manslaughter, 1st Degree Assault, 1st Degree Sexual Assault, 1st Degree Sexual Assault of a Child, Robbery

**All other Offenses

1. Average daily population over the 3 month period. Will not match exactly with snapshot data.
2. Design capacity at CCL increased by 100 beds in September 2017 as a result of the new housing unit opening.
3. Dec 31, 2017 population snapshot which includes NDCS inmates housed in county jails

October-December 2017

DOUG KOEBERNICK
Inspector General



STATE OF NEBRASKA
OFFICE OF INSPECTOR GENERAL OF CORRECTIONS
State Capitol, P.O. Box 94604
Lincoln, Nebraska 68509-4604
402-471-4215

Memorandum

To: Judiciary Committee and LR 127 Committee Members
From: Doug Koebernick, Office of Inspector General
Re: NDCS Good Time Lost and Restored Data
Date: April 17, 2018

Recently, I was asked if I could access data regarding good time lost by inmates within the Nebraska Department of Correctional Services. Using the Department's information system, I was able to go back to 2014 and could look up the amount of good time lost by inmates by month, year, facility, and system. As a result, over the course of a few days I was able to compile data regarding the amount of good time lost and focused on the system as a whole, the Tecumseh State Correctional Institution (TSCI), the Nebraska State Penitentiary (NSP), and the Lincoln Correctional Center (LCC).

Table 1 shows the changes in the amount of good time lost from all inmates in the system from 2014 to 2018. The amount for 2018 is a projected amount based on data from the first three months of 2018. The amount of good time lost has more than tripled since 2014.

A closer look at the three largest male facilities found that all three had experienced a significant increase in the amount of good time lost over the time period. Table 2 has this data and it shows the NSP had the highest rate of change as they went from 42 years of good time lost in 2014 to 270 years of good time lost in 2017. TSCI increased from 48 years of good time lost in 2014 to 179 years of good time lost in 2017. However, they are projected to have 153 years of good time lost in 2018.

When looking at good time lost it is also important to look at the amount of good time that is restored. Table 3 shows the changes in good time lost from FY 2013 to FY 2017. This data was not available in the Department's information system so I requested data from the Department. Attachment A to this memorandum is the source of the data found in Table 3. Table 3 indicates a gradual decrease in the amount of good time restored during that time period from 81 years of good time restored in FY 2013 to 37 years of good time restored in FY 2017.

After compiling and collecting this data, I thought it should be shared with your respective committees as these significant changes may be considered contributors to the overcrowding issue

to some degree. I am also including an excerpt from the LR 424 report that discussed good time lost and restored.

At this time, all I have is the raw data. If you would like me to dig deeper and request additional information from the Department please let me know.

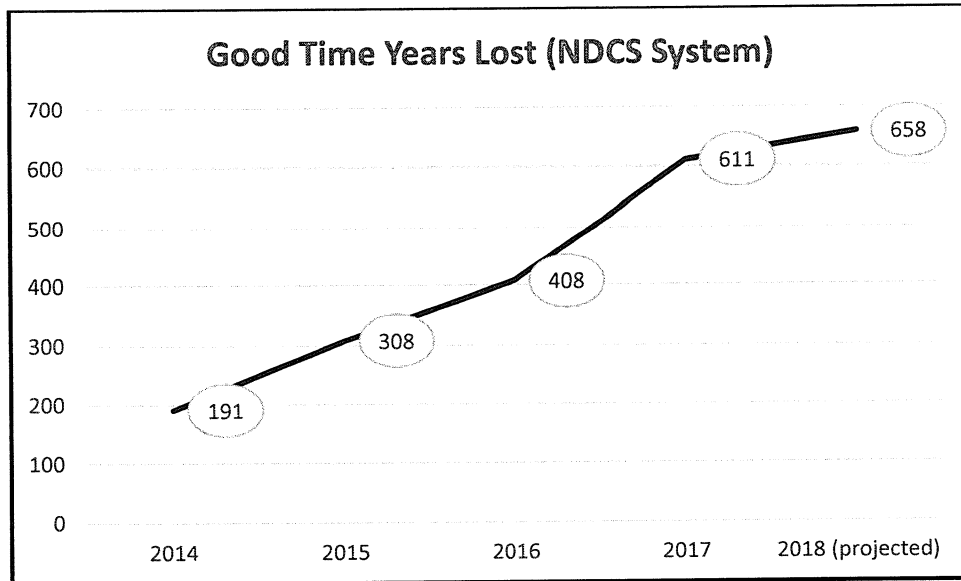


Table 1

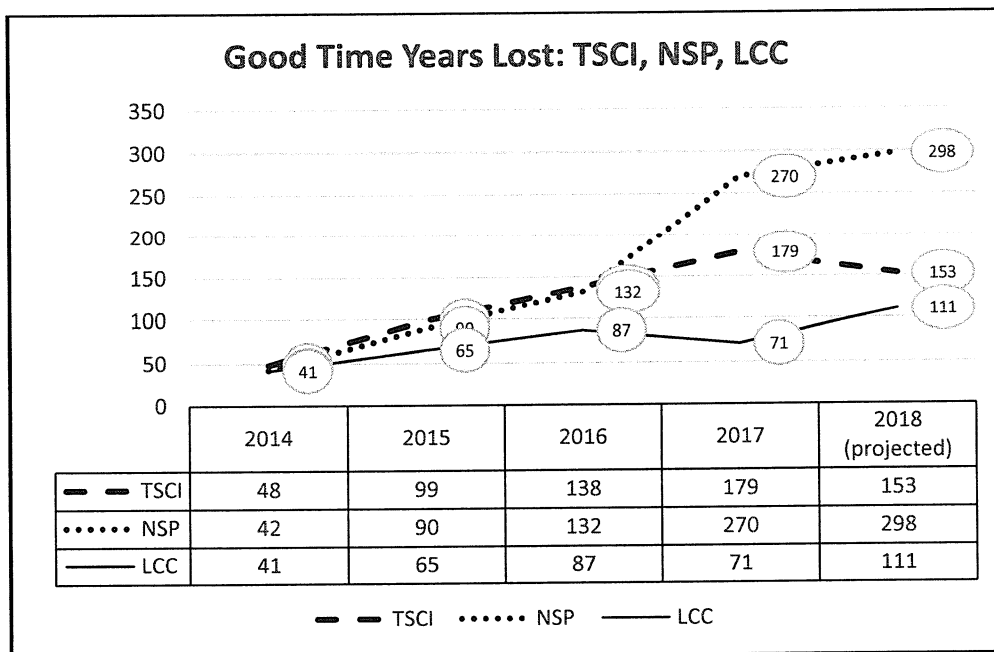


Table 2

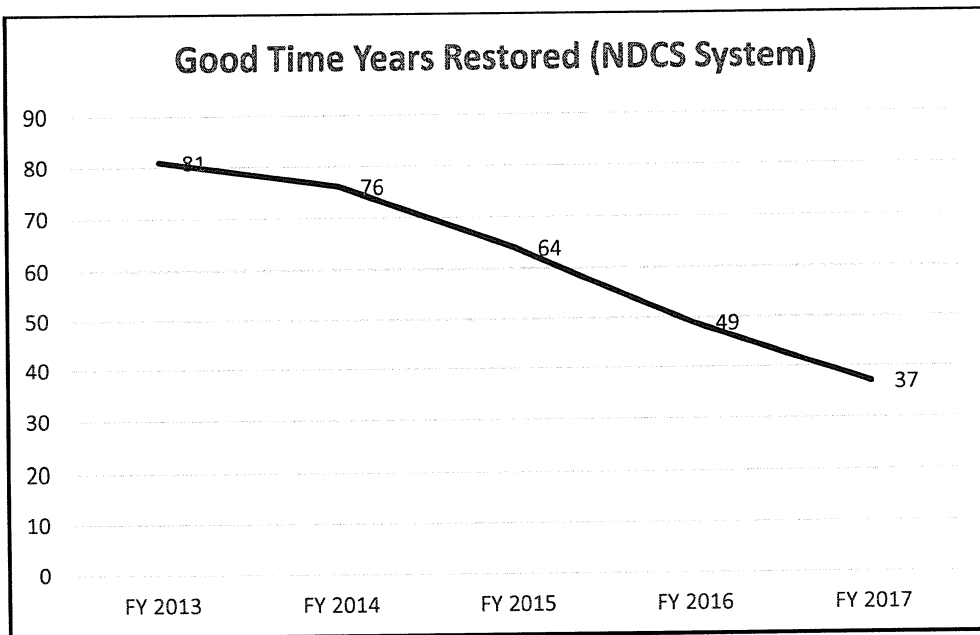
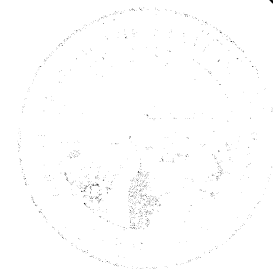


Table 3

NEBRASKA

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DEPT OF CORRECTIONAL SERVICES



State of Nebraska, Lincoln

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DATE: March 28, 2018

TO: Deanna Johnson, Warden
WEC
Internal Audit Committee Chair

CC: Eddie Jasso, NDCS Accreditation Manager
Planning Research and Accreditation

FROM: R. Madsen, Warden *Rm*
Nebraska State Penitentiary

RE: Response to the NSP Internal Audit Report

On behalf of the staff of the Nebraska State Penitentiary (NSP), I would like to thank you and the Internal Audit Team for the thorough internal review provided during our March 7 – 9, 2018, Internal Audit. In response to the standards found in non-compliance, I submit the following comments:

4-4132 Cells/rooms used for housing inmates shall provide at a minimum, 25 square feet of unencumbered space per occupant. Unencumbered space is usable space that is not encumbered by furnishings or fixtures. At least one dimension of the unencumbered space is no less than seven feet. In determining unencumbered space in the cell or room, the total square footage is obtained and the square footage of fixtures and equipment is subtracted. All fixtures and equipment must be in operational position.

NSP was granted a waiver from the Commission during the panel hearings in 2015.

While NSP does not currently meet the requirement for 25 square feet of unencumbered space per inmate within cells/rooms, double bunked cells afford each occupant 23.56 square feet of unencumbered space while allowing each inmate to comfortably maintain a full complement of property. Inmates at NSP are confined in their cells for less than 12 hours per day. Inmates may leave their cells for approximately 12 hours a day with the exception of count times.

Scott R. Frakes, Director
Dept of Correctional Services
P.O. Box 94661 Lincoln, NE 68509-4661
Phone: 402-471-2654 Fax 402-479-5623
corrections.nebraska.gov

NSP has not been able to comply with this standard since it began the accreditation process in the early 1980's. Over the years, a number of initiatives including greater focus on community corrections and substance abuse facility expansion have been enacted. During the current cycle, the Nebraska Department of Correctional Services (NDCS) was granted funding to place greater emphasis on reentry resources. NDCS established the Reentry Initiative which set out to enhance programs and services throughout the community in an effort to provide resources to all inmates who are transitioning back into the community. Through this initiative, a dedicated reentry team was established to focus on reentry plans for each individual inmate. Ultimately, the goal of this program is to reduce recidivism rates and facilitate the overall success of those individuals released from the custody of NDCS.

In addition, NDCS continues to work with the Nebraska Board of Parole to accelerate parole approvals for eligible inmates, consistent with public safety. The motive for these initiatives is to reduce the size of the inmate population with budget constraints in mind. Unfortunately, at this point, NSP is unable to release enough inmates through the above and conventional means to offset the intake of new offenders. Since it does not appear likely that we would be able to achieve even modest population reduction goals (which in themselves would still not bring NSP into compliance with this standard), NSP management does not consider that any Plan of Action could provide a realistic solution during the next accreditation cycle.

While NSP continues to operate over its rated design capacity, efforts are made each day to maintain the highest quality of life, health and safety for inmates and staff. Every step is taken to mitigate the effects of the increased population in an active, professional and caring fashion.

Architectural modifications to increase the size of cells are not feasible given the physical layout/construction of the housing units; therefore, a waiver was requested for this standard. NSP was granted a waiver from the Commission during the panel hearings in 2015.

4-4135

Dayrooms with space for varied inmate activities are situated immediately adjacent to the inmate sleeping areas. Dayrooms provide sufficient seating and writing surfaces and all furnishings are consistent with the custody level of the inmates assigned. Dayrooms provide a minimum of 35-square feet of space per inmate (exclusive of lavatories, showers, and toilets) for the maximum number of inmates who use the dayroom at one time, and no dayroom encompasses less than 100 square feet of space (exclusive of lavatories, showers, and toilets).

NSP was granted a waiver from the Commission during the panel hearings in 2015.

Dayroom space is provided to all inmates in housing units 1 – 8. Each dayroom design is adjacent to the inmate sleeping areas and provides sufficient seating and

writing surfaces with furnishings consistent with the custody level of the inmates assigned.

Housing units 1- 5 are divided into four galleries, housing up to 40 inmates on each gallery. There is one dayroom area in each gallery that is accessible to the inmate population from approximately 6:15 a.m. to 8:15 p.m.

The maximum dayroom capacity for all internal housing units is 20 inmates. The dayroom space in housing units #1, #2, #3, and #4 is 315 square feet, which equates to 15.75 square feet per inmate. Housing unit #4 A/C and D galleries are a restrictive housing unit therefore dayroom activities are not allowed on the A/C and D sides.

Housing unit #5, constructed in 1993, provides for a slightly different configuration. Dayroom space in this housing unit is substantially larger than the above mentioned designs, providing approximately 665 square feet. These dayrooms accommodate for 33.25 square feet of space per inmate, at a maximum capacity of 25 inmates at one time.

The dayroom space in housing units #6 B Bay and #6 C Bay is 871 square feet. If 100 inmates assigned to these areas were to occupy the dayroom at one time, it would provide for 8.71 square feet per inmate.

Housing units #7 and #8 are divided into two bays, housing approximately 98 inmates on each bay. Each bay contains a dayroom that measures 1380 square feet, providing 14.08 square feet of space per inmate if 98 inmates were to occupy the dayroom at one time.

Although NSP does not meet this standard it is far unlikely that the maximum number of allowable inmates would ever occupy the dayroom at one time. Inmates spend a considerable amount of time outside their assigned housing units for purposes such as work, gym, yard, visits, medical, educational classes, religious programming, recreational activities, disciplinary hearings, wellness leagues, self-betterment clubs and other programming. In general, most inmates in the internal housing units (#1-#5) prefer to watch television and prepare written correspondence in their assigned rooms.

The design of the housing units does not provide for expansion and doing so would be cost prohibitive; therefore, a waiver was requested for this standard. NSP was granted a waiver from the Commission during the panel hearings in 2015.

4-4141 All cells/room in segregation provide a minimum of 80 square feet, of which 35 square feet is unencumbered space.

NSP was granted a waiver from the Commission during the panel hearings in 2015.

NSP restrictive housing in the Control Unit has 62 square feet, with 38 square feet of unencumbered space.

There has been no change in the architectural design of the 62 year old Control Unit. As in the past, there is no reasonable option to increase the size of cells in this building.

Restrictive housing cells in Housing Unit #4 also fall short of the minimum 80 square feet standard. These cells are 78 square feet in total, with 36 square feet of unencumbered space.

The inmates in restrictive housing are involved in programming which encourages behavior modification and provide incentives for appropriate behaviors. Inmates in restrictive housing have yard, showers, visits and law library time outside of the cell. The current square footage provides the necessary space for an inmate to possess all the approved property afforded to inmates in restrictive housing.

The current restrictive housing unit cells do not provided for expansion due to the physical layout of the buildings and cost constraints associated with such; therefore, a waiver was requested for this standard. NSP was granted a waiver from the Commission during the panel hearings in 2015.

I believe this information will address the standards found in non-compliance. If you have any questions or need additional information, please contact me.

Staff / Inmate Interviews and Quality of Life

I appreciate the audit team speaking to both staff and inmates about the quality of life; at NSP our goal is to offer an environment of safety and new beginnings.

It was expressed by some staff and inmates, that there is a lack of a consistent schedule for inmates and a lack of knowledge by staff of the internal yard schedule.

The NSP internal yard schedule is sent out monthly, via email, to all NSP staff. Each unit should be printing the monthly schedule for their control center officers. All staff members have the option of printing the schedule for quick references, and the sergeant in charge of the yard retains a copy. If there is ever a question about the schedule on any given day, the yard sergeant should be contacted. Because of the challenges involved in scheduling yard times for all units, every attempt is made to keep the yard schedule consistent. The few changes that do occur are usually due to programming and special events held in the gym. When this does occur, an updated schedule is sent out in the same manner as above highlighting the changes.

Unit staff has been re-advised as to where the schedules are located; this should allow them to be better informed and eliminate the perception of constant changes.

Inmates in the external units state upper management staff does not visit their units.

Front line staff state they feel they are not supported by administration and administration does not come out to the units to see what is going on in the units.

In an effort to support all staff, upper management is in the institution every weekend, Saturday and Sundays, for eight hours each day. This time is in addition to their normal Monday – Friday schedule. This additional time is for the sole purpose of touring the units and speaking to staff and inmates. In addition to this, the Unit Managers are required to spend one day, each weekend, in their units, assisting their staff on the floor. This also is in addition to their normal Monday – Friday work week. All touring staff is required to sign in the unit's log book the date and time they visited the unit.

A review of the units log books reflects this is being accomplished. Executive staff also tours the units during the weekdays as their schedules permit.

Upper management has also logged hundreds of hours working security posts in an effort to lessen the overtime burden on all staff.

Interviewing several staff from different shifts and units produced the common thread of concerns over staff turnover and overtime.

These are very real concerns, not just for NSP but for the Department as a whole. The Agency has done a very good job of addressing these challenges by the initiation of several different incentives. Working corrections is a stressful career, when coupled with staff shortages and overtime it becomes even more stressful. I stand behind our staff and thank them for the long hours they put in, as everyone works to resolve these issues. As with many things, time will show improvement in these areas.

I would like to thank you again for the time and effort you put into our audit. If you have any further questions please contact me.

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https://journalstar.com/news/local/911/accused-nebraska-prison-pot-smugglers-had-been-under-investigation-for/article_5fa4a335-f609-50c4-a71f-146a143d8f86.html

EDITOR'S PICK TOPICAL

Accused Nebraska prison pot smugglers had been under investigation for months

RILEY JOHNSON Lincoln Journal Star Jun 19, 2018 Updated 1 hr ago

Deborah Citta

Courtesy photo

Fred Boye

Courtesy photo

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The arrests of two people following a visit to the Lincoln Correctional Center earlier this month followed a six-month investigation into marijuana smuggling at the prison, according to court records.

Deborah Citta, 54, of Papillion, and Fred Boye, 66, of Lincoln, came under suspicion after investigators spoke to an unnamed source in December who had previously been caught smuggling drugs, according to a search warrant.

In the warrant, investigators allege multiple cooperating sources spoke about the efforts Citta and Boye took to sneak drugs into the west Lincoln medium- and maximum-security prison for as long as two years.

Investigators believe Citta was the pot supplier for the first confidential source, who claimed to have sneaked marijuana into the prison six times between August 2017 and October 2017, a Nebraska State Patrol investigator wrote in the search warrant.

Another unnamed source told investigators an inmate gave Citta a phone number during visits to arrange a meeting to get money for the marijuana, the investigator said.

Citta, according to a third source, would carefully package the pot using a PVC pipe, a condom, electrical tape and baggies and use pepper to try to mask the pungent scent, the search warrant said.

The sources said Citta would then meet with Boye, who would give the packaged pot to a relative at the prison, who is an inmate there, who would complete the delivery to the other inmate.

Boye and Citta were both arrested at the prison June 6 shortly after prison staff saw Boye pass an item to his relative during a visit, according to court records.

"(The inmate) acknowledged that he received contraband and was willing to voluntarily attempt to extract the contraband," a State Patrol investigator said.

Investigators hadn't retrieved the item at the time of Boye's arrest, and a State Patrol spokesman said Monday that he had no new information on the case.

Citta drove Boye to the prison that day and was taken into custody shortly after the visitation, according to court records.

Prosecutors have charged Boye with conveying an article to an inmate and possession of methamphetamine, a charge that stems from a search of his home, according to court documents.

Boye faces up to four years in prison if convicted.

Citta faces an aiding and abetting charge, which is punishable by up to two years in prison.

Citta has been released on bail, and Boye remains at the Lancaster County jail on \$25,000 bond.

It was unclear Monday whether further arrests were coming in the case.

Spokeswoman Dawn-Renee Smith for the Nebraska Department of Correctional Services referred comment on the specifics of the case to the State Patrol.

But Smith said the case shows the importance of collaboration between investigators from both agencies.

Reach the writer at 402-473-2657 or rjohnson@journalstar.com.

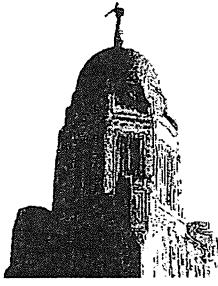
On Twitter @LJSRileyJohnson.



MUGSHOTS: Inmates at the Lancaster County jail
Mar 17, 2017

MORE INFORMATION

DOUG KOEBERNICK
Inspector General



STATE OF NEBRASKA
OFFICE OF INSPECTOR GENERAL OF CORRECTIONS
State Capitol, P.O. Box 94604
Lincoln, Nebraska 68509-4604
402-471-4215

Memorandum

To: Scott Frakes, Diane Sabatka-Rine, Robert Madsen, Cassandra Clark
From: Doug Koebernick, Office of Inspector General
Re: Restrictive Housing
Date: June 21, 2018

Last week I visited with Deputy Director Madsen regarding an inmate in restrictive housing but my point of the conversation was to use that individual's circumstance to talk about bigger issues than that of just one individual. After reflecting on our conversation I felt like I didn't do a good job of communicating my thoughts and decided it might be best to put something in writing that better captures my thoughts.

First, some observations:

- Right now, there are a significant number of individuals are being held for long periods of time in a restrictive housing setting;
- The circumstances involving the placement of these individuals in such a setting are not uniform and in some circumstances can be quite unique;
- The needs of the individuals in such a setting can vary as well and are not uniform;
- Safety and security of facilities, staff and other inmates is a legitimate concern;
- The concern for the community beyond the correctional facilities should also be on the minds of decision-makers in Nebraska's correctional system;
- NDCS faces a significant challenge in addressing the needs of the individuals in a restrictive housing setting;
- Individuals in this setting need a pathway to return to a more normal environment;
- Deciding when it is safe and appropriate to remove an individual from a restrictive housing setting is a decision that can result in positive outcomes but also very negative outcomes; and,
- Intel appears to be more involved in the movement of individuals in the restrictive housing setting than in the past.

With those observations made, I would like to offer some thoughts/ideas/suggestions that I have regarding the state of restrictive housing:

- While I understand the intent of The Challenge Program (TCP), it does not appear to be having the impact that was hoped for it. Many individuals who have been offered it still have a negative view of this potential pathway or they are being influenced by others not to take it. It may be time to rebrand TCP and/or to make it more flexible, and as part of that process NDCS should receive input from inmates and staff. For instance, if someone is doing relatively well and not causing problems yet they don't want to participate in TCP, a decision could be made that one or two of the pieces of TCP could work well for him. In that case, the offer may be made to him that the chances of him being released from restrictive housing will be quite high if he completes T4C and stays relatively free of misconduct reports. He would still receive a quality aspect of TCP that would hopefully set the stage for better behavior. If NDCS still thinks he would benefit from another component of TCP (such as MRT) then that could be offered to him upon release from restrictive housing. I think NDCS faces a serious challenge since there are some individuals who believe agreeing to enter TCP, which could last a year or longer, is giving into NDCS. Thinking outside the TCP box might be a necessity in order to jump start the removal process.
- There are many individuals looking for a pathway out who have not been offered TCP as they do not meet the criteria for the program. It would appear that there are a couple of primary factors that are keeping them from moving forward: behavior and STG issues. I have met many men who have taken a lot of programming yet are not being released. Many of them have also exhibited good behavior. They are seen or perceived as threats to individuals in general population or to the operation of a correctional facility. The question I have regarding these men is what else can be offered to them by NDCS or done by them to make NDCS more comfortable with moving them out of restrictive housing. A lot of the men that I have talked to tell me that they would just like the opportunity to prove themselves. Some have said that they have received the message loud and clear since they have been in restrictive housing for over a year. There are currently over 50 empty beds in Unit 2B. I would suggest working with a small number of men who have exhibited decent behavior and completed all of the programming placed before them and move them to Unit 2B. They can be told that this will be a 4-6 week transition time and if they continue to exhibit positive behavior they will be moved to general population. I would make it clear that they are not participating in TCP and that they do not have to meet with Intel prior to or after moving to Unit 2B.
- There are many individuals who enter restrictive housing multiple times. Each time it appears they are told that they need to complete the Transformation Project even though it might not have done them any good the first time (or second or third...). Could NDCS identify a different program (even T4C or MRT) that they could receive right away instead of waiting for many months to receive? One size does not fit all in restrictive housing and individualized behavior plans are what NDCS strives for so this could be one way to carry out that practice. In other words, implement individualized plans from the beginning as it may result in better outcomes and more buy-in from individuals.
- NDCS could explore more opportunities to allow individuals to leave their cell for more than one hour of recreation five days per week. At NCYF there are attempts to let individuals go to the gym or other places yet in a highly supervised way. Consideration could be given to turning one cell on each gallery into a "blue room" or a room with a couple of more comfortable chairs where one or two individuals could visit. Cameras and microphones could be placed in those rooms so they could be monitored. If two individuals were allowed in such a room at a time they could be given the opportunity to exhibit better

social skills. In addition, if they could actually talk to someone face to face they might exhibit better choices when they are walking past cell doors in the gallery.

- As part of the process of deciding whether or not an individual should be removed from restrictive housing the decisions made at the local facility level should not be influenced by the actions of MDRT. The local facility decision-makers should be able to make a recommendation based on the behavior and known risk of that individual. Unless they are able to understand and possibly view the intelligence information that MDRT is reviewing they should not accept it at face value that the individual shouldn't be moved out of restrictive housing. In other words, if they believe an individual is doing everything asked of them in restrictive housing then they should recommend that they be removed and let the next round of decision-makers make the next call.
- MDRT should take votes and record them when it comes to their decisions on whether or not an individual stays in restrictive housing. More detailed information regarding their discussion and their decision should be documented and provided to the Director. This should also be a part of the individual's restrictive housing records.
- If NDCS decides that it will be their policy to continue long term placements in restrictive housing, then consideration should be given to providing more significant programs in those settings. For instance, substance abuse and violence programs could be offered as men would likely be motivated to take them as they know this would help those with parole eligibility dates. If this is done, a system should be in place that would allow them to move into those programs in general population should a decision be made to move them out of restrictive housing prior to their completing these programs.

These are just some thoughts/ideas/suggestions that I have that I wanted to share with you based on my observations, conversations and reviewing of records over the past several months. The current restrictive housing situation is a serious systemic issue. It is a top priority of my office to better understand the process and the system. I am more than willing to meet with any NDCS staff to better understand restrictive housing and I hope that this memo demonstrates my interest in improving the system.

I also want to express my appreciation for your interest in addressing any deficiencies you have found in the restrictive housing process. While I have concerns with TCP I think it shows that NDCS was looking to improve outcomes and create more defined pathways with the development of that program. It wasn't the status quo. There have also been some other attempts to expand programming and I recognize those and am encouraged by those efforts. I finally want to share that I definitely appreciate the work of the staff in the restrictive housing units. They are faced with difficult situations every single day and many of them are working long hours. It is a challenging assignment that they carry out every day.

Craig Haney

The Psychological Effects of Solitary Confinement: A Systematic Critique

ABSTRACT

Research findings on the psychological effects of solitary confinement have been strikingly consistent since the early nineteenth century. Studies have identified a wide range of frequently occurring adverse psychological reactions that commonly affect prisoners in isolation units. The prevalence of psychological distress is extremely high. Nonetheless, use of solitary confinement in the United States vastly increased in recent decades. Advocates defend its use, often citing two recent studies to support claims that isolation has no significant adverse psychological effects, including even on mentally ill people. Those studies, however, are fundamentally flawed, their results are not credible, and they should be disregarded. Critically and comprehensively analyzing the numerous flaws that compromise this recent scholarship underscores the distinction between methodological form and substance, the danger of privileging quantitative data irrespective of their quality, and the importance of considering the fraught nature of the prison context in which research results are actually generated. Solitary confinement has well-documented adverse effects. Its use should be eliminated entirely for some groups of prisoners and greatly reduced for others.

Doing prison research, Alison Liebling has long reminded us, is deeply emotional and intellectually challenging, with different methodological approaches “competing for epistemological prominence—often from different sides of the prison wall” (1999, p. 148). It takes place in “an in-

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tense, risk-laden, emotionally fraught environment” (p. 163) and within a closed environment in which prison administrators tightly control access to data and most prisoners manifest an entirely legitimate and understandable skepticism toward data gatherers.

This helps explain why, in Liebling’s words, “the pains of imprisonment are tragically underestimated by conventional methodological approaches to prison life” (p. 165). The more these conventional approaches encourage us to conceive of prisons as more or less traditional research settings and prisoners as mere specimens to be “objectively assessed,” the less likely we are to gain useful insights into prison life or accurately represent the experience of those living inside.

These cautions are doubly applicable to research on solitary confinement.¹ It involves involuntary isolation of prisoners nearly around the clock in sparse cells located in remote or inaccessible units. Solitary confinement denies prisoners any meaningful social contact and access to positive environmental stimulation.

These prisons within prisons are nearly impenetrable to outside researchers (or anyone else). Prison officials tightly control access to solitary confinement units and to the prisoners inside them. They typically rebuff attempts by researchers to observe conditions and practices, let alone to carefully assess their potentially harmful effects. Prisoners in solitary confinement tend to be even more self-protective than other prisoners are (as part of their accommodation to harsh and frequently abusive conditions) and reluctant to have their “measure” taken by persons whom they have no reason to trust. They generally subscribe strongly to prisoner norms against displaying or acknowledging vulnerabilities that could be interpreted as weakness. The inapt pejorative designation of them as collectively “the worst of the worst” does not inspire confidence in or candor toward outsiders, and certainly not toward anyone remotely associated with the prison administration.

These realities pose a host of methodological challenges for anyone interested in understanding the nature and effects of prison isolation. This is in part why studies of the effects of solitary confinement on prisoners

¹ I use “solitary confinement” to refer to forms of prison isolation in which prisoners are housed involuntarily in their cells for upward of 23 hours per day and denied the opportunity to engage in normal and meaningful social interaction and congregate activities, including correctional programming. The term subsumes a range of prison nomenclature including “administrative segregation,” “security housing units,” “high security,” and “close management,” among others.

have rarely, if ever, approximated experimental research designs (including quasi- or natural experimental designs).

Solitary confinement units not only are largely impenetrable to outsiders but also, of course, are subject to legal and ethical restrictions that preclude random assignment of prisoners into them. The rigid prison rules and operating procedures that govern these places can easily frustrate the use of the kind of meticulous controls over conditions and participants that are needed to carry out anything remotely resembling an experiment. The distinctiveness of solitary confinement units and the nonnegotiable staff mandates under which they operate make it difficult, if not impossible, to implement rigorous conventional research designs (e.g., representative samples, control groups, repeated measures). Efforts to conduct randomized or truly controlled studies inevitably face significant risks that the data collected will be so confounded by inevitable methodological compromises as to be uninterpretable and, therefore, meaningless.

Nonetheless, scholars and researchers know a great deal about the negative effects of solitary confinement. We have firsthand or autobiographical accounts by former prisoners (e.g., Burney 1961) and staff members (e.g., Rundle 1973; Slater 1986); ethnographic, interview, and observational research (e.g., Benjamin and Lux 1975; Toch 1975; Hilliard 1976; Jackson 1983; Rhodes 2004; Reiter 2016); and cross-sectional studies that assess prisoners' psychological reactions at particular times (e.g., Grassian 1983; Brodsky and Scogin 1988; Haney 2003).

Much of the important research is qualitative, but there is a substantial amount of it and the findings are robust. They can also be "triangulated," that is, studied through a range of methods and in settings sometimes similar but not necessarily identical to solitary confinement (e.g., Turner, Cardinal, and Burton 2017). Numerous literature reviews have noted that scientists from diverse disciplinary backgrounds, working independently and across several continents, and over many decades, have reached almost identical conclusions about the negative effects of isolation in general and solitary confinement in particular (e.g., Haney and Lynch 1997; Haney 2003; Grassian 2006; Smith 2006; Arrigo and Bullcock 2008). Those robust findings are also theoretically coherent. That is, they are consistent with and explained by a rapidly growing literature on the importance of meaningful social contact for maintenance of mental and physical health.

Largely because of the robustness and theoretical underpinnings of the data, numerous scientific and professional organizations have reached

a broad consensus about the damaging effects of solitary confinement. Several years ago, for example, a National Academies of Science committee reviewed the existing research and concluded that solitary confinement can precipitate such “serious psychological change” in prisoners that the practice “is best minimized” (National Research Council 2014, p. 201). The American Psychological Association (2016, p. 1), the world’s largest professional association of psychologists, asserted that “solitary confinement is associated with severe harm to physical and mental health among both youth and adults, including: increased risk of self-mutilation, and suicidal ideation; greater anxiety, depression, sleep disturbance, paranoia, and aggression; exacerbation of the onset of pre-existing mental illness and trauma symptoms; [and] increased risk of cardiovascular problems.”

Similarly, the National Commission on Correctional Health Care (2016), a highly respected organization of correctional medical and mental health professionals, promulgated a series of “principles” with respect to solitary confinement. They are intended to guide the ethical conduct of its members, including that placement in solitary confinement for longer than 15 days represents “cruel, inhumane, and degrading treatment” that is “harmful to an individual’s health” (p. 260) and that “health care staff must advocate” to remove persons from solitary confinement whenever “their medical or mental health deteriorates” (p. 261).

Summarizing this growing consensus, a joint 2016 statement of the Association of State Correctional Administrators (the largest professional association of American prison administrators) and Yale Law School’s Liman Public Interest Program observed that demands for change in use of solitary confinement are being made around the world. More specifically,

Commitments to reform and efforts to limit or abolish the use of isolating confinement come from stakeholders and actors in and out of government. Documentation of the harms of isolation, coupled with its costs and the dearth of evidence suggesting that it enhances security, has prompted prison directors, legislatures, executive branch officials, and advocacy groups to try to limit reliance on restricted housing. Instead of being cast as the solution to a problem, restricted housing has come to be understood by many as a problem in need of a solution. (Association of State Correctional Administrators and the Arthur Liman Public Interest Program 2016, p. 15)

Even more recently, the director of the Colorado Department of Corrections, Rick Raemisch, announced that Colorado has ended use of long-term solitary confinement, so that even prisoners “who commit serious violations like assault will now spend at most 15 days in solitary” (2017, p. A25). This development in Colorado is especially notable, for reasons that become clear in the pages that follow.

Against this backdrop, in 2009 and 2010 word began to circulate among prison researchers and policy makers that a new, supposedly unassailable scientific study—the “Colorado study”—had produced results that contravened many decades of empirical findings on the harmful effects of prison isolation. Lovell and Toch (2011, p. 3) characterized a number of its findings as “flabbergasting,” and indeed they were. Among the most startling were that a year-long stay in solitary confinement resulted in no “significant decline in psychological well-being over time”; that on most measures, including cognitive performance, “there was improved functioning over time”; and most remarkably that many more mentally ill prisoners benefited from isolation than were damaged by it (O’Keefe et al. 2010, pp. 54, 78). The Colorado researchers thus reported data indicating that solitary confinement made prisoners feel and think better, especially if they were mentally ill.

In fact, however, the Colorado study was riddled with serious methodological problems that limited its value and made the meaning of the results impossible to decipher. Notwithstanding its authors’ frank, albeit at times opaque and oblique, acknowledgments of some of its fundamental weaknesses, defenders of solitary confinement have seized on it. It has become a last bastion of resistance against a widespread and growing consensus that use of solitary confinement should be eliminated or drastically limited.

The Colorado study’s influence has been amplified by an equally flawed meta-analysis that relied very heavily on it and significantly mischaracterized the prior literature on the effects of isolated confinement (Morgan et al. 2016). Of course, the influence of a fundamentally flawed study can grow if it and the data it produced are included in literature reviews that overlook glaring weaknesses. This risk is greater in meta-analytic than in narrative literature reviews that focus on decontextualized “effect sizes” irrespective of methodological shortcomings of individual studies. Unlike narrative reviews, meta-analyses include only quantitative outcomes or effects. This elevates the importance of numerical outcomes and often

scants nuanced assessments of data quality. This is particularly a problem for prison research, an enterprise that is fraught with emotional and methodological challenges, in which aspects of the institutional context or setting can fundamentally alter the nature of the research and the meaning of its results. That is precisely what happened in the Morgan et al. (2016) meta-analysis.

In the following pages, I first discuss the scientific basis for the broad consensus that solitary confinement has substantial negative psychological effects on prisoners. I then discuss the Colorado study and the Morgan et al. (2016) meta-analysis based largely on it. Both are textbook examples of how things can go terribly wrong when researchers fail to take account of the unique nature of the prison environment, the special emotional and methodological challenges of prison research in general, and the contingent and unpredictable conditions and practices that affect solitary confinement units in particular.

I. Solitary Confinement Research and Practice

Documentation of the damaging nature and psychological effects of solitary confinement has a very long history, dating at least to the early nineteenth century, when solitary confinement was the modal form of imprisonment. The notion that prisoners could be reformed—made “penitent”—by time spent in isolation dominated American correctional thinking and practice and eventually spread throughout Europe. Yet the practice was recognized as a dangerous failure not long after its inception. Haney and Lynch (1997), Toch (2003), Grassian (2006), and Smith (2006) reviewed much of the early historical literature. Reports on solitary confinement at Pentonville Prison in England described “twenty times more cases of mental disease than in any other prison in the country” (Hibbert 1963, p. 160). Accounts of solitary confinement in the Netherlands documented “again and again, reports of insanity, suicide, and the complete alienation of prisoners from social life” (Franke 1992, p. 128). Newspaper reports from Philadelphia observed that prisoners in solitary confinement at the Walnut Street Jail “beg, with the greatest earnestness, that they may be hanged out of their misery” (Masur 1989, p. 83). Charles Dickens concluded that a prisoner kept in that “melancholy house” was like “a man buried alive . . . dead to everything but torturing anxieties and horrible despair” (Dickens 1842, p. 116). A similar regime in Auburn, New York, was described as “a hopeless failure that led to a

marked prevalence of sickness and insanity on the part of convicts in solitary confinement” (Barnes 1921, p. 53). Stuart Grassian (2006, pp. 342–43) reported that “between 1854 and 1909, thirty-seven articles appeared in German scientific journals on the subject of psychotic disturbances among prisoners.” The “most consistent factor” accounting for prison psychoses, “reported in over half the total literature, was solitary confinement.”

Systematic early studies of solitary confinement in the United States used what is now seen as a somewhat outmoded theoretical framework, focusing narrowly on sensory rather than social deprivation (e.g., Scott and Gendreau 1969; Gendreau et al. 1972). Even so, the authors of one early study concluded that “excessive deprivation of liberty, here defined as near complete confinement to the cell, results in deep emotional disturbances” (Cormier and Williams 1966, p. 484). In a review of the sensory deprivation literature, Haney and Lynch (1997) noted that “the dissimilarities between conditions created in these studies and those in solitary confinement or punitive segregation in correctional institutions are obvious.” They also observed that, nonetheless, the early research did “emphasize the importance of sensory stimulation in human experience and the dramatic effects that can be produced when such stimulation is significantly curtailed” (p. 502).

More recent research focuses on the psychological damage that results from social deprivation. Hans Toch’s large-scale psychological study of prisoners in crisis in New York State correctional facilities included important observations about the effects of isolation. After conducting numerous in-depth interviews, Toch (1975, p. 54) concluded that “isolation panic” was a serious problem in solitary confinement. The symptoms Toch described included rage, panic, loss of control and breakdowns, psychological regression, and build-ups of physiological and psychic tension that led to incidents of self-mutilation. He noted that isolation panic could occur under other conditions of confinement but that it was “most sharply prevalent in segregation.” Moreover, it marked an important dichotomy for prisoners: the “distinction between imprisonment, which is tolerable, and isolation, which is not.”

Empirical studies have identified a wide range of frequently occurring adverse psychological reactions to solitary confinement.² These include

² For reviews of the literature documenting these adverse reactions, see Haney and Lynch (1997), Haney (2003), Cloyes et al. (2006), Grassian (2006), Smith (2006), and Arrigo and Bullock (2008).

stress-related reactions (such as decreased appetite, trembling hands, sweating palms, heart palpitations, and a sense of impending emotional breakdown); sleep disturbances (including nightmares and sleeplessness); heightened levels of anxiety and panic; irritability, aggression, and rage; paranoia, ruminations, and violent fantasies; cognitive dysfunction, hypersensitivity to stimuli, and hallucinations; loss of emotional control, mood swings, lethargy, flattened affect, and depression; increased suicidality and instances of self-harm; and, finally, paradoxical tendencies to further social withdrawal.

The prevalence of psychological distress, at least as suffered in certain solitary confinement settings, appears to be extremely high. A study conducted at the Security Housing Unit (SHU) at Pelican Bay State Prison in California (Haney 1993; Reiter 2016), an especially severe solitary confinement facility, is illustrative. Structured interviews were used to assess a randomly selected, representative sample of 100 prisoners to determine the prevalence of symptoms of psychological stress, trauma, and isolation-related psychopathology (Haney 2003). The interviews included demographic questions, brief social and institutional histories, and systematic assessments of 25 items, based in part on the Omnibus Stress Index (Jones 1976) and on other instruments similar to those used in Brodsky and Scogin (1988). Every symptom of psychological stress and trauma but one (fainting) was experienced by more than half of the assessed prisoners; many were reported by two-thirds or more and some by nearly everyone. Well over half of the prisoners reported distress-related symptoms—headaches, trembling, sweaty palms, and heart palpitations.

High numbers of the Pelican Bay SHU prisoners also reported suffering from isolation-related symptoms of pathology. Nearly all reported ruminations or intrusive thoughts, oversensitivity to external stimuli, irrational anger and irritability, difficulties with attention and often with memory, and a tendency to withdraw socially. Almost as many reported symptoms indicative of mood or emotional disorders: concerns over emotional flatness or losing the ability to feel, swings in emotional response, and feelings of depression or sadness that did not go away. Finally, sizable minorities reported symptoms that are typically associated only with more extreme forms of psychopathology—hallucinations, perceptual distortions, and thoughts of suicide.

Social withdrawal, a common reaction to solitary, is related to a broader set of social pathologies that prisoners often experience as they attempt to

adapt to an environment devoid of normal, meaningful social contact. In order to exist and function in solitary confinement, where day-to-day life lacks meaningful interaction and closeness with others, prisoners have little choice but to adapt in ways that are asocial and, ultimately, psychologically harmful.

A large international literature has reached similar conclusions on the adverse psychological effects of solitary confinement. Solitary confinement not only is a common form of mistreatment to which prisoners of war have been subjected and been adversely affected (e.g., Hinkle and Wolff 1956) but also is associated with “higher levels of later life disability” among returnees (Hunt et al. 2008, p. 616). It is frequently used as a component of torture (e.g., Foster, Davis, and Sandler 1987; Nowak 2006; Reyes 2007). Solitary confinement has been studied in more traditional international criminal justice contexts as well. For example, Barte (1989, p. 52) concluded that solitary confinement in French prisons had such “psychopathogenic” effects that prisoners placed there for extended periods could become schizophrenic, making the practice unjustifiable, counterproductive, and “a denial of the bonds that unite humankind.”

Koch (1986, pp. 124–25) studied “acute isolation syndrome” among detainees in Denmark that occurred after only a few days in isolation and included “problems of concentration, restlessness, failure of memory, sleeping problems and impaired sense of time and ability to follow the rhythm of day and night.” If isolation persisted for a few weeks or more, it could lead to “chronic isolation syndrome,” including intensified difficulties with memory and concentration, “inexplicable fatigue,” a “distinct emotional liability” that included fits of rage, hallucinations, and the “extremely common” belief among prisoners that “they have gone or are going mad.”

Volkart, Dittrich, et al. (1983) studied penal isolation in Switzerland. They concluded that, compared with prisoners in normal confinement, those in solitary displayed considerably more psychopathological symptoms, including heightened feelings of anxiety, emotional hypersensitivity, ideas of persecution, and thought disorders (see also Waligora 1974; Volkart, Rothenfluh, et al. 1983; Bauer et al. 1993).

The major reviews of the literature reach the same conclusions as the seminal studies. Haney and Lynch (1997, pp. 530, 537) noted that “distinctive patterns of negative effects have emerged clearly, consistently, and unequivocally from personal accounts, descriptive studies, and sys-

tematic research on solitary and punitive segregation.” The “psychologically destructive treatment” to which prisoners are exposed in solitary confinement is so severe that it likely “would not be countenanced for any other group in our society.”

Grassian’s extensive survey of solitary confinement research concluded that “the restriction of environmental stimulation and social isolation associated with confinement in solitary are strikingly toxic to mental functioning, including, in some prisoners, a stuporous condition associated with perceptual and cognitive impairment and affective disturbances” (2006, p. 354).

That same year, Smith’s comprehensive review concluded that “the vast majority” of studies on the effects of solitary confinement “document significant negative health effects” (2006, p. 456). He observed that “research on effects of solitary confinement has produced a massive body of data documenting serious adverse health effects” (p. 475) including “anger, hatred, bitterness, boredom, stress, loss of the sense of reality, suicidal thoughts, trouble sleeping, impaired concentration, confusion, depression, and hallucinations” (p. 488).

Similarly, Arrigo and Bullock (2008) concluded that “nearly all investigators acknowledge that long-term segregation, mistreatment by correctional staff, and preexisting psychological vulnerability are all apt to result in negative mental health consequences for convicts” and that “the extreme isolation and harsh conditions of confinement in [solitary confinement] typically exacerbate the symptoms of mental illness” (p. 632).

There is an important, theoretically coherent framework that helps explain the consistency of these conclusions. A burgeoning literature in social psychology and related disciplines shows that solitary confinement is a potentially harmful form of sensory deprivation but also, and more destructively, exposes prisoners to pathological levels of social deprivation. Numerous studies have established the critical psychological significance of social contact, connectedness, and belonging (e.g., Fiorillo and Sabatini 2011; Hafner et al. 2011; Cacioppo and Cacioppo 2012). Meaningful social interactions and social connectedness can have a positive effect on people’s physical and mental health in settings outside of prison and, conversely, social isolation in general can undermine health and psychological well-being. Thus, it makes sound psychological sense that exposure to especially severe forms of material, sensory, and social deprivation harms prisoners’ mental health.

Indeed, researchers have concluded that human brains are “wired to connect” to others (Lieberman 2013). Thwarting the need to establish and maintain connections to others undermines psychological well-being and increases physical morbidity and mortality. Because “social connection is crucial to human development, health, and survival,” experts have called for it to be recognized as a national public health priority (Holt-Lunstad, Robles, and Sbarra 2017, p. 527). The involuntary, coercive, hostile, and demeaning aspects of solitary confinement are likely to exacerbate the negative effects of social isolation that have repeatedly been documented in more benign contexts.

Given these long-standing and theoretically informed findings, a study purporting to show that psychological effects of solitary confinement range from harmless to beneficial would normally not be taken seriously. Sometimes, however, the appearance of seemingly objective scientific findings provides legitimacy to doubtful conclusions, especially when they support contested policy or political agendas. That is precisely what happened in the case of the Colorado study. Its authors described it as a scientific advance over all previous studies, and some commentators prematurely lauded its methodological rigor. It appeared on the surface to be an ambitious and well-designed longitudinal study, with appropriate comparison groups and a host of dependent variables that were to be examined. Data were collected through the repeated administration of instruments said to be validated, and an unusually large number of prisoners were to be assessed over a 1-year period.

The reality was very different. The project could not be, and was not, carried out as planned, partly because of powerful demands and correctional contingencies inherent in prison settings in general and solitary confinement in particular. The problems proved insurmountable: comparison groups were not comparable, and the integrity of the “treatments” each group received was quickly corrupted. I discuss these and numerous other problems in the next section. The fundamental methodological flaws that plagued the study prevented collection of any meaningful data and ensured that no meaningful conclusions could be drawn.

The Colorado study nonetheless has continued to play an outsized role in contentious policy debates in which proponents of solitary confinement draw on it to support positions that are becoming indefensible. Defenders have characterized the study as “an outstanding example of applied correctional research” that was “planned with great care,” em-

ployed a “rigorous” design, and produced results that “were about as conclusive as possible” showing that solitary confinement has few or no adverse effects (Gendreau and Labrecque 2016, p. 9).

A year after the study’s release, the National Institute of Corrections devoted an entire issue of *Corrections and Mental Health* to discussion of it. One writer (other than the Colorado researchers themselves) who endorsed its results and defended its methodology was Paul Gendreau, a well-known Canadian researcher and long-time prison system employee. Despite not having published primary research data on isolation since the early 1970s, he had defended its use over many decades, for example, in a 1984 article entitled “Solitary Confinement Is Not Cruel and Unusual: People Sometimes Are!” (Gendreau and Bonta 1984). In *Corrections and Mental Health*, Gendreau hailed the Colorado study as a “truly significant contribution to our knowledge base about the effects of prison life for one of the most severe forms of incarceration” and asserted that “in terms of its methodological rigor” no other study “comes close” (Gendreau and Theriault 2011, p. 1). Moreover, despite the deep skepticism voiced by all of the other contributors to the special issue except Gendreau and the study’s authors, the journal’s editor described the Colorado study as “an important report” because it showed that “administrative segregation is not terribly harmful” (Immarigeon 2011, p. 1).

Similarly, when a brief summary of the study appeared in a scholarly journal (O’Keefe et al. 2013), it was accompanied by commentary written by several prominent clinicians who claimed to have witnessed as much as or more psychological improvement among isolated prisoners than decompensation. They praised the study as “groundbreaking” and described its methodology as “solid” (Berger, Chaplin, and Trestman 2013, pp. 61–63). The authors averred that “the extremes of solitary confinement have been misunderstood” and that “people are resilient and are able to thrive under even difficult environmental conditions.”

The respected Irish prison researcher Ian O’Donnell, though more circumspect, offered similar observations. Although O’Donnell acknowledged some limitations, he praised the study’s methodology and invoked its results to support some of his own views. “However unpalatable they might appear to some parties,” he asserted, the study’s findings “must be taken seriously” (2014, p. 120). O’Donnell characterized the study as “valuable” because, he said, it “highlights the individual’s capacity to adapt” (p. 122). He defended the Colorado researchers against criticism, noting that it is ethically impossible to study solitary confinement with “suffi-

cient scientific rigour to satisfy everyone” (p. 122). The study’s results suggest, he wrote, “that segregation was not highly detrimental to those forced to endure it” (p. 120) and that the harmfulness of this form of penal confinement “may have been over-emphasized” (p. 123).³

The Colorado study also figures prominently in correctional policy reviews by recalcitrant prison officials who do not want to modify segregation practices and in litigation over the harmful effects of solitary confinement, where those defending it are eager to find support.⁴ For example, the US Government Accountability Office conducted a review of segregated housing practices in the federal Bureau of Prisons (BOP): “BOP HQ officials cited the 2010 DOJ-funded study of the psychological impact of solitary confinement in the Colorado state prison system. This study showed that segregated housing of up to 1 year may not have greater negative psychological impacts than non-segregated housing on inmates. While the DOJ-funded study did not assess inmates in BOP facilities, BOP management told us this study shows that segregation has

³ O’Donnell indicated that the study documented the “benefits” of solitary, ones he suggested derived from “the many hours spent in quiet contemplation” in solitary confinement units. He also suggested that the results buttressed his own belief that “severe forms of trauma are sometimes accompanied by an improvement in functioning” (p. 123).

⁴ For example, consider the “Expert Report by Robert Morgan, PhD, Ashker, et al. v. Governor, et al., Case No.:C09-05796 CW (N.D. Cal.)” submitted under oath to a federal district court. Morgan opined that being housed in extremely harsh solitary confinement (the SHU in California’s Pelican Bay State Prison) for “*ten or more continuous years* does not place inmates at substantial risk of serious mental harm” (p. 1; emphasis added), a position that he supported in part by citing the Colorado study. He described the study as “the most sophisticated study to date on the topic” of the effects of solitary confinement, claimed it showed “an absence of adverse effects for segregated inmates” (p. 1), and cited the results of his own meta-analysis (which was incorporated into Morgan et al. [2016], which I discuss later in this essay) to buttress his defense of long-term solitary confinement. Similarly, see the “Expert Report Provided in the Matter of BCCLA and JHS v. AGC, Court No.:S150415” by Jeremy Mills, PhD, filed in support of the continued use of solitary confinement in Canadian prisons. The Colorado study is described by Mills as “quite likely the most sophisticated longitudinal study to date examining the effects of segregation on mentally ill and non-mentally ill offenders” (p. 13). He also characterized meta-analyses like the Morgan et al. meta-analysis, of which he was a coauthor, as “a hallmark of the scientific process” (p. 12). Mills embraced the Colorado study’s conclusions as supportive of his own, which were gleaned from his “clinical experience” working in segregation units on behalf of the Canadian Correctional Service. These included his view that both mentally ill and non-mentally ill prisoners usually need only “a few days” of “a period of adjustment” to get used to solitary confinement. He suggested that prisoners placed in solitary confinement “more frequently” forgo the adjustment period entirely because “they are familiar with the environment” (p. 14). Neither Morgan nor Mills acknowledged the Colorado study’s numerous fundamental methodological flaws or indicated that the Morgan et al. meta-analysis on which they relied was based primarily on it.

little or no adverse long-term impact on inmates” (Government Accountability Office 2013, p. 39).

The Colorado study’s continuing cachet in prison policy making and important legal circles means that its scientific bona fides bear especially careful analysis. Examining and deconstructing its methodology is a tedious but worthwhile exercise because it illustrates the difficulty of honoring norms of scientific rigor in a setting in which conventional research designs are nearly impossible to implement and necessary trade-offs are especially costly to the quality of the data collected. I turn to that exercise in Section II and to a deconstruction of the Morgan et al. (2016) meta-analysis in Section III.

II. Interrogating the Colorado Study

Results of the Colorado study appeared in two versions: a lengthy final report to the National Institute of Justice (O’Keefe et al. 2010) and a short article in the *Journal of the American Academy of Psychiatry and Law* (O’Keefe et al. 2013). I mostly discuss the more detailed National Institute of Justice report.⁵ I also draw on two depositions, under oath, of Maureen O’Keefe, the lead researcher, in connection with prisoner litigation concerning Colorado’s “supermax” facility (where much of the study was conducted). In response to detailed questions, O’Keefe discussed numerous issues not raised in the report or fully addressed in published exchanges following its release.⁶

Why the study was undertaken is unclear. Neither of the primary researchers had prior experience with solitary confinement. Maureen O’Keefe had a master’s degree in clinical psychology but no prior involvement in research on the effects of isolation. Kelli Klebe was a psychometrician who also had no direct experience with solitary confinement (O’Keefe 2010, pp. 13–14). Yet they designed the study (pp. 77–79).

The study’s impetus may have come from Larry Reid, warden of the Colorado supermax prison that housed prisoners assigned to administra-

⁵ A number of brief but highly critical commentaries by prison researchers also questioned aspects of the methodology: Grassian and Kupers (2011), Rhodes and Lovell (2011), Shalev and Lloyd (2011), and Smith (2011). See also the response to at least some of these criticisms by Metzner and O’Keefe (2011).

⁶ The two depositions are Deposition of Maureen O’Keefe, *Dunlap v. Zavaras*, Civil Action no. 09-CV-01196-CMA-MEH, October 5, 2010; and Deposition of Maureen O’Keefe at 96, 101 *Sardakowski v. Clements*, Civil Action no. 12-CV-01326-RBJ-KLM, October 25, 2013.

tive segregation. O'Keefe indicated that Reid "kept pushing for the study to be done" and served as a member of the study's advisory board (2010, p. 51). A few years before the Colorado study was planned, administrators at a Wisconsin supermax had lost a lawsuit over their use of solitary confinement (*Jones 'El v. Berge*, 164 F.Supp. 2d 1097 [W.D. Wis. 2001]), and Reid apparently wanted to avoid a similar decision. As O'Keefe (2013, p. 44) observed, "I believe [Reid's] concern was that Wisconsin had lost the case and it had severely restricted their ability to use administrative segregation."

The Colorado researchers said that they expected to find that administrative segregation had negative psychological effects: "We hypothesized that inmates in segregation would experience greater psychological deterioration over time than comparison inmates, who were comprised of similar offenders confined in non-segregation prisons" (O'Keefe et al. 2010, p. viii). If so, Warden Reid did not appear to share that view. The Colorado Department of Corrections then housed "three times as many people in solitary confinement as the average state prison system" (*Correctional News* 2012, p. 1). Moreover, O'Keefe (2013, p. 46) acknowledged that Reid "was very pro administrative segregation and all of us on the project felt that way."

Psychologist John Stoner, the mental health coordinator at the Colorado supermax prison, also strongly supported administrative segregation and served as a member of the study's advisory board. He had testified in the Wisconsin case that administrative segregation was not "as detrimental to mental health as others have found it to be" (*Jones 'El v. Berge*, p. 1104). Among other things, Stoner said that he was not troubled by Wisconsin's use of "boxcar" cells with solid metal doors that closed off visual contact and muffled sound because he thought they were "necessary for the protection of staff and other inmates" (p. 1104). He also observed in written testimony that prisoners in isolation who appeared to be seriously mentally ill were likely not as sick as other experts indicated; he speculated that they might be malingering. Although Stoner told the court in *Jones 'El v. Berge* that the isolated housing conditions at the prison were entirely appropriate, the judge disagreed. She held that the Wisconsin facility was unconstitutionally harsh for mentally ill prisoners and ordered them removed.

In any event, the Colorado researchers started out with a seemingly good idea and what appeared to be a reasonable research design. They would identify groups of prisoners housed in administrative segregation

(AS) and in the general population (GP), subdivided into those suffering from serious mental illness (MI) and not (NMI). Their psychological status would be tracked for 1 year to determine whether and how the different groups were affected by different conditions of confinement.⁷ The characteristics of the AS and GP prisoners were not matched at the outset but were expected to be more or less comparable because all had committed rules violations for which they might have received an AS placement.

Assignments to AS were thus not random. The researchers reported that “placement into AS or GP conditions occurred as a function of routine prison operations, pending the outcome of their AS hearing, without involvement of the researchers. . . . Inmates who returned to GP following an AS hearing were assumed to be as similar as possible to AS inmates and, therefore, comprised the comparison groups” (O’Keefe et al. 2010, p. 17). The prisoners whom prison authorities chose to send to administrative segregation became the treatment group and those returned to the general population became the comparison group (again, with each group subdivided into those identified by the prison system as mentally ill and those not).

Unfortunately, the plan fell apart almost immediately. The prison context and “routine prison operations” fundamentally undermined the research design.

A. Contamination of Treatment and Comparison Groups

The study’s implementation was compromised in two fundamental ways. It is important at this juncture to acknowledge the distinction between mere methodological “limitations”—respects in which a study is not perfect—and problems that are so fundamental that they make the resulting data uninterpretable. The two flaws from which the Colorado study suffered were fatal—separately and in combination.

1. *All Participants Were Exposed to the Treatment.* All participants in the study, including those in the comparison group, were initially placed

⁷ Data for one group of participants—prisoners “with the most acute psychiatric symptoms” housed at a psychiatric treatment facility where they lived and interacted with one another “on their living unit” (O’Keefe et al. 2010, pp. 14–15)—did not bear directly on the issue of whether and how much prisoners were affected by AS. The researchers included them separately “to study inmates with serious mental illness and behavioral problems who were managed in a psychiatric prison setting” (p. 17). The prisoners in this group were not living in conditions remotely comparable to prisoners housed in conventional GP or AS units.

in “punitive segregation,” a severe form of solitary confinement, for unspecified but not insignificant periods, before being assigned to administrative segregation or the general population. “At the time leading up to and during their AS hearing,” the researchers acknowledged, “inmates have typically been in segregation” (O’Keefe et al. 2010, p. 8).⁸ The reason was that Colorado prison officials were required to hold hearings to determine whether prisoners were guilty of infractions and if so whether AS punishment was warranted. Prisoners in Colorado as elsewhere are placed in special housing while they await the outcomes of their disciplinary hearings, often for days or weeks before the process is complete. Thus, the researchers also noted that “offenders reclassified to AS *remain* in a punitive segregation bed until an AS bed becomes available” (O’Keefe et al. 2013, p. 50; emphasis added).

Although this is routine correctional practice, its methodological implications were disastrous. It meant that all members of the comparison group were exposed to a severe dose of the isolation “treatment” before the study began. O’Keefe et al. (2010, p. 9) indicated that the punitive segregation conditions where prisoners were kept while disciplinary proceedings unfolded were so harsh that they were “only intended to be used for a short period of time.” This severity distinguished it from AS, which was intended to be used for much longer periods. Here is how they described punitive segregation:

Punitive segregation offenders remain in their cell for 23 to 24 hours a day, only coming out for recreation and showers, both of which are located in the living unit. Therefore, most do not leave the unit during their segregation time. Services including meals, library, laundry, and even medical and mental health appointments occur at the cell door. If a situation warrants an offender to be out of cell, the offender is placed in full restraints and escorted to a room within the unit

⁸ Why “typically” is unclear. The report indicates that all prisoners (including the GP comparison groups) were placed in some form of isolation before, during, and shortly after their AS hearings. It is hard to imagine a procedure in which a prisoner would be taken directly out of GP, immediately given an AS hearing, and immediately returned to GP, without having spent time in some form of isolated housing. In fact, the authors reported that AS participants “on average completed their initial test 7 days (SD = 7.3) after their AS hearing,” that GP participants on average “were tested 16 days (SD = 18.9) after their hearing,” and that “on average, 43 percent of inmates . . . [had] been confined in segregation (40 percent in AS groups and 3 percent in GP groups) for an average of 18.2 days (SD = 18.1)” (p. 30). These figures are mathematically impossible. Moreover, they are at odds with O’Keefe’s deposition testimony and with a statement in a more recent published “reflection” on the study (O’Keefe 2017).

where he or she can meet privately. Many offenders do not like being taken out of their cells because of the use of full restraints. Additionally, they may not like leaving their cell because officers may take the opportunity to search the cell for contraband.

Due to the disciplinary nature of punitive segregation, offenders are stripped of most privileges during their stay. Punitive segregation inmates are neither allowed to work nor permitted to participate in programs or education. Furthermore, their televisions are removed, and they cannot order canteen beyond essential hygiene items. (O'Keefe et al. 2010, p. 8)

Punitive segregation prisoners were denied visits, which were considered too labor intensive for prison staff to administer.

In contrast to AS, prisoners in punitive segregation also were denied the opportunity to engage in programming or education and were "unable to begin working their way toward leaving segregation" (O'Keefe et al. 2010, p. 9). Thus, even study participants who wound up in AS likely experienced punitive segregation as a much worse form of treatment.

This initial exposure of all participants to an especially harsh form of solitary confinement in punitive segregation made it impossible to draw meaningful inferences about any separate, subsequent effects of GP versus AS. There can be no comparison group in a study in which all of its participants are subjected to a harsh form of the treatment whose effects are being measured.

It is impossible to know whether or how control group prisoners were damaged by the time spent in punitive segregation and whether those effects continued throughout the study. Nor could anyone know whether the AS prisoners were actually relieved to enter the "treatment" because it was less harsh than punitive segregation. These imponderables could account for participants' psychological reactions, including the reported lack of differences between the AS and GP groups and the reported "improvement" or lack of deterioration of many members of the AS group. This was thus no longer a study of administrative segregation compared with no administrative segregation, but of varying and unspecified amounts of segregation experienced by everyone.

A different kind of analysis might have salvaged something by using the exact periods of overall exposure to administrative segregation-like conditions (including time in punitive segregation) as a continuous variable to estimate whether duration had an effect. However, the amount of time in segregation each prisoner experienced is not reported, so this

kind of analysis was apparently not conducted. O'Keefe et al. (2010) treated their data as if they had done a classic treatment versus no treatment study, even though they had not.

The likelihood that initial exposure to punitive segregation conditions had significant negative psychological effects on most participants is more than just speculation. The National Institute of Justice report acknowledged that three of the four groups "showed symptoms that were associated with the SHU syndrome" from the outset (O'Keefe et al. 2010, p. viii), which seems a clear indication that the initial period of segregation adversely affected participants before their AS terms began. High levels of psychological distress measured during or after the prisoners' initial exposure to punitive segregation continued throughout the study. O'Keefe emphasized in a deposition that prisoners in all groups reported "pretty high elevations" of psychological distress (2010, p. 171) and that "clearly, very clearly, the offenders responded with very high elevations. They reported high levels of psychological distress" (p. 201).

Symptoms of distress were so elevated that the researchers wondered, and tried to test, whether the prisoners were malingering: "We had this huge rate of offenders who looked like they could be malingering" (O'Keefe 2013, p. 89). O'Keefe recognized, however, that high scores on a malingering scale "could indicate a lot of psychological problems." In the end, the researchers "didn't really believe that [the prisoners] were malingering" and discarded the results of the malingering scale without analyzing them (p. 89).

Thus, although the researchers acknowledged that most of the participants began the study very much affected by emotional and behavioral trauma, they seem not to have considered that much of that trauma resulted from time spent in the punitive segregation units. Nor did they consider that, when participants "naturally got better as time went on" (O'Keefe 2013, p. 91), it was likely because the conditions of punitive segregation that all of them had experienced were now alleviated, even for those who ended up in AS.

The amount of time that the study participants spent in punitive segregation was problematic, especially because even very brief periods of isolation can have damaging psychological effects. The United Nations Special Rapporteur on Torture, Juan Mendez, has noted that "it is clear short-term solitary confinement can amount to torture or cruel, inhuman, or degrading treatment" and recommended that solitary confinement "in excess of 15 days should be subject to an absolute prohibition"

(2011, p. 23). The United Nations adopted that recommendation in the “Mandela Rules,” which defined “prolonged solitary confinement” as lasting “for a time period in excess of 15 consecutive days,” and mandated prohibition of such prolonged confinement (Commission on Crime Prevention and Criminal Justice 2015, rules 43.1, 44). The National Commission on Correctional Health Care (2016) also characterized “prolonged solitary confinement” lasting for more than 15 days as “cruel, inhumane, and degrading treatment” because it is “harmful to an individual’s health” (p. 260). Yet all of the prisoners in GP and AS experienced a nontrivial duration or dose of isolation that lasted well beyond this potentially damaging threshold. A key table in the National Institute of Justice report indicated that, at the time of their first test interval, participants had spent considerable average times in “Other seg”: GP MI prisoners 12.4 days, GP NMI 39.8 days, AS MI 88.9 days, and AS NMI 90.3 days (O’Keefe et al. 2010, table 5).

In her deposition testimony, O’Keefe could not remember exactly how long study participants remained in punitive segregation before their charged disciplinary infractions were resolved. At one point, she said, “When an offender acted out, they were put in punitive seg and generally given notice of a hearing pretty quickly, and then the hearing happened, again pretty quickly after that” (2013, p. 93). Later she “guessed” the time was around “the two week mark” (p. 94). That was not remotely accurate, according to table 5 in the report, except for the GP MI group. O’Keefe later offered another estimate, this time that prisoners were kept in various punitive segregation units “an average of 30 days” before their initial testing session (2017, p. 2). This, too, is much less time than the National Institute of Justice report showed. In any event, it appears that all study participants were subjected at the outset to harsh conditions of punitive segregation for at least twice as long as the Mandela Rules would prohibit, even before the study officially began.

2. *Uncontrolled Cross Contamination.* The second fundamental flaw was as important as the first. It, too, occurred because placement and retention in AS were correctional rather than methodological decisions. The researchers admitted that they “lack[ed] control over the independent variable, which in this case is the conditions of confinement” (O’Keefe et al. 2010, p. 35). There was, in their words, “contamination across groups,” because some AS participants “were not confined in segregation for their entire period of participation in the study” and because some GP participants “may have at some time during their study partic-

ipation been placed in punitive segregation or even AS” (p. 35). The researchers also acknowledged that prisoners in the various subgroups “may have [been in] multiple locations within a study period” (p. 35).⁹ In fact, not only did participants move between AS and GP, but a number of them were housed in other conditions during the study, including the hospital and “community placement” (p. 36).

Transferring prisoners back and forth between locations and custody statuses is routine correctional practice, but it had disastrous methodological consequences. It meant that some AS prisoners in the study were released into GP for good behavior, some GP prisoners were placed in AS (or punitive segregation) for rule violations, and some members of both groups were transferred to other settings. Having both control and experimental group members move back and forth between treatment and control conditions (and other unspecified places) destroyed the integrity of the two groups and made it impossible to compare their experiences meaningfully.

The contamination occurred differently between groups. By the end of the study, only small and very different numbers of “uncontaminated” participants were left in each group.¹⁰ Methodologically speaking, a true, a natural, or even a quasi experiment cannot be completed if researchers lose control of the integrity of their treatment and comparison groups. The researchers, however, simply aggregated the contaminated prisoners’ data into the groups in which they were originally placed.

O’Keefe et al. (2010, p. 35) acknowledged that “one of the challenges of applied research is the researchers’ lack of control over the independent variables,” but that admission does not ameliorate the problem. They

⁹ They wrote that “participants remained in their assigned group regardless of their placements throughout the prison system” (O’Keefe et al. 2010, p. 35), but mean by this that individual prisoners were considered to be in those groups for purposes of data analyses even though they did not actually remain housed there.

¹⁰ There were only 26 “pure” cases in the AS MI group (of the original 64), 39 in AS NMI (of 63), 13 in GP MI (of 33), and only 11 in GP MI (of 43) (O’Keefe et al. 2010, p. 35). All the others moved back and forth between treatment, control, and miscellaneous other conditions on an unspecified number of occasions. Thus two-thirds (52 of 76) of the GP control participants spent time in segregation or other non-GP settings during the study period, and their self-reports were used to contrast their prison experiences and reactions with those of the AS prisoners, half of whom (62 of 127) spent unspecified amounts of time in GP or elsewhere. The “pure” cases were pure only in the sense that they were not contaminated by moving back and forth between treatment, control, and other conditions during the study. They were still “contaminated” by being exposed to punitive segregation before the study officially began.

nonetheless asserted that “a significant advantage of this study is the use of comparison groups to determine if [persons in AS] change over time differentially compared to similar groups who are not placed in AS” (p. 59). However, they did not compare similar groups and thus can reach no conclusions about differences in the groups’ experiences.

In fact, it is impossible to conclude anything meaningful from the Colorado results. Lovell and Toch (2011, p. 4) in their initial commentary on it correctly concluded that “despite the volume of the data, no systematic interpretation of the findings is possible.”

B. Additional Serious Flaws

The researchers’ inability to maintain control of key aspects of their research created numerous additional methodological problems. These problems further negated the possibility that any credible or meaningful findings would emerge from the study.

The additional problems pertained to how the participants were selected and how the various groups were composed, what the researchers recorded (or failed to record) about the experiences of members of the different groups, and questionable data collection procedures. Most stemmed from unyielding correctional realities and some from unwise methodological choices.

1. *Sampling and Group Composition.* The initial sample was drawn from among prisoners deemed eligible for the study by virtue of having received a disciplinary write-up and scheduled hearing to determine whether they would be placed in AS or returned to GP. The initial group of eligible prisoners was much larger than the number selected to participate. The decision about whom to approach was made single-handedly and, as she would characterize it, “haphazardly” by O’Keefe: “I would determine who we used, who we included in our study” (2010, p. 116).

The major consideration for inclusion was proximity to the field researcher: “We had one researcher, so we had to be able to manage her workload” (O’Keefe 2010, p. 116). She described the process as “haphazard selection. . . . We didn’t do it in a random fashion, but we didn’t necessarily do it in a very targeted fashion either” (p. 116). Participants were drawn from only 10 of Colorado’s 26 men’s GP prisons (O’Keefe et al. 2013, p. 51). A disproportionate number came from Limon Correctional Facility “[because] it’s fairly close” (O’Keefe 2013, p. 66). This was not mentioned in either the National Institute of Justice report or

the briefer published version of the study. If there was anything significantly different about that prison, for example, if its punitive segregation unit (where participants were housed before the study began) was especially harsh or its GP units (to which many participants were returned) were particularly dangerous, troubled, or inhumane, then a disproportionate number of prisoners would have been affected by being held there.¹¹ There is no way to tell.

There was also unexplained and unnecessary imprecision in the composition of the groups. In addition to being composed of persons subjected to punitive segregation immediately before they entered GP, the GP group began as an amalgam of prisoners who subsequently lived under different conditions of confinement. Thus, "thirteen participants in the GP groups were selected from the diversion program (for being at risk of AS placement)" (O'Keefe 2010, p. 30). The report elsewhere implied that all of the prisoners were at risk of AS placement because all had AS hearings; apparently that was not true, and some were "diverted" out of the process entirely.

A potentially more serious problem concerned the composition of the AS group. O'Keefe et al. (2010, p. 8) asserted that "Colorado does not house protective custody; therefore, no AS placements occur at the request of inmates." This is a correctional non sequitur. Colorado may not officially house protective custody inmates, but they exist in every American prison system. Protective custody inmates often end up housed in AS, whether or not they formally request it. In the Colorado study, an unusually large group of AS participants were identified as having sex offender needs: 30 percent of the AS NMI prisoners and 44 percent in the full AS group (p. 45). In other prison systems, many, possibly all, such prisoners would be protective custody cases. To be sure, protective custody prisoners are subject to the painful and potentially harmful effects of social and sensory deprivation. However, they are in a very different situation psychologically than prisoners placed in AS for punishment. Protective custody prisoners typically prefer to be housed in AS-type conditions instead of what they regard as more dangerous GP environments. As a result, they are likely to be reluctant to voice complaints about living

¹¹ O'Keefe understood the implications of the sampling methods. Concerning work by others on the effects of administrative segregation, she wrote, "Of particular concern is that sampling procedures are often not discussed, and thus it is impossible to know if the findings were based on a representative sample" (2008, p. 127).

conditions or adverse emotional reactions, lest they be moved. That a third of the AS NMI prisoners and nearly half of the AS group overall in the Colorado study were probably protective custody cases undermined any straightforward interpretation of the data.

Gang members presented a similar problem. Thirty percent of AS MI prisoners and 43 percent of those in the AS NMI group were identified as gang members (O'Keefe et al. 2010, table 9). Being a gang member would ordinarily reduce a prisoner's willingness to report psychological distress because that would be a sign of vulnerability that might be interpreted as weakness.

Thus, nearly three-quarters of both the mentally ill and non-mentally ill AS prisoners were likely protective custody cases or gang members. Yet the researchers ignored the implications of this entirely.

2. *Uncontrolled Differences in GP Conditions.* The control condition—GP—referred to placement in one of 10 different prisons. However, none of the specific conditions of confinement at any of those prisons is described.¹² Variations in GP environments matter because, obviously, unless all GP prisoners experienced the same environment, they were not really in the same condition. If some of the GP environments were so troubled, dangerous, and harsh that they approximated or were worse than conditions in AS, it would be impossible to make meaningful comparisons.

A disproportionate number of study participants were housed in the Limon Correctional Facility (O'Keefe 2013, p. 66). This appears to have been an especially troubled prison when the study was conducted. In 2010, a journalist wrote about "Limon's long history of inmate violence, including two fatal stabbings in five years and the beating death of a correctional officer" (Mitchell 2010).¹³ The prison's 5-year violent history encompassed the entire period of the Colorado study from July 2007 through March 2010 (O'Keefe et al. 2010, p. vii). This meant that many study participants came from (and GP comparison group prisoners remained in) an especially harsh and dangerous GP environment, perhaps one as psychologically stressful as an AS unit. In fact, Limon's vi-

¹² The published article indicated only that "GP inmates have access to significant out-of-cell time (e.g., >10 hours/day), jobs, and programming" (O'Keefe et al. 2013, p. 51). No additional information about the GP environments was provided.

¹³ There were also allegations that in 2008 sex offenders at the prison were targeted by gang members who extorted them to pay "rent" and repeatedly threatened and assaulted them (*Davis v. Zavaras*, 2010 WL 625043 [D. Colorado 2010]).

olent history may have been serious enough to have precipitated recurring violence-related lockdowns (e.g., Associated Press 2007), including in the GP units where some of the control inmates were housed. None of this was commented on or taken into account.

3. *Uncontrolled Differences in AS Conditions.* Colorado study AS participants were ostensibly in the same study condition but were nonetheless exposed to very different conditions of confinement. These differences were not recorded or quantified and thus could not be taken into account. First, as I noted, all study participants experienced varying amounts of a harsh form of prison isolation, punitive segregation, before the study began. For a significant number (apparently, the majority) of the AS prisoners, that continued for a quarter or more of the length of the study. Thus, “When the study began, there was a 3-month average wait for inmates to be transferred to [AS],” which was “due to a shortage of beds. While on the waitlist, AS inmates were held in a punitive segregation bed at their originating facility” (O’Keefe et al. 2010, p. 19).

The median stay in punitive segregation for AS participants was reported as 99 days (which means that half were longer), although a very small group of prisoners were moved “quickly” into AS. Despite these very different periods in prestudy punitive isolation, all AS participants were lumped together for purposes of analysis.¹⁴

There was additional imprecision about how much and what kind of isolation any one AS participant experienced. Some “were not confined in segregation for their entire period of participation in the study” but were released into GP or other less onerous settings (O’Keefe et al. 2010, p. 19).

However, even beyond this, it is impossible to know exactly what conditions of confinement were experienced by participants who remained in AS throughout the study. The reason is that Colorado’s AS program operated a “level” system in which a prisoner’s “quality of life” (QOL) varied as a function of behavioral compliance and programming. Changes in QOL were meant to be incentives for compliance with unit rules and eventual reassignment to GP. The average length of AS stay was said to be 2 years, with the expectation that prisoners would spend at least 1 year in AS. However, the minimum stays specified for the QOL program

¹⁴ The “distance between when they were ad-seged and when they went to CSP became longer and longer because of the wait list in DOC” (O’Keefe 2010, p. 108). An unspecified but not insignificant number of administrative segregation prisoners “were held in the punitive segregation bed but classified as ad-seg. And that’s the—for the study average to be about 90 days, but people could be there pretty short, pretty long” (p. 109).

envisioned much shorter stays: 7 days at level I, 90 at level II, and 90 at level III—187 days altogether—after which prisoners were eligible for consideration for reassignment back to GP (O’Keefe et al. 2010, p. 11).

Providing achievable incentives for good behavior and early release from AS are sensible correctional practices. However, they, too, further compromised any meaningful interpretation of the study results.

This methodological problem was significant because the differences in QOL at different levels of AS were substantial. The researchers acknowledged that “it was expected that [prisoners in AS] might experience varying amounts of isolation based on the amount of time spent at different [QOL] levels” (O’Keefe et al. 2010, p. 40). But these varying amounts of isolation were not documented or taken into account.

O’Keefe acknowledged that the researchers initially wanted information from prison staff on participants’ out-of-cell time, “to track every time they left their cell,” but could not obtain it because the data “just were not coded consistently or every time” by correctional officers (2013, p. 55). That meant that the researchers were unable to track the basic facts of whether, when, and for how long any one prisoner was at one or another AS level or incorporate these data into their analysis (p. 60). O’Keefe et al. (2010, pp. 40–41) reported that staff records yielded “conflicting information,” and “it was often difficult to decipher and/or interpret the records.” Thus, “it was not possible to code or use [them] in the study.”

4. *Failure to Control or Record Treatment Dose.* There was more to these uncontrolled and unrecorded variations than just minor differences in the amount or duration of isolation. The variations in isolation in the AS condition—including for the relatively few prisoners who stayed in AS continuously—were very significant. The QOL level III AS prisoners were given additional privileges and allowed to have jobs as orderlies or in the barbershop. This permitted significant out-of-cell time, during which the prisoners were presumably unrestrained and in contact with others.¹⁵ These opportunities are rare in prison AS units anywhere and

¹⁵ As O’Keefe et al. (2010, p. 12) noted, “Arguably one of the most important benefits of QOL level three is an offender’s ability to have more contact with friends and family. While offenders’ visits remain noncontact, they are increased to four 3-hour visits per month and four 20-minute phone sessions. . . . One additional benefit is that offenders may now be eligible to work as a porter or barber. . . . Benefits to being offered a job position include the ability to earn money, increased time out of cell, and two additional phone sessions per month.”

constitute a significant modification in the nature of the isolation experienced by an unspecified number of AS prisoners. They introduced even more heterogeneity into the “same” condition in the study than already existed.

The researchers also noted that an AS prisoner who acted out could be even more significantly locked down by being placed “on special controls in the intake unit where he can be carefully monitored” and “additional sanctions may be imposed through the disciplinary process” (O’Keefe et al. 2010, p. 13).

None of these and other variations in actual day-to-day conditions of confinement were taken into account. The researchers also did not record and were unable to estimate other basic, important variations in the experiences and treatment of the study participants. These included the number of social or family visits prisoners had, visits from attorneys (O’Keefe 2010, p. 164), and the nature or amount of mental health services the prisoners (including those who were mentally ill) received. As O’Keefe summarized, “We did not look at any facet of segregation or correctional conditions that might affect the outcome of the study. We merely looked at, based on their conditions of confinement—that is, whether they had originally been coded ‘AS’ or ‘GP’—and then noted ‘if they reported worse change over time’” (p. 207). But whether a prisoner had originally been coded AS or GP did not indicate what “conditions of confinement” he had experienced in the course of the study.

C. Miscellaneous Data Collection Problems and Issues

In addition, there were very serious problems with how the Colorado researchers initially structured and eventually implemented the data collection process as well as with the dependent measures they used. Some of these problems were the product of the challenging nature of the prison environment. Others were not.

1. *A Single, Inexperienced Field Researcher.* Almost all the data collection was done by one inexperienced research assistant who had only a bachelor’s degree, no graduate training, and no prior experience working with prisoners or in a prison setting. She was single-handedly responsible for conducting five to six separate testing sessions in which she administered between 10 and 12 separate tests with each of 247 participants in 10 different prisons.

The data collection was unusually challenging. O’Keefe noted, “Say when she was at CSP [the AS facility], she might have a whole bunch

of [participants] and she would go back and forth checking to make sure that they were all right, and administering the questionnaires when she needed to" (2010, p. 118). Yet no one oversaw her day-to-day work (p. 130). O'Keefe had no recollection of ever observing her administering the tests and indicated Klebe did not (2013, p. 85).

2. *Solicitation and Consent.* When prisoners' participation and consent were solicited, they were told, somewhat misleadingly, that "we're looking at how inmates across the entire DOC are adjusting to prison life" (O'Keefe 2010, p. 199). O'Keefe characterized this as "being cautious without being dishonest" (p. 200). The consent form told prisoners that the "risks of this study to you are very small in contrast with the benefits that are high. This study will help us to figure out what types of men adjust better to prison and how to help those who are struggling with prison life" (O'Keefe 2013, pp. 81–82). This, too, was misleading. The study was not about the types of men who adjust better to prison and how to help them. Moreover, no consideration was apparently given to the possibility that prisoners might want to appear to be "adjusting" rather than "struggling." This would apply with special force to AS prisoners, hoping to advance their QOL level and with that gain additional privileges and earlier release from the unit.

3. *Prison Employee?* The field researcher had to complete "the full CDOC [Colorado Department of Corrections] training academy" and at all times was required "to wear a visible CDOC badge that permitted her unescorted access to the facilities" (O'Keefe et al. 2010, p. 28). Although O'Keefe was "not sure" how the field researcher introduced herself to prisoners, she conceded that "it could be" that prisoners thought the field researcher was a DOC employee (2010, p. 125).

Prisoners in general, and especially in AS units, are typically reluctant to confide in prison staff (including even mental health staff) because of potential adverse consequences. Those consequences can include increased surveillance, placement in degrading "suicide watch" cells, or transfer to or retention in some other form of AS. For these reasons, prisoners frequently avoid admitting that they feel suicidal, depressed, frightened, angry, panicky, out of control, or violent.

That prisoners could reasonably infer that the field researcher/prison employee was checking on their "adjustment" is likely to have dampened their willingness to disclose sensitive feelings. This possibility is nowhere discussed. Despite the fact that while the study was under way, O'Keefe acknowledged awareness of the fraught nature of prisoner-staff

relations, especially in AS units: “Administrative segregation facilities are characterized by the complete control exerted over inmates by correctional staff. The typical ‘we-they’ dynamic between inmates and staff is exacerbated in segregated settings where inmates have almost no control over their environment. Prisoner abuses have been discovered and punished in administrative segregation settings, but in other situations Human Rights Watch found that ‘management has tacitly condoned the abuse by failing to investigate and hold accountable those who engage in it’” (2008, p. 126; internal citations omitted).

4. *Undermining Trust.* Little was done to overcome what O’Keefe described as the “we-they” dynamic that she believed was likely to be exacerbated in prison AS units. Two related problems with the Colorado study likely exacerbated the effects of this dynamic. The first was an error of omission: no interviews were conducted to establish rapport with prisoners. O’Keefe indicated that “it was not part of the study to probe and ask them [the prisoners] about themselves” (2013, p. 75). Without rapport-building interactions, prisoners in the study were unlikely to have had much confidence that the field researcher was interested in their well-being or that personal revelations would be handled with sensitivity.

The second problem is more troubling. The field researcher was apparently required (or decided on her own) to challenge prisoners if she thought their answers were “questionable” or “untruthful, or if she found the pattern of their responses abnormal” (O’Keefe et al. 2010, p. 36). There was no explicit or systematic protocol by which this judgment was reached (none is described). In any event, the field researcher reviewed the prisoners’ responses on the spot, in their presence, every time they completed a questionnaire. If she was skeptical, the prisoner was asked to redo the test. Prisoners could decide to redo the test or not, but “if the participant said he was being honest and the researcher still did not believe him, she marked the test as questionable” (p. 36).

These practices potentially created very significant data quality problems. They not only jeopardized the development of rapport or trust but also increased the chances that prisoners would give situationally desirable answers. In addition, the problems likely extended to more prisoners than only those who were challenged directly, but to other prisoners who learned through word of mouth that they would be asked to redo their questionnaires if the researcher was skeptical of their answers.

5. *“Untruthful” and Other Questionable Data.* Twelve percent of participants “had a questionable response pattern on any measure at any

time period” (O’Keefe et al. 2010, p. 36). It is unclear whether that figure included all participants who were asked about their answers or only those whose answers were marked “questionable.” If challenged prisoners admitted being untruthful and redid the questionnaire, the second versions of their answers were incorporated into the study data. However, even if the field researcher was skeptical and prisoners chose not to redo their questionnaires, “we still included that in the study. . . . In order to increase our statistical power . . . we left those cases in” (O’Keefe 2010, p. 166).

In addition, 23 participants withdrew their consent and dropped out before the study was completed. However, their data were retained and used in the overall analyses (O’Keefe et al. 2010, p. 19). The dropouts constituted nearly 10 percent of the 247 participants. This meant that, in total, more than 20 percent of the participants whose data were included in the study results were adjudged to have given untruthful responses or withdrew from the study.

6. *An AS “Heisenberg Effect”?* The repeated testing procedure changed the conditions of confinement, especially for AS prisoners otherwise subject to extreme social deprivation. The six interactions of approximately an hour each between the field researcher and the prisoners, no matter how strained or superficial they might have been, increased the otherwise minimal social contact that AS prisoners had with people outside the segregated housing unit.¹⁶ In many prison systems, there are many AS prisoners who get no visits at all. The mere act of repeatedly attempting to measure the effects of severe conditions of isolated confinement can change them, if only slightly, for the better.

7. *Miscellaneous Issues.* There were other irregular, questionable, and unexplained research decisions and data anomalies. Exactly why prisoners were assigned to AS or GP was not indicated, even though this was how the treatment and control groups were created. Assignment to AS was apparently nearly automatic: no more than “approximately 10 percent of hearings do not result in AS placement” (O’Keefe et al. 2010, p. 17). This raised questions, never addressed, about what accounted for the unusual outcome in the case of the group that was returned to GP.

¹⁶ It apparently exceeded the contact AS MI prisoners had with mental health staff: “Offenders with mental illness who are stable are offered a one-on-one session at least once every 90 days,” which takes place “in a noncontact booth in the visiting room” (O’Keefe et al. 2010, p. 11).

Nor were reasons discussed for why the NMI prisoners who returned to GP had more disciplinary infractions (average 16 each) than those sent to AS (13.2 average). Nor were reasons discussed for why AS MI prisoners had 70 percent more disciplinary infractions on average than the AS NMI inmates (22 infractions compared with 13.2; O’Keefe et al. 2010, table 9). Nor was there discussion of the effects of exclusion of prisoners from the study who did not read English at an eighth-grade level on the representativeness of the final group of participants, especially with respect to ethnicity and the prevalence of cognitive impairments.

D. Troubling Dependent Measures

There were also serious problems in the handling of dependent variables in the study. Dependent measures were said to have been selected on the basis of several important criteria. However, the first two criteria the researchers identified—“(1) use of assessments with demonstrated reliability and validity, (2) use of multiple sources for providing information (e.g., self-report, clinician ratings, files)” (O’Keefe et al. 2010, p. 19)—did not apply to the dependent measures that were actually used in the analyses.

1. *Unvalidated Scales and Instruments.* Some of the study’s scientific bona fides were based on its claimed use of validated and objective assessment instruments. The researchers asserted that “the use of a reliable and valid standardized measure in the present study enabled objective assessment of psychological functioning” (O’Keefe et al. 2013, p. 57).

Indeed, O’Keefe acknowledged that “inaccurate judgments” could be made if instruments were not properly validated (2010, p. 22). However, she later conceded that only “a very low number” of the numerous scales and measures used, perhaps no more than one or two, had been normed or validated with a prisoner population (pp. 144–45).¹⁷

¹⁷ There was no evidence that even the Brief Symptom Index (BSI), on which the researchers relied exclusively in the published version of the study, O’Keefe et al. (2013), had ever been validated with a prisoner as opposed to a “forensic” population. One study that the authors cited to support its psychometric properties (Kellest et al. 2003) concerned the BSI’s reliability with persons suffering from intellectual disabilities and did not include a representative sample of prisoners (the “forensic” portion of the sample consisted of 45 “intellectually disabled” convicted persons who were “detained in a maximum security hospital” [p. 129]). The second, Boulet and Boss (1991), was a study of “psychiatric inpatients and outpatients who presented for evaluation at the forensic service of a psychiatric hospital” (p. 434). The third, Zinger, Wichmann, and Andrews (2001), focused on prisoners but did not report reliability or validity data for the BSI.

2. *“Constructs” That Could Not Be Interpreted or Compared.* The near-exclusive reliance on prisoners’ self-report assessments was problematic because the researchers chose to separate the various scales into their component parts and then recombine items into eight separate “constructs.” Instead of reporting scores on the instruments or scales themselves, only the constructs built from them were presented as standardized composite rather than numerical scores (O’Keefe et al. 2010, p. 22). This meant that the significance of reported overall trends and comparisons between groups was, as Lovell and Toch (2011, p. 4) put it, “difficult to assess because of the degree to which the data have been cooked.”

There are a number of unanswered questions concerning construction of composite scales including their basic validity (whether the instruments measured what they purported to measure), whether the various subscales were reliable for this population, and whether the distributions of scores lent themselves to the statistical manipulations and recombinations that occurred. Transformations to the data, the number of instruments, items, and constructs, and the amount of scale and subscale reconstruction that occurred make the results difficult to put in the context of any larger literature using the same self-reported assessments.

3. *Ignoring Behavioral Data.* Researchers who use many rating scales (especially ones not validated for the particular population) generally use other methods of data collection as a validity check. The most basic is a face-to-face interview to establish rapport and acquire background information. When possible, behavioral data (by records reviews or behavioral rating scales completed by others) are included. These different sources of information should be reconcilable, and the interviews provide the glue that binds them. Prison researchers typically take things prisoners say to them very seriously, in part because they contextualize other things being measured or studied. However, no interviews were conducted in the Colorado study, and little or no special effort appears to have been expended to establish rapport. Instead, the researchers engaged in context-free coding and analysis of answers on prepackaged forms associated with tests not typically used with this population. As Lovell and Toch (2011, p. 3) observed, “Readers find themselves swimming in a flood of psychometric data; every so often a clue drifts by, lacking, however, a tether to the context—to what was going on around the prisoners and staff while they carried out this study—we are left to guess what it might mean.”

Other kinds of data collection were contemplated including asking corrections officers and clinicians to complete rating scales: “The Brief Psychiatric Rating Scale was completed by clinical staff and the Prison Behavior Rating Scale was completed by correctional officers and case managers” (O’Keefe et al. 2010, p. 26). However, key details about this process were omitted (i.e., exactly who was supposed to complete scales, when, and with what kind of training). In the end, it did not matter. The rating scales were infrequently completed and the responses were too unreliable to be useful. The data were discarded. The researchers ultimately relied only on data from prepackaged, field researcher-administered rating scales.

There was one potential exception. Prison mental health staff kept official accounts of genuine psychiatric emergencies or “crisis events.” Any situation that required “immediate psychological intervention is considered a crisis event; crisis events are documented by clinicians” (O’Keefe et al. 2010, p. 42). Because these are typically extreme, clinically significant events, they tend to be reliably recorded. If the prisoners’ self-reporting was valid, the results should be more or less consistent with behavioral measures of psychological distress or crisis. In the Colorado study, they were not. Among the 33 GP MI prisoners for whom data were reported, there were only three “crisis events” (on average, one for every 11 inmates). Among the 64 AS MI prisoners, there were 37 “crisis events” (one for every two; O’Keefe et al. 2010, figs. 29, 30). This suggests that at least some mentally ill prisoners were doing much worse in AS than their counterparts were doing in GP.

The researchers dismissed the implications of this incongruity: “Because the number of participants who experienced a crisis event was so small, it was not possible to include this variable as an outcome measure in the change over time analyses” (O’Keefe et al. 2010, p. 42). Thus the significant disparity between self-reports and the behavioral measures was ignored, even though it directly contradicted the study’s main finding that AS did not adversely affect the mental health of mentally ill participants. Instead, as they put it, because the mental health crisis data “raise more questions than they provide answers,” they were deemed “outside the scope of the current research” (p. 42).

In sum, for all of the above stated reasons, the Colorado study is so methodologically flawed that literally no meaningful conclusions can be drawn from it. Drastic compromises necessitated by the complex realities of the prison setting and a series of questionable methodological decisions made

by the researchers rendered its results uninterpretable. The Colorado study was not the “most sophisticated” study done to date on the psychological effects of solitary confinement. Its results do not “need to be taken seriously,” but cannot be taken for anything at all. Commentators who have praised the study either did not read it very carefully, were unaware of available sources of information on how it was actually conducted, or did not seriously consider the implications of its fundamental flaws.

Ordinarily, a study of this sort would die a quiet death, notwithstanding an occasional prison system’s attempt to resuscitate it to defend questionable segregation practices or a scholar overlooking its flaws because its findings comport with his or her own views. However, it has recently been given a second life, figuring prominently in a recently published meta-analysis (Morgan et al. 2016). Its results threaten to live on in another form and to misrepresent the findings of the large, long-established, and frequently reconfirmed literature on the harmful effects of solitary confinement.

III. The Limits and Dangers of Meta-Analysis

Meta-analysis—“a quantitative method of synthesizing empirical research results in the form of effect sizes” (Card 2012, p. 7)—is an important methodological advance that allows researchers to estimate the overall magnitude of relationships between variables. However, it cannot substitute for careful narrative reviews of scientific literature. Meta-analysis comes with substantial limitations, especially for prison research. The prison setting rarely lends itself to collection of meaningful quantitative data capable of generating the kinds of effect sizes on which meta-analyses depend. Most classic book-length treatments of prison life have been primarily ethnographic—not quantitative at all. They contain few if any numerical data, including in the seminal American works by Cressey (1940), Sykes (1958), Toch (1975, 1977), Jacobs (1977), and Irwin (1980) and major comparable British works including Cohen and Taylor (1972) and Crewe (2009).

Similarly, few quantitative effect sizes appear in studies of solitary confinement. This is true of the studies that tell us much of what we know about these institutions, how they operate, and the lengths to which prisoners must go in order to survive inside them, including those from Rhodes (2004), Shalev (2009), Reiter (2016), and Kupers (2017). It is also true of most of the numerous studies of the negative psychological con-

sequences of prison isolation that are discussed in the most-often-cited literature reviews. The nature of the settings and the routine prison operations that govern them make many kinds of conventional research designs impossible to implement.

Because the best prison research is qualitative, or does not lend itself to generating effect sizes, meta-analyses conducted on many important prison topics will be compromised by serious sample bias, resulting in “the drawing of inferences that do not generalize to the population of interest (typically all research conducted on the topic)” (Strube, Gardner, and Hartmann 1985, p. 66).

The concern is not only that meta-analyses on important prison topics almost invariably ignore or underrepresent the larger literature, but also that they privilege certain kinds of studies far beyond their actual scientific merit, and do so in a way that many readers are unlikely to appreciate. One critique rightly observed that readers “might not be motivated to look beyond the meta-analyses themselves due to confidence in the objective, straightforward nature of the tasks of conducting a meta-analysis, reporting findings, and making recommendations” (Coyne, Thombs, and Hagedorn 2010, p. 108). Reducing entire studies to single or multiple effect sizes almost invariably creates a false equivalency between them. Readers can easily be mesmerized by arrays of numbers that appear simply and accurately to represent highly complex and substantially different underlying realities.

The two meta-analyses contained in the Morgan et al. (2016) article suffer from all of these problems and more. They need to be scrutinized carefully because of the stakes involved and the possibility that they will mislead correctional decision makers and policy makers by their “surprising results,” ones that, as the authors say, “do not fit with people’s intuitive analysis of what happens when you isolate offenders” in solitary confinement. The resulting conclusions are indeed “in marked contrast to the ‘fiery opinions’ . . . commonly presented in the scientific and advocacy literature” in which solitary confinement “has been likened to torture, with debilitating consequences” (p. 455). They warrant conscientious examination.

A. Truncating the Scope of Literature Reviewed

The first problem with Morgan et al. (2016) is the tiny number and unrepresentative nature of studies included in its two separate meta-

analyses. Literature reviews, whether narrative or meta-analytic, are useful only if they faithfully represent the literature being examined. As Card (2012, p. 10) put it, "If the literature reviewed is not representative of the extant research, then the conclusions drawn will be a biased representation of reality." Morgan et al. (2016) excluded a vast number of published studies, including most of the key works.

The first meta-analysis, "Research Synthesis I," reported that over 90 percent of the published material that they found on the topic was eliminated: "Of the 150 studies located, only 14 (or 9.3 percent) were suitable for analysis according to our inclusion criteria" (Morgan et al. 2016, p. 442). The second meta-analysis, "Research Synthesis II," began with an astonishing 40,589 articles, which were reduced by "trained research assistants" using unspecified methods to 61. A "trained research assistant" then used unspecified methods to reduce that number to 19 (0.05 percent of the initial literature; pp. 442–43).

A meta-analysis that includes so little of the available relevant literature is not a synthesis of much of anything. In addition to the drastic reduction in the sheer number of articles included, the selection criteria used by Morgan et al. (2016) excluded key studies but included questionable other ones. Among the articles excluded is Grassian (1983), regarded as one of the seminal studies on the adverse effects of solitary confinement. Morgan et al. also ignored most of the work discussed in widely cited literature reviews by Haney and Lynch (1997), Haney (2003), Grassian (2006), Smith (2006), and Arrigo and Bullock (2008).

Despite the small numbers of studies included, tables reporting effect sizes seem to suggest that a vast number of studies were taken into account. A closer look reveals something different. Many of the studies have little or nothing to do with the key question of whether and when solitary confinement is psychologically harmful. Morgan et al. (2016) included studies that addressed medical outcomes, and behavioral outcomes such as recidivism and institutional misconduct, that have not been widely studied and are not central to understanding solitary confinement's psychological effects. Thus, despite the drastic reduction in overall number of studies, many of the studies actually included were simply beside the main point.

When the largely irrelevant studies are set aside, only six studies on the psychological effects of solitary confinement remain in the first meta-analysis and 10 in the second. Two in the first were excluded from the sec-

ond and six others were added.¹⁸ No explanation is given for why different sets of articles appeared in the two meta-analyses. In any event, the truncated set of 12 studies was not remotely representative of the larger scientific literature on the psychological effects of solitary confinement.

B. Overreliance on the Colorado Study

Even “the most thorough sampling and complete data recovery cannot make up for basic limitations in the data base” (Strube, Gardner, and Hartmann 1985, p. 68). Indeed, “An experiment that is deficient in either statistical conclusion validity, internal validity, or construct validity is meaningless and, therefore, worthless. Consequently, it should not be used” (Chow 1987, p. 266). Notwithstanding these basic methodological truisms, tables 2 and 4 in Morgan et al. (2016) reveal that both meta-analyses relied primarily on the fatally flawed Colorado study. It provided the bulk of the effect sizes on which their overall conclusions were based.

Thus, in the first meta-analysis, I counted 24 of 50 relevant effect sizes on “psychological outcomes” that came from the Colorado study. In the second meta-analysis, 140 of 210 effect sizes came from the Colorado study.¹⁹ Because of its sample size, the weights given to the multiple effect sizes from the Colorado study dwarf those of most of the other studies included.

As tables 2 and 4 in Morgan et al. (2016) make clear, they repackaged the Colorado results in a way that allowed them to dominate the analyses.²⁰ Thus, when they claimed that their results “are even more compelling when one considers that primary studies with the strongest designs produced much smaller effects,” they were referring primarily to the un-

¹⁸ The first (Morgan et al. 2016, table 2) included six studies that explicitly addressed psychological effects of solitary confinement: Ecclestone, Gendreau, and Knox (1974), Suedfeld et al. (1982), Miller and Young (1997), Zinger, Wichmann, and Andrews (2001), Andersen et al. (2003), and O’Keefe et al. (2010). The second (Morgan et al. 2016, table 4) added six studies: Walters, Callagan, and Newman (1963), Miller (1994), Coid et al. (2003), Cloyes et al. (2006), and Kaba et al. (2014); but it omitted Suedfeld et al. (1982) and Andersen et al. (2003).

¹⁹ “Anti-social indicators” such as “re-admission” and “behavior” like re-arrest and “physical health” outcomes were omitted from this calculation of psychological effects.

²⁰ Zinger, Wichmann, and Andrews (2001) accounted for another four effect sizes in table 2 and 30 in table 4. It too is fundamentally flawed, as I explain in the next section. By my count, it and the Colorado study account for 28 of 50 relevant effect sizes in the first meta-analysis and 170 of 210 in the second.

interpretable O'Keefe et al. (2010) study. However, few if any of the fundamental defects of the Colorado study were even mentioned and none was seriously engaged. Instead, the authors simply described the Colorado study as "the most sophisticated study" ever done on the topic (Morgan et al. 2016, p. 441) and relied on it for the bulk of their conclusions.²¹

C. Including Other Methodologically Flawed Studies

There are serious problems with a number of the other studies included in the Morgan et al. (2016) analyses. For example, Zinger, Wichmann, and Andrews (2001) accounted for the next-largest number of effect sizes in their meta-analyses. However, there are several problems with how the results of this study were treated and serious issues with how the study itself was conducted, raising questions about whether it should have been included at all. Its sample size is erroneously listed in table 2 as 136. Although 136 was the initial number of participants, only 60 remained at the end of 60 days. The *N* shown in table 4 is, correctly, the 60 who remained, but that also is misleading. That number includes a majority of prisoners in the "administrative segregation" group (13 of 23) who were there voluntarily. Only 10 involuntary prisoners remained in administrative segregation at the end of 60 days. Thus this study was weighted far too heavily in the first meta-analysis and given a misleading weight in the second.

The results of Zinger, Wichmann, and Andrews (2001) are in any case impossible to interpret. They are based on data from a sample that combined "voluntarily" and "involuntarily" segregated prisoners. Voluntarily isolated prisoners (such as protective custody prisoners who "choose" to be in isolation) control their own fates; at least in theory, they can leave. In addition, in most cases they know that by staying they are at least safe from threats to their well-being elsewhere in the prison system, ones they presumably fear and necessarily want to avoid more than the pain and harm they may endure in solitary confinement. They are thus

²¹ Morgan et al. (2016) appear to have overweighted the disproportionate number of effect sizes they took from the Colorado study, treating the *N*'s in each group as though their integrity was maintained throughout. However, as I noted, the bulk of the Colorado study participants moved back and forth between groups. Thus the "uncontaminated" cases are far fewer than Morgan et al. cited and used. Because O'Keefe et al. (2010) did not disaggregate their data, Morgan et al. must have relied on the confounded results, treating all participants as if they remained in their original groups for the duration of the study and weighted effect sizes as if this had been the case.

motivated to adapt to their isolation—or to appear to have adapted to it—in ways that involuntarily isolated prisoners are not. They should not be treated as if their experiences represent the effects of solitary confinement on involuntarily segregated prisoners.

A second and more important problem is the significant amount of attrition that occurred. Especially in longitudinal research, participants leave studies for various reasons. This inevitably complicates comparisons over time or between groups because people who remain are likely to be different from those who leave, thereby changing the compositions of the groups in ways that are difficult to specify.²² This is especially a problem in prison research because prison administrators decide where prisoners are housed, under what conditions, and for how long; they do so on the basis of considerations that have nothing to do with the goals of researchers. In Zinger, Wichmann, and Andrews (2001), the reduction in the number of administrative segregation prisoners after 60 days, from 83 to 23, only 10 of whom were involuntary, means that attrition reduced the number of involuntarily segregated prisoners by 80 percent. The reasons for the attrition were not given.

Attrition is seldom random. That it results largely, if not entirely, from decisions made by prison administrators means that Zinger, Wichmann, and Andrews (2001) wound up with a group that was significantly different, in indeterminate ways, from the group with which they began.²³ They do not report whether and in what ways the prisoners who remained differed from those with whom the study began.²⁴

²² Zinger, Wichmann, and Andrews acknowledge this: "Attrition is a major drawback to psychological research in general. The problem with attrition is especially relevant to the evaluation of the psychological effects of segregation" (2001, p. 56). However, they ignored the extent of this problem in presenting and interpreting their results.

²³ If, for example, disproportionate numbers of transferred prisoners were considered too "vulnerable" to remain in administrative segregation, were reacting especially negatively, or were adjusting poorly and were especially effective at convincing the prison administration to return them to the general prison population, those left behind would be, by definition, those least affected by the experience. Alternatively, if those who remained at the end of 60 days were the most recalcitrant and least compliant, perhaps explaining why the prison administrators were less likely to release them, they may have been especially "difficult" prisoners who were less likely to admit vulnerability or weakness in the assessments they underwent. Or if the voluntary administrative segregation prisoners remaining after 60 days were the least willing or able to return to the general prison population, they may have been unlikely to admit that they were suffering lest this jeopardize their continued safekeeping. Any of these possible scenarios could greatly compromise interpretation of the results, and none of them appear to have been considered.

²⁴ The assertion that "none of the attrition was attributable to prisoners being incapable of participating in the study because of episodes of delusion or hallucination or suicide at-

An additional methodological problem was acknowledged in passing but not fully discussed, either in the published article or in Zinger's (1998) dissertation, on which it was based. "Practice effects" are a common problem in longitudinal studies because they require repeated administration over time of the same tests or measures. Participants may recall the questions and intentionally or inadvertently try to reproduce the same or similar answers, or lose interest and reply with stock, rote answers, or, if the tests include performance measures, improve (because of practice) each time they take the test. If any of these things occurs, the existence of real changes (especially negative ones) will be masked or minimized.

Zinger (1998) himself recognized that "artifacts of repeated testing" likely played a role in producing apparent improvements in functioning and the lack of signs of deterioration and that practice effects may have accounted for prisoners "report[ing] less problems over time" (p. 93). He also observed that it is well known that "participants lose interest in answering repeatedly to identical questions and tend to report less problems over time" (p. 92).²⁵ Thus, practice effects may have accounted in large part for the findings of "no change" or "improvement" on the measures used and repeatedly administered.

There are also significant problems with several other studies that were included in the already small group that Morgan et al. (2016) considered. For example, Cloyes et al. (2006) did not compare administrative segregation with nonadministrative segregation at all. Instead, all of the prisoners involved in their study were in solitary confinement. The effect size Morgan et al. reported was the only statistical test of differences between groups that appeared anywhere in Cloyes et al. (2006, p. 772). However, it is a *t*-test of differences in Brief Psychiatric Rating Scale scores between two groups of solitary confinement prisoners—those identified as seriously mentally ill or not, both of which were housed in isolation. Data from this study did not belong in the meta-analysis.

tempts" (Zinger, Wichmann, and Andrews 2001, p. 71) sets far too high a threshold and does not adequately address the matter. "Episodes of delusion or hallucination or suicide attempts" are hardly the only measures of whether someone is being so adversely affected that he would seek to be transferred elsewhere or, in the opinion of a correctional administrator or mental health staff member, need to be moved.

²⁵ Zinger, Wichmann, and Andrews (2001) did acknowledge that reports of "better mental health and psychological functioning over time" are "common in studies which rely on studies with repeated measures designs" (p. 74) but then ignored the implications of this for interpretation of results that showed exactly this.

Walters, Callagan, and Newman (1963) arguably does not belong either. It is over 50 years old and, more importantly, the participants were all volunteers. They were not typical of prisoners involuntarily placed in solitary confinement. In addition, the study lasted only 4 days, not long enough to reach a conclusion that the psychological effects of solitary confinement are minimal. The one effect size Morgan et al. (2016) reported, for “anxiety,” is .57 with a weight of .726 (table 4, p. 452). Yet the only mention of numerical data for anxiety in Walters, Callagan, and Newman’s study was this: “More isolated than non-isolated prisoners reported an increase in anxiety from the pre-test to post-test period ($p = .038$, Fisher’s Exact Probability Test).” It is impossible to calculate an effect size from this statistic.

Another included study, Andersen et al. (2003, table 2), reported only chi-squares and p -values. It is not clear how Morgan et al. (2016) managed to calculate effect sizes from those data.

The decision to include Ecclestone, Gendreau, and Knox (1974) is also questionable. The study is more than 40 years old and, more importantly, included only prisoners who volunteered to spend 10 days in isolation. For previously noted reasons, the experience of volunteers is not comparable to that of involuntary administrative segregation prisoners. In addition, the study used an almost indecipherable measure of psychological functioning—the Repertory Grid Technique—which does not appear to have been used in published prison research before or since.²⁶ Moreover, half of the initial participants “quit the experiment after two days of solitary confinement” (p. 179), which meant that the assignment of participants was no longer “random,” the results suffered from significant attrition bias, and the remaining volunteer participants knew that they could leave whenever they wanted. Notwithstanding these problems, Ecclestone, Gendreau, and Knox concluded that isolated confinement was “not more stressful than normal institutional life” (p. 178). Morgan et al. (2016) included this study in both meta-analyses and singled it out as having one of the stronger research designs (along with Zinger, Wichmann, and Andrews [2001] and O’Keefe et al. [2010]).²⁷

²⁶ Description of the nature and scoring of the Repertory Grid Technique was so complicated that it consumed nearly two full pages of text (Ecclestone, Gendreau, and Knox 1974, pp. 180–81).

²⁷ The studies deemed to have stronger research designs were identified by name only in Morgan et al.’s (2016) Research Synthesis I, although an estimate of the strength of the designs was also apparently used in Research Synthesis II. Morgan et al. concluded that

In sum, Morgan et al.'s (2016) meta-analyses were based on one fundamentally flawed and uninterpretable study (O'Keefe et al. 2010), another with an attrition rate of 80 percent over a 60-day period (Zinger, Wichmann, and Andrews 2001), two that were four decades old and included only volunteers (Walters, Callagan, and Newman 1963; Ecclestone, Gendreau, and Knox 1974), and one (Cloyes et al. 2006) that could not provide an effect size on the impact of AS.

Few readers are intimately familiar with the solitary confinement literature or willing to invest the effort to read and evaluate each of the studies cited in Morgan et al. (2016). Similarly, few are willing to carefully to examine the hundreds of effect sizes included in the two meta-analyses or are able to make judgments about the propriety of the particular statistical techniques used in the calculations.²⁸ The presentation of a vast array of numerical data in Morgan et al. gives the impression of an objective representation of equally meaningful effect sizes, but it is not the reality. Their conclusion that solitary confinement has modest or no significant negative psychological effects is not at all what a significant preponderance of the relevant empirical research shows and is at odds with findings

these studies with "stronger designs" were the ones that showed "less impairment" due to isolated confinement (p. 456). My critical discussion of the individual studies in question shows why.

²⁸ Morgan et al. (2016) appear to have used statistical methods that require very stringent assumptions and will give misleading results if these assumptions are violated (e.g., Aguinis, Gottfredson, and Wright 2011). Furthermore, the meta-analytic method they used requires a large number of studies to assess these assumptions, and there were not enough studies to assess them. Specifically, they used a random-effects meta-analysis model. This model assumes that the included studies are a random sample from some definable universe of studies. For example, are the prisons represented in Morgan et al.'s meta-analysis a random sample of all US prisons? If not, they cannot claim that their results generalize to this universe. Random-effects meta-analyses also assume that weights and sample sizes are uncorrelated with the effect sizes. If they are correlated, the results will be biased. The correlation between the sample sizes and effect sizes reported in their table 1 indicate that the correlation is about $-.5$, which could severely bias the results. In a random-effects meta-analysis, both the mean and the variance of the effect sizes in the universe are key parameters that need to be estimated and both require confidence intervals. Morgan et al. reported only the sample estimate of the variance and not the confidence interval. However, the confidence interval for the variance requires a strong assumption of normally distributed effect sizes, and the confidence interval is very sensitive to minor violations of this assumption. A large number of studies are needed to assess the normality assumption—much larger than the number used. Morgan et al. also appear to have used a new and unproven method for combining multiple effect sizes from a single study. This method requires at least a moderate number of studies (10–20, the more the better), more than the separate meta-analyses that were used. Finally, Morgan et al. also used extremely crude and inaccurate methods to approximate effect sizes in studies that did not provide enough information to correctly compute an effect size.

that are consistent across many decades, theoretically coherent, and buttressed by a very large and growing literature on the harmful effects of social isolation in contexts other than prison.

Misleading repackaging of bad data can ripple through the field and produce an echo chamber in which motivated commentators repeat each others' flawed conclusions. Thus O'Keefe (2017, p. 5) recently asserted that "a recent meta-analysis found small to moderate adverse psychological effects resulting from [solitary confinement] that were no greater in magnitude than the overall effects of incarceration. These findings are consistent with our Colorado results." She was referring to the Morgan et al. (2016) meta-analysis, whose conclusions were not only "consistent" with the Colorado results but based largely on them.

IV. Conclusion

These two studies offer several cautionary tales about the fraught nature of prison research, especially on the methodologically challenging and politically charged topic of solitary confinement. The first of these tales is about the potential influence of bad, uninterpretable data on public discourse and correctional policy. Once the results of research that bear the trappings of science enter into public and policy discourse, it is difficult to correct the record, especially when motivated advocates are willing to overlook fatal flaws in the research. Unfortunately, when this transpires, researchers can lose control of the narrative by which their research is described and the manner in which it is applied. For example, O'Keefe has repeatedly and steadfastly defended her Colorado research but has opposed the uses to which others have put it. She was emphatic that she did "not believe in any way and we do not promote the study as something to argue for the case of segregation. . . . My interpretation is that people believe that this study sanctions administrative segregation for mentally ill and non-mentally ill alike. . . . I do not believe that the conclusions lend to that and that is not the intended use of our study" (2013, p. 96).²⁹ Yet, that is exactly the use to which a number of interested parties have put it.

²⁹ Two prominent advisory board members, Jeffrey Metzner and Jamie Fellner (2010), published a "post-Colorado study" article that seemed to contravene the study's findings. They conceded that "isolation can be harmful to any prisoner" and noted that the potentially adverse effects of isolation include "anxiety, depression, anger, cognitive disturbances, perceptual distortions, obsessive thoughts, paranoia, and psychosis" (p. 104)—not at all what

The Colorado study is also a stark reminder that attempts to implement conventional experimental or even quasi-experimental research designs in prison environments face a number of often insurmountable obstacles. The ordinary demands of prison operations nearly always doom even the most carefully planned such studies, and certainly anything resembling a traditional experiment. Savvy prison researchers understand that the desire to treat a prison environment as if it were a research laboratory should be resisted. Real people live (and die) in prison, a setting in which the core dynamics between prisoners and staff are governed by forces beyond the researchers' control.

In separate but related ways, both the Colorado study and the Morgan et al. (2016) meta-analyses underscore the pitfalls of allowing the veneer of scientific rigor to substitute for its reality. They also show the limitations of focusing on quantitative outcomes with little or no concern for precisely how and under what conditions data were acquired. The de-contextualized and de-individualized approach to data collection that characterized the Colorado study allowed researchers to treat all participants within each of the study groups as if they were the same, when clearly they—and especially their prison experiences—were not. Ignoring the prison context and individual prisoner trajectories helped render the findings incoherent and uninterpretable.

Similarly, Morgan et al. (2016) illustrate the shortcomings of attempting to apply an otherwise useful approach for summarizing quantitative data to environments as complex and variable as prisons (or especially solitary confinement units). Whatever the benefits of reducing empirical results to effect sizes may be, omitting an entire field's best-known and most in-depth works from consideration because most do not lend themselves to meta-analytic reductions means that nuance and context are inevitably ignored. The compromise in "scientific truth" is far too great.

Some critics of meta-analysis argue that "a literature review should *not* be a formalized or standardized one" (Chow 1987, p. 267; emphasis

the Colorado study claimed. Metzner and Fellner's deep concerns led them to recommend that professional organizations "should actively support practitioners who work for changed segregation policies and they should use their institutional authority to press for a nationwide rethinking of the use of isolation" in the name of their "commitment to ethics and human rights" (p. 107). Zinger has become an eloquent critic of the use of solitary confinement in Canada (e.g., Makin 2013) even though defenders of the practice continue to cite his dissertation research to justify its use.

added). As Chow observed, "It is not the case that narrative reviews lack rigor. To the contrary, rigor is maintained by reviewers of the traditional [narrative] approach when they evaluate the validity of individual studies" (p. 268). Meta-analyses, even when done well, risk compromising the richness of the prison data they seek to summarize.

In any event, the magnitude of what can be and often is lost in the course of the compromises made in the kind of research critically discussed in this essay often goes unrecognized. Amid thousands of data entries and hundreds of effect sizes reported in these two studies, there are few references to the core subjectivity, institutional trajectory, or life outcome of a single individual prisoner confined in an isolation unit. Nor is there acknowledgment that the studies focused on human beings rather than on interchangeable data points.

Martha Nussbaum (1995) noted in a different context that regarding people as "fungible" and denying them their subjectivity are powerful ways to ensure their objectification. Objectivity in prison research is a worthy goal, except when it results in objectification of prisoners and others in the prison environment. Feeley and Simon (1992) observed that the era of mass imprisonment occasioned and was facilitated by the emergence of a "new penology" whose key elements—"statistical prediction, concern with groups, strategies of management"—shifted the focus of the prison enterprise "toward mechanisms of appraising and arranging groups rather than intervening in the lives of individuals" (p. 459). This actuarial approach still defines the modern prison. It should not be made worse and reinforced by scholarship that exacerbates rather than alleviates or exposes these depersonalizing tendencies.

Studying only at a distance, as the research criticized in this essay did, requires precisely that kind of objectifying sacrifice. If John Irwin was right, that the close study of people in general and prisoners in particular uncovers their humanity, and I think he was, then the opposite is also true. Studying prisoners at a distance, without trying fully to understand and adequately to convey the conditions in which they live or to gain an "appreciation of their meaning worlds, motivations, and aspirations" (1987, p. 47), leaves us with little insight into basic truths about them. That includes whether and how much they are adversely affected by near-total deprivation of meaningful sensory and social contact.

The insurmountable methodological flaws of the Colorado study and the fundamental inadequacy of the Morgan et al. (2016) meta-analysis

should preclude policy makers from using either in debates over the proper use of solitary confinement and the nature of its psychological effects.

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The New York Times

Turn Prisons Into Colleges



A Prison University Project student working on an assignment in study hall at San Quentin State Prison.

By Elizabeth Hinton

March 7, 2018

Imagine if prisons looked like the grounds of universities. Instead of languishing in cells, incarcerated people sat in classrooms and learned about climate science or poetry — just like college students. Or even with them.

This would be a boon to prisoners across the country, a vast majority of whom do not have a high school diploma. And it could help shrink our prison population. While racial disparities in arrests and convictions are alarming, education level is a far stronger predictor of future incarceration than race.

The idea is rooted in history. In the 1920s, Howard Belding Gill, a criminologist and a Harvard alumnus, developed a college-like community at the **Norfolk State Prison Colony in Massachusetts**, where he was the superintendent. Prisoners wore normal clothing, participated in cooperative self-government with staff, and took academic courses with instructors from Emerson, Boston University and Harvard. They ran a newspaper, radio show and jazz orchestra, and they had access to an extensive library.

Norfolk had such a good reputation, Malcolm X asked to be transferred there from Charlestown State Prison in Boston so, as he wrote in his petition, he could use “the educational facilities that aren’t in these other institutions.” At Norfolk, “there are many things that I would like to learn that would be of use to me when I regain my freedom.” After Malcolm X’s request was granted, he joined the famous Norfolk Debate Society, through which inmates connected to students at Harvard and other universities.

Researchers from the Bureau of Prisons emulated this model when they created a prison college project in the 1960s. It allowed incarcerated people throughout the country to serve their sentences at a single site, designed like a college campus, and take classes full-time. Although the project was never completed, San Quentin State Prison in California created a scaled-down version with support from the Ford Foundation, and it was one of the few prisons then that offered higher education classes.

Today, only a third of all prisons provide ways for incarcerated people to continue their educations beyond high school. But the San Quentin Prison University Project remains one of the country's most vibrant educational programs for inmates, so much so President Barack Obama awarded it a National Humanities Medal in 2015 for the quality of its courses.

The idea of expanding educational opportunities to prisoners as a way to reduce recidivism and government spending has again gained momentum. That's partly because of a study published in 2013 by the right-leaning RAND Corporation showing that inmates who took classes had a 43 percent lower likelihood of recidivism and a 13 percent higher likelihood of getting a job after leaving prison.

Lawmakers have rightly recognized the wisdom in turning prisons into colleges. In 2015, Mr. Obama created the Second Chance Pell Pilot Program, which has enrolled more than 12,000 incarcerated students in higher education programs at 67 different schools. The Senate Committee on Health, Education, Labor and Pensions is considering permanently reinstating Pell Grants for incarcerated students, who lost access to federal scholarships under the 1994 crime bill. Even Education Secretary Betsy DeVos calls providing prisoners with the chance to earn a degree "a very good and interesting possibility."

This is no small matter. If we believe education is a civil right that improves society and increases civic engagement, then the purpose of prison education shouldn't be about training people to develop marketable skills for the global economy. Instead, learning gives us a different understanding of ourselves and the world around us, and it provides us tools to become more empathetic. That's why prisons with educational programs are often safer, and why there is a stronger correlation between educational levels and voting than with socioeconomic background.

Mass incarceration is inextricably linked to mass undereducation in America. Yale, Princeton, Cornell, Georgetown, Wesleyan and New York University are among a handful of institutions that realize this and have begun to create ways for incarcerated people to take college classes. These universities recognize that they have a moral responsibility to pursue educational justice for prisoners, a group that has disproportionately attended under-resourced public schools.

College presidents across the country emphasize the importance of "diversity, inclusion and belonging," and they are reckoning with their institutions' ties to slavery. Expanding prison education programs would link those two ventures in a forward-thinking way. It's clear that education will continue to be a central part of criminal justice reform. The question we should ask ourselves is not "Will incarcerated students transform the university?" The better question is, "Will colleges begin to address and reflect the world around them?"

Elizabeth Hinton is an assistant professor in the departments of history and African and African-American studies at Harvard.

LR 477 INTERIM STUDY REPORT

December 1, 1994

to the

Judiciary Committee

Nebraska State Legislature

Authored by: Barb Brunkow and Jo Witkowski, Office of Senator Dwite A. Pedersen
With assistance from: Don Lincoln and Jerall Moreland, Cornhusker State Industries

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INTRODUCTION FOR LR 477

As the war against crime is waged across the United States, and the people clamor for action, little has been said about the importance of changing behaviors of those who are incarcerated. The idea of putting inmates to work, not only to pay for part of their keep, but to instill work ethics is the idea behind this interim study resolution.

Most constituents feel that people who are sent to prison should be put to work, not just allowed to eat, sleep and lift weights while they are serving their time. All inmates are required to have an institutional job. Many of the inmates want to work for Cornhusker State Industries as well, but there are not enough jobs for them to do. Many inmates have no work skills when they get to prison, and if there are no work programs in prison, when they are released (as nearly all of them eventually are), they will have obtained no work skills. They head back to the streets and their old way of living and more than likely will return to the behaviors that got them in trouble in the first place and, therefore, will be returned to prison where they will reside at taxpayer expense.

It is important to instill work ethics in inmates. It is good for their self-esteem and provides a learning experience no matter what they do. If they have the opportunity to learn a skill that will be useful to them in the job market outside the prison walls, it is better, of course, but any work experience gained can be valuable. A person who has the opportunity to earn their own way by paying for part of the cost of their incarceration, paying for child or spousal support, paying compensation to victims of crime, and having the ability to save a small nest egg for their use in the future, will benefit from the experience. At the very least, they will have some work experience in their background when they go for job interviews after their release from prison. At the very best, they will be able to use the skills they learned in prison in the free market system.

Historically, there have been problems associated with involving private industry in prison industries, because labor unions have expressed concern that inmates might take jobs away from those in the community who wanted them. In addition, there is the overall perception about crime and criminals. Frankly, people are scared to reluctant to work behind prison walls with people who have been convicted of crimes, especially those of a violent nature. Discipline and security concerns regarding types of businesses that can be run inside the walls must also be taken into consideration.

The interim study committee has taken the first step toward alleviating these problems by getting interested persons together to discuss the problems. In an effort to determine how to increase the number of jobs available in the correctional system in Nebraska, a Private Industry Task Force was formed by the interim study committee. This Task Force was originally made up of sixty-four citizens representing private businesses, chambers of commerce, and government entities. Through Task Force meetings and tours, the subject of correctional industries was brought to the attention of citizens from across the state requesting their input and suggestions on how to increase the variety and number of jobs available. The Task Force continues to meet and has not adopted a final consensus on the recommendations found at the end of this report. The next meeting will be held on January 11, 1995.

LEGISLATIVE RESOLUTION 477
Introduced by Pedersen, 39; Lindsay, 9

PURPOSE: The purpose of this resolution is to study the Correctional Industries program within the Department of Correctional Services. The study shall address the following issues:

1. An analysis of the history and evolution of prison industries in this state from its inception, to include an analysis of the current status of the program. The analysis shall provide the committee with information relating to the number of inmates employed, the products and services sold through the program, and the major problems and successes, from both a fiscal and a human relations and development perspective, which were experienced by Correctional Industries over the years;
2. An analysis of the effectiveness of the Correctional Industries programs and objectives, to include, but not be limited to, an analysis of the quality and competitiveness of Correctional Industries products and services;
3. An analysis of the effect participation in Correctional Industries may have upon inmates, with an emphasis on work program availability, recidivism, and institutional discipline; and;
4. An analysis of Nebraska statutes and Nebraska and United States Supreme Court decisions which affect the Correctional Industries program. Such analysis shall include recommendations for legislation for 1995 to address the needs associated with this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-THIRD LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary Committee of the Legislature in cooperation with the Department of Correctional Services and the Department of Administrative Services shall be designated to conduct an interim study to carry out the purposes of this resolution. The Committee shall also seek the assistance of representatives of labor and private industry to carry out the purposes of this resolution.
2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

PROPOSED ACTION ON LR 477

The purpose of LR 477 is to study the Correctional Industries program within the Department of Correctional Services to address the following concerns:

1. Analysis of the history and evolution of prison industries in Nebraska from its inception, to include an analysis of the current status of the program.
 - a. History of prison industries in Nebraska
 - (1) Historical perspective
 - (2) Legislative history
 - b. Analysis of current program
 - (1) Number of inmates employed in current program
 - (a) How selected
 - (b) Wages and where they are distributed
 - (c) How many inmates are on waiting lists
 - (2) Products and services manufactured and sold
 - (a) Description of current products and services
 - (b) Who is currently using Correctional Industries products and services
 - (c) Analysis of why other agencies and non-profit organizations are not using Correctional Industries products
 - (d) Marketing strategies
 - (e) Possible additions or deletions to product lines
 - (3) Problems and successes in Correctional Industries programs
 - (a) Major problems
 - (b) Identifiable successes
 - (c) Fiscal point of view
 - (d) Human relations and development point of view
 - c. Alternative ideas and proposals
 - (1) Collect data from other states regarding their programs
 - (2) Collect ideas from correctional employees
 - (3) Collect ideas from private sector businesses
 - (4) Propose new ideas for Correctional Industries products and services
2. Analysis of the effectiveness of the Correctional Industries programs and objectives
 - a. Analysis of the quality of Correctional Industries products and services
 - b. Analysis of the competitiveness of Correctional Industries products and services
 - c. Comparison with Correctional Industries programs and services in other states with regard to cost and effectiveness
 - d. Define objectives of Correctional Industries program
 - (1) Work ethics
 - (2) Court ordered payments (child support, victim restitution, spousal support)
 - (3) Payment of partial cost of incarceration
 - (4) Nest egg

3. Analysis of the effect of participation of inmates in Correctional Industries programs
 - a. Work program availability
 - b. Effect on recidivism rate
 - (1) Nebraska
 - (2) National
 - c. Effect on institutional discipline
4. Analysis of Nebraska statutes and Nebraska and U.S. Supreme Court decisions which affect Correctional Industries program
 - a. Nebraska statutes
 - b. Federal law
 - c. State Supreme Court decisions
 - d. U.S. Supreme Court decisions
5. Recommendations for legislative changes for 1995 Legislative Session
 - a. Set up Traditional Correctional Industries Task Force for interim study
 - b. Set up Private Industry Task Force for interim study

REVIEW OF ACTION TAKEN ON LR 477

The purpose of LR 477 was to study the Correctional Industries program within the Department of Correctional Services to address the following concerns:

1. Analysis of the history and evolution of prison industries in Nebraska from its inception, to include an analysis of the current status of the program.
 - a. History of prison industries in Nebraska
 - (1) Historical perspective
 - (2) Legislative history

See history following introduction

- b. Analysis of current program
 - (1) Number of inmates employed in current program
 - (a) How selected
 - (b) Wages and where they are distributed
 - (c) How many inmates are on waiting lists

An average of 306 inmates are employed by Cornhusker State Industries in either traditional or private venture operations throughout the correctional system. These inmates are selected by an application and interview process developed cooperatively with community colleges across the state. The wages earned by those inmates employed by traditional Cornhusker State Industries range from 38 cents per hour to \$1.08 per hour. Inmates who work in private venture operations average \$6.08 per hour. At the present time there are approximately 200-300 inmates on waiting lists to be employed. It is estimated that only 16 percent of the available inmate population is currently employed although the goal of Cornhusker State Industries is to employ at least 25% of the available inmate population.

- (2) Products and services manufactured and sold
 - (a) Description of current products and services
 - (b) Who is currently using Correctional Industries products and services
 - (c) Analysis of why other agencies and non-profit organizations are not using Correctional Industries products
 - (d) Marketing strategies
 - (e) Possible additions or deletions to product lines

A wide variety of items are currently manufactured and services are offered by Cornhusker State Industries including license plates, furniture, upholstering, janitorial supplies, clothing, linens, Braille textbooks, data entry, and auto body work. Many state agencies take advantage of these items and services, and through meetings conducted by the interim study committee, counties, cities and non-profit organizations were encouraged to purchase supplies from CSI. Information gathered for the study found that many political subdivisions were simply unaware of the products and services offered and in

other cases, agencies had experienced problems with quality or timely delivery in the past and were reluctant to utilize the products again. Other agencies were hampered by the time constraints involved with CSI needing to bid out certain materials. Some agencies just found it more convenient to go to the local office discount store to purchase their items, contending that with budget constraints, it was more economical to purchase items at a cheaper cost regardless of quality considerations.

Cornhusker State Industries has improved marketing strategies but because they operate on a revolving fund budget, they are limited in their marketing strategies. It is simply not possible to do as much advertising and/or marketing as they would like, because the program receives no General Fund appropriations. Salaries and the purchase of raw materials come from the revolving fund, and everything that is "retained earnings" is returned to the program by way of equipment repairs, building repairs and ground maintenance. Meetings held during the interim study provided suggestions for CSI personnel as to new ideas for products and marketing strategies.

- (3) Problems and successes in Correctional Industries programs
 - (a) Major problems
 - (b) Identifiable successes
 - (c) Fiscal point of view
 - (d) Human relations and development point of view

It appears that the major problem facing the Department of Correctional Services is the lack of employment opportunities for offenders. There are many more applicants for positions than there are jobs available. A recent opening in a janitorial position in one of the institutions drew over 40 applicants for the position. Problems with purchasing raw materials in large enough volumes to obtain competitive prices is one of the major obstacles facing Cornhusker State Industries. Customer lack of knowledge about the products and services available is also a problem. With little money for advertising and marketing, the services and products available are mostly advertised by word-of-mouth, networking, catalogs and flyers, and personal sales calls. Getting the word out to those who are eligible to purchase products and services is most important.

There are many successes in the Cornhusker State Industries programs. From all discussions, it seems clear that those inmates who are employed by Cornhusker State Industries cause fewer discipline problems and have a better general attitude than those who are not employed. Those inmates who are fortunate enough to obtain jobs with the few private venture companies operating within the correctional system pay taxes, room and board, spousal and child support, and victim compensation. Those inmates employed by Cornhusker State Industries also pay child and spousal support and are able to cover the purchase of basic necessity items at the facility canteen.

Those persons who operate private venture businesses behind the prison walls feel that they are in a win/win situation. Each and every business person connected with prison industries that was contacted during the course of the study indicated their strong support

of their programs. With the low unemployment rate in the state of Nebraska, it is difficult to get workers for certain jobs, and some employers have found willing and able workers behind the prison walls. By federal law, these inmates are required to be paid a prevailing or similar wage for the area. In no case can this wage be lower than the federal minimum wage. Perhaps the greatest success of the correctional industries programs is the pride in the eyes of the inmates as they go about their work.

From a fiscal point of view, it simply makes sense to have prisoners working. Through May of 1994, when this study began, inmates had sent home \$690,000 in family support, had paid approximately \$200,000 to the Victim's Compensation Fund, and paid half a million dollars in taxes. In addition, they paid \$1.25 for each hour worked toward their room and board while incarcerated. All Cornhusker State Industries employees are paid from the revolving fund, and no General Fund appropriations are used. According to information from the Department of Correctional Services, if the Cornhusker State Industries were not in operation, they would have had to hire 30 to 40 additional correctional officers to supervise the inmates who are currently employed. Over the past five years, this would have amounted to an additional \$900,000 per year which would have been taken from the General Fund costing the taxpayers additional money.

From a human relations and development point of view, it is good for a prisoner's self-esteem to have meaningful work to do while serving their time. The work ethics and experience gained through employment by CSI are valuable if and when they are released from the correctional facility as 95 percent eventually are. If prisoners are returned to the streets without changing behaviors, it is very likely that they will return to prison after their release.

- c. Alternative ideas and proposals
 - (1) Collect data from other states regarding their programs
 - (2) Collect ideas from correctional employees
 - (3) Collect ideas from private sector businesses
 - (4) Propose new ideas for Correctional Industries products and services

See information regarding activities of the Private Industry Task Force set up by the Interim Study Committee.

- 2. Analysis of the effectiveness of the Correctional Industries programs and objectives
 - a. Analysis of the quality of Correctional Industries products and services
 - b. Analysis of the competitiveness of Correctional Industries products and services
 - c. Comparison with Correctional Industries programs and services in other states with regard to cost and effectiveness
 - d. Define objectives of Correctional Industries program
 - (1) Work ethics
 - (2) Court ordered payments (child support, victim restitution, spousal support)
 - (3) Payment of partial cost of incarceration
 - (4) Nest egg

See information regarding Cornhusker State Industries program.

3. Analysis of the effect of participation of inmates in Correctional Industries programs
 - a. Work program availability
 - b. Effect on recidivism rate
 - (1) Nebraska
 - (2) National
 - c. Effect on institutional discipline

Many more inmates want to work than are currently able to do so, simply because there are not enough jobs at Cornhusker State Industries, and there are not enough private venture enterprises willing to operate within the prison walls. At the present time, there are approximately 200-300 inmates on waiting lists for jobs.

Recidivism rates have been the subject of several studies in recent years. Basically, these studies have concluded that if a person comes into prison with no work skills and gets out without learning any work skills, it is likely that they will return to prison. A study done in Utah indicated that of all of those inmates released from the Utah State Prison during the calendar year 1983, 29 percent had returned to prison by August 1, 1984. Of those inmates who had participated in the correctional industries program at the Utah State Prison during their incarceration, only 13 percent had returned to prison by August 1, 1984. This study considered the possibility that perhaps there were some significant differences between the characteristics of the population that would account for this differential apart from participation in the correctional industries program. In an effort to test this possibility, the two populations were compared by race, age, marital status, number of dependents, religion, previous occupation and work record, seriousness of crime, frequency of arrest and incarceration, and involvement with drugs and alcohol. There was no statistically significant difference between the populations for any of these variables.

4. Analysis of Nebraska statutes and Nebraska and U.S. Supreme Court decisions which affect Correctional Industries program
 - a. Nebraska statutes
 - b. Federal law
 - c. State Supreme Court decisions
 - d. U.S. Supreme Court decisions

Nebraska statutes prohibit traditional Cornhusker State Industries from selling their products to anyone except state agencies, counties, cities, and non-profit organizations. Federal law provides that any private venture industry must meet certain certification standards set out by federal law, including payment of the prevailing wage for the occupation in that particular region.

5. Recommendations for legislative changes for 1995 Legislative Session
 - a. Set up Traditional Correctional Industries Task Force for interim study
 - b. Set up Private Industry Task Force for interim study

See information regarding Task Force.

PRISON INDUSTRIES HISTORY

In 1886, the first prison industry shop buildings were built consisting of a large two-story brick building with wood floor joist construction. The following industry shops were housed in the building: tailoring, shoes, furniture, laundry, paint, and canning. There was one large school room and a dormitory for farm workers located inside the industry shop buildings.

T. W. Smith served as Warden of Lancaster State Prison from March, 1910, to March, 1911. During this administration, things changed for the worse. A Chicago concern of slave drivers, operating shirt factories in 11 prisons, started a factory at Lancaster producing shirts, pants, and buttons. Each inmate was required to turn out a specific minimum number of items (called a "task"), or the Boss (company foreman) would have him put in jail (segregation lockup) over the weekend. On Monday, the inmate workers would be released from jail to resume the regular "task," plus what he did not get done the week before. This quota system was in effect until such contract labor was abolished by the Legislature in 1913 when a decision was made that contracts would not be renewed upon expiration.

On May 31, 1934, the Hawes-Cooper Bill, a Federal enactment, became effective causing penal institutions to dispense with industries which manufacture products that were in competition with goods on the open market. This bill was aimed at reviving companies hard hit during the Great Depression. The manufacture of shirts and pants at the Penitentiary was discontinued.

In 1935, the Legislature passed an act providing for what is commonly called the "State Use System of Prison Industries." The act appropriated \$70,000 for the purchase and installation of necessary equipment and an additional sum of \$10,000 to be used as a revolving fund for the purchase of raw materials to be used in such industries. The law limited sales of prison-made merchandise or wares to departments, institutions, and agencies of the State and its political subdivisions, which are supported in whole or in part by taxation, and requires such agencies to purchase these articles from the Nebraska State Prison Industries (now so named) as follows:

- A. The Board recognized that the principal consumers of the products manufactured in the penal institution would be the State institutions, and that attention must be paid to the manufacturing of goods which would meet the needs of the institutions.
- B. Since the purpose of Prison Industries was to employ prison labor, factories were to be established which would require a maximum of hand labor and a minimum of machine labor.
- C. It was the policy to establish a type of work that was not detrimental to the inmate's health but would enable the learning of a trade which would assist the earning of a livelihood upon release from the Penitentiary.

In 1936, the following Prison Industries shops were put in operation:

New Furniture Factory employed approximately 35 inmate workers and one shop foreman. The trade of woodworking was offered on the most modern machinery and equipment of the time. Top quality materials and workmanship were put into the furniture manufactured.

Rebuilt Furniture Factory employed approximately 26 inmate workers and one shop foreman. All types of furniture were processed for upholstery, rebuilding, reconditioning, paint and/or refinishing. Excellent workmanship and the best quality materials were used in reconditioning of furniture.

Broom Factory employed up to four inmate workers and was supervised by the Rebuilt Furniture Factory foreman. Raw broom corn was received in bulk and sorted into three types: coarse, medium, and fine grain. The seeds that are contained in the raw broom corn are sorted out by being processed through a thresher before the broom corn is ready for final processing. The coarse straw was used in barn brooms, medium straw for house brooms, and fine straw for whisk brooms. This shop closed in 1968.

Mattress Factory employed up to five inmate workers and was supervised by the Rebuilt Furniture Factory foreman. All types of mattresses were manufactured until about 1964. The shop was moved to the Nebraska Center for Women Garment Shop in March, 1985, where only cotton batting mattresses were manufactured. In April, 1991, mattresses were moved back to the Nebraska State Penitentiary Upholstery Shop where it remains today with cotton batting mattresses being produced.

Garment Factory employed up to 36 inmate workers and one shop foreman. The products included clothing for wards of the State, staff officer clothing, tailoring, and linens. This trade reached a maximum inmate employment of 70 inmates and employed an additional staff assistant. The Tailor Shop was split from the Garment Factory in 1947 where 16 inmate workers and one shop foreman were employed. The Tailor Shop, which also offered dry cleaning services, closed in 1971. In 1972, the Garment Factory was relocated to the Nebraska Center for Women, where it remains today employing up to 18 inmate workers and supervised by one shop foreman. In February, 1993, a second Garment Factory was opened at the Omaha Correctional Center employing up to 28 inmate workers and supervised by one shop foreman.

Shoe Repair Shop employed up to five inmate workers and was supervised by one shop foreman. This shop closed in 1968.

Tobacco Factory was established in 1939 employing seven inmate workers and supervised by the Rebuilt Furniture Factory foreman. Raw tobacco was shipped in a "hogshead" (approximately 1,200 pounds), and processed through an oven and stream into strips. Chewing tobacco was coated, dried, and packed in cellophane. Smoking tobacco was dried, ground, and packaged into small bags for shipment. This shop closed in 1963.

The 1943 Legislature approved an act authorizing the Board of Control to enter into contracts

for manufacture and sale of wear articles by prison industries. This act permitted prison-made goods to be sold to the Army, Navy, and for lend/lease use. Three war contracts were completed for approximately 80,000 articles of clothing and sold to the Army and Navy for \$500,000.

In June, 1947, the State Fire Marshal condemned the prison industries building housing the garment shop, shoe shop, tobacco shop, broom factory, furniture shop, and school room. A quonset building was erected to house these shops.

On Sunday, January 11, 1948, a fire was reported at 9:50 a.m. to Turnkey Officer, Sam Bedford, stating the prison industries building was on fire. This call was received over the communications system located in the Deputy Warden's Office. The Lincoln Fire Department was called, arriving shortly thereafter. About 150 inmates attending church services were returned to their cell blocks in an orderly manner. The second story of the entire industries building was destroyed by the fire.

In 1948, the Print Shop was established in a cramped area near the schoolroom located in the basement below the visiting area between the East and West Cell Houses. In 1951, the shop was moved to the basement of the new laundry building. Printing equipment from the Boys Training School at Kearney was purchased to supplant the two outmoded, hand-operated presses in operation at that time. With the additional space and equipment, the Print Shop took on a new perspective. In 1956, the Print Shop was moved to the newly-constructed Prison Industries Building where equipment was upgraded. In August, 1992, the Print Shop was moved to the new industrial facilities located at the Lincoln Correctional Center where it employs up to twelve inmate workers and one shop foreman.

On August 16, 1955, fire and riot destroyed all the industries shops and all equipment therein.

The Cannery Shop was established in 1957 employing up to 100 inmate workers and one shop foreman and one shop assistant foreman. This shop closed in 1970 when most farm growing and raising operations ended.

The Sheet Metal Factory became part of Prison Industries in December, 1957, employing seven inmate workers and one shop foreman. In April, 1985, the Sheet Metal Factory and the License Plate Factory were combined employing up to fifty inmate workers and one shop foreman and one assistant shop foreman. The License Plate Factory was incorporated by Prison Industries in 1964.

Janitorial Services Factory began production in March, 1961, employing up to twelve inmate workers and one shop foreman. This shop produces a complete product line developed to satisfy every need of the using agency which continues to the present time. In March, 1987, a paint product line was added.

Road Sign Factory was transferred from the Men's State Reformatory to Prison Industries in 1963 to meet the large demand at the time for road, street, and traffic signs. This shop was closed

in February, 1988.

In June, 1963, the first Correctional Industries salesperson was hired. A second salesperson was added in 1964. In 1994, a third salesperson was hired. An innovative concept of utilizing inmate workers to perform telemarketing sales of industries products was initiated in 1988. This was the first time anywhere in the U.S.A. that inmate workers were used to sell prison industry products.

In 1965, the Dental Laboratory was added to Prison Industries responsibility. This lab made crowns, bridges, and false teeth. The shop closed in 1974.

In April, 1968, Prison Industries suffered a major loss as a result of a fire that occurred at the warehouse outside of the West Wire Gate (outside of the walled area of the prison). This fire destroyed the warehouse and all its contents for an estimated loss of \$200,000.

In 1969, the Legislature changed the name of Prison Industries to Nebraska Correctional Industries. In 1986, the name of Nebraska Correctional Industries was changed to the current name of Cornhusker State Industries.

A new concrete warehouse was completed in early 1969 providing 10,800 square feet of usable floor space outside of the Penitentiary.

An addition to the industrial complex at the Nebraska State Penitentiary was completed in 1969. A sprinkler system was added for the furniture factories.

Laundry Factory began in 1951 and was turned over to the Penitentiary in 1973 by Prison Industries for general operations.

Farm and Dairy Operations were gradually phased out of Prison Industries due to changing markets and incorporation into the city limits. Dairy production was ended in 1973 and the herd, which was considered one of the best in the Midwest, was sold for about \$300,000. All farm operations were ended by 1975, and the land leased out to area farmers. At its height, the farm encompassed over 1,000 acres raising grains, vegetables, cattle, hogs, poultry, dairy products, and fruits. Land was farmed at the site now consisting of the Lincoln Correctional Center, Nebraska State Penitentiary, and West Farm (southwest Lincoln). The Slaughterhouse was converted to a cold storage building now operated by the Penitentiary. The farm and dairy operations employed up to 40 inmate workers and seven staff foremen.

School Furniture Refurbishing began in 1978 and closed in December, 1984, and employed up to 10 inmate workers and one staff foreman.

In September, 1980, the Braille Shop was initiated to provide services to the visually impaired. Initially began in the Religion Department of the Nebraska State Penitentiary, braille became a financial resource drain on Penitentiary budgets resulting in it being placed under the control of

Nebraska Correctional Industries in July, 1985. Now profitable, braille enjoys expanded services to the visually impaired population worldwide in the areas of braille readers, tactiles, large print, braille writer repair, Nemoth Code, music, and other sundry products. Braille assisted Nebraska Center for Women Data Entry Shop with expanded data entry services for the Labor Department from May, 1990, to March, 1991. Braille entered into a data entry agreement with the Nebraska Genealogical Society in October, 1993, which continues to the present. Braille employs up to 26 inmate workers and one staff foreman.

In December, 1981, industrial operations at the Nebraska State Penitentiary were closed for one week to allow movement of inmates from the old housing units to the new housing units. The area encompassing the new prison nearly doubled that of the old prison.

On June 24, 1981, CSI Upholstery Shop Foreman Marvin Koch was severely stabbed with a pair of scissors by inmate Bernard Schaeffer, #31404. Mr. Koch was medically treated and returned to work at the shop in a couple of weeks.

In 1986, the Nebraska Legislature amended laws to permit sale of prison-made products on the open market. The Private Venture Industrial Program is certified through the United States Department of Justice and allows CSI to contract with private companies to employ inmates or purchase products made by inmates for resale in the open market provided:

- A. Inmate workers receive prevailing area wages (at least Federal minimum wage requirements) for like work.
- B. Wages paid to inmate workers under this act are dispersed as set by the Department for:
 1. State and Federal required payroll deductions.
 2. Support of family and dependent relatives.
 3. Payment for some inmate maintenance costs.
 4. Mandatory savings for inmates upon release from commitment.
 5. Deposit in the Victim's Compensation Fund.
- C. Specified workers' compensation laws were amended to allow such inmate workers employee status within the Department solely for purposes of workers' compensation coverage (Federal program certification requirement).
- D. In October, 1987, Cornhusker State Industries received Private Venture Certification.
- E. Beyond inmate wage specifications, Private Venture Certification requires:
 1. Inmate jobs cannot cause layoff in area located.
 2. Prior notification to union bodies and like businesses in located area.

3. Inmate jobs not allowed in disciplines where civilians in area cannot find jobs with same skills.

F. Private Venture Certification projects from 1988 to present:

1. Tele-Promotions, Inc., employed up to 11 inmate workers and one company staff supervisor at Omaha Correctional Center from August, 1988, to February, 1989, and similar operation at Lincoln Correctional Center from April, 1988, to February, 1989. (Telemarketing)
2. T.G.S. Marketing, Inc., operated shops at Hastings Correctional Center (May, 1988, to November, 1991), Lincoln Correctional Center (August, 1988, to June, 1993), Omaha Correctional Center (September, 1988, to present), and Nebraska Center for Women (June, 1989, to June, 1990). At its height, T.G.S. employed 177 inmate workers and nine company staff supervisors.
3. Marketing Professionals operated at Omaha Correctional Center from July, 1988, to December, 1988, employing a maximum of 10 inmate workers and one company staff supervisor. (Telemarketing)
4. Irwin Wood operated at the Nebraska State Penitentiary from June, 1988, to April, 1990, in seasonal business operations producing yard ornaments. A maximum of 15 inmate workers were employed and were supervised by one CSI staff foreman. (Wood products)
5. Van House operated at the Nebraska State Penitentiary from September, 1988, to June, 1989, producing customized wood products for vehicle interiors. A maximum of 10 inmate workers were employed and supervised by the CSI Wood Shop Foreman.
6. LaPen operated at the Nebraska Center for Women from October, 1987, to December, 1987, producing sewn products and at the Nebraska State Penitentiary from November, 1987, to February, 1993, producing sewn products. At its height, LaPen employed 112 inmate workers and five company staff supervisors.
7. Third Coast operated at the Omaha Correctional Center from June, 1988, to November 1989, producing wood products for home furnishings. At its height, Third Coast employed 12 inmate workers and one CSI foreman.
8. Fibresin Panel Doors operated at the Nebraska State Penitentiary from December, 1990, to October, 1992, employing two inmate workers and supervised by the CSI Wood Shop Foreman.
9. LANCO Picnic Boards operated at Lincoln Correctional Center from February, 1992, to September, 1992, employing maximum of 18 inmate workers and supervised by the CSI Wood Shop Foreman.
10. Ingersoll-Dresser operated at Hastings Correctional Center from December, 1993, to the present, employing a maximum of eight inmate workers and one company staff supervisor. (Metal grinding)
11. Leukemia Society operated at Omaha Correctional Center from April, 1992, to

March, 1993, employing 21 inmate workers and one company staff supervisor. (Fundraising)

Vinyl Products Shop at the Omaha Correctional Center initiated production July, 1985, and closed March, 1988, due to economic reasons. Products produced were notebooks, card holders, and other heat-sealed vinyl products. The shop employed up to eight inmates and one CSI staff foreman.

Cornhusker State Industries shop operations in production as of July, 1994, are :

A. Nebraska State Penitentiary:

1. Wood/Upholstery Shop employs 28 inmate workers and one CSI staff foreman. This shop produces custom wood furniture, reconditioned furniture, new chairs, refurbished chairs, mattresses, pillows, and modular paneling.
2. Janitorial Services Shop employs six inmate workers and one CSI staff foreman. This shop manufactures a complete janitorial product line and paint. Special metal locker assembly products have also been produced.
3. Metal Fabrication employs 21 inmate workers during a nonproduction year and up to 50 inmate workers during a full production year with two CSI staff foremen. This shop manufactures license plates, custom metal furniture, lockers, desks, modular panels, and performs sanding and painting.
4. Braille Shop employs 24 inmate workers and one CSI staff foreman. This shop manufactures products for the visually impaired, makes gravoply signs, and performs data entry work.
5. Warehouse/Delivery Facility employs 11 inmate workers and five CSI staff supervisors. This facility receives, ships, stores, assembles, and does final quality assurance.
6. CSI Preemployment Training is a cooperative agreement between CSI and Southeast Community college where inmates desiring employment at CSI receive instructional training on safety, production, and technical aspects of CSI operations. This was the first of its kind in U.S.A. correctional industries operations and began in 1987.
7. Inventory Control started October, 1985, and employs three inmate workers and one CSI staff foreman. Duties include control, ordering, receipt, and issue of raw materials and component parts.

B. Lincoln Correctional Center:

1. Wood Shop started in September, 1989, and employs up to 18 inmate workers and one CSI staff foreman. This shop manufactures standard CSI office wood lines and occasional custom wood products.
2. Print Shop started in 1948 at Nebraska State Penitentiary and moved to Lincoln Correctional Center in August, 1992, employs up to 12 inmate

workers and one CSI staff foreman. This shop does printing for Department of Correctional Services and jobs designated by Department of Administrative Services Print Shop.

3. Auto Body started in July, 1991, and employs up to nine inmate workers and one Southeast Community College instructor. This program, first of its kind in the U.S.A., is a cooperative venture between vocational studies and correctional industries. Repair and painting of Roads vehicles (cars, trucks, buses) occurs.

C. Nebraska Center for Women:

1. Sewing Shop started in 1972 and employs up to 18 inmate workers and one CSI staff foreman. Products include clothing for wards of the State and linens (towels, sheets, pillowcases, etc.).
2. Data Entry started in April, 1987, and employs up to 22 inmate workers and one CSI staff foreman. Contractual agreements with various State agencies make up the majority of work performed.

D. Hastings Correctional Center:

1. Ingersoll-Dresser, a private venture operation, employs eight inmate workers and one company supervisor. This project grinds metal components for pumps.
2. Road Crew employs up to 15 inmate workers and one HCC staff correctional officer performing contract functions for the Department of Roads. This began in 1991.

E. Omaha Correctional Center:

1. Wood Shop started in October, 1984, and employs up to 15 inmate workers and one CSI staff foreman. The products include office and modular wood lines for CSI standard markets.
2. Sewing Shop started in February, 1993, and employs up to 26 inmate workers and one CSI staff foreman. Primary product manufactured is clothing for wards of the State.
3. Road Crew started in 1984, and employs up to 15 inmate workers and one OCC staff correctional officer. Contractual agreement with Department of Roads provides cleaning of State roadways.
4. T.G.S. Marketing, Inc., started in September, 1988, is a private venture operation employing up to 25 inmate workers and one company staff person. Markets agriculture products by telephone.

F. Lincoln Community Center:

Park Crew started in 1974 and employs up to 15 inmate workers and one L-CCC staff correctional officer performing State park duties for Game and Parks.

G. Nebraska Federal Surplus:

Federal Surplus Property operations were assigned to CSI in October, 1987, due to serious cash flow concerns of NFS (revolving fund operation). Administrative restructuring of operations occurred resulting in NFS becoming profitable within a few months where it has remained profitable since. NFS receives surplus Federal property which is donated to tax supported and non-profit agencies pursuant to Federal and State laws, guidelines and procedures. NFS employs up to eight inmate workers and five CSI staff personnel.

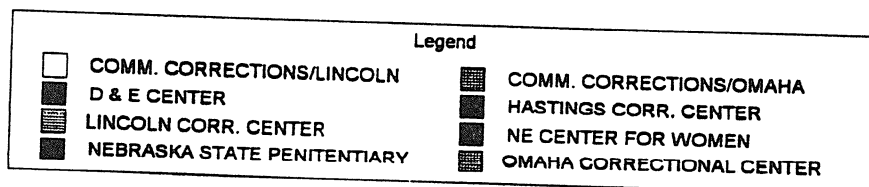
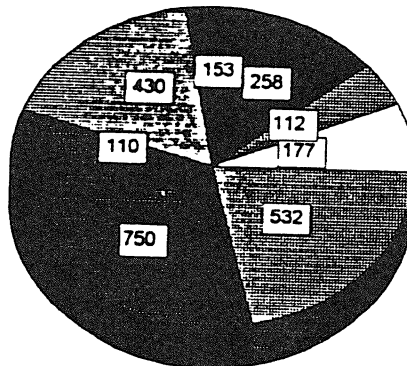
H. CSI Administration:

1. Tourism Telemarketing started in October, 1992, and employs eight inmate workers and one Department of Tourism staff supervisor who provide incoming call information to prospective visitors and others on the State of Nebraska.
2. Administration started in 1988 and employs up to six inmate workers supervised by various CSI personnel at Central Office who perform telemarketing sales of CSI project lines, janitorial services for building, and various clerk responsibilities.

TOTAL ADULT POPULATION AS OF JULY, 1994		
CORRECTIONAL INSTITUTION	# OF INMATES	% OF INMATES
NEBRASKA STATE PENITENTIARY	750	29.7%
OMAHA CORRECTIONAL CENTER	532	21.1%
LINCOLN CORR. CENTER	430	17.0%
D & E CENTER	258	10.2%
COMM. CORRECTIONS/LINCOLN	177	7.0%
HASTINGS CORR. CENTER	153	6.1%
COMM. CORRECTIONS/OMAHA	112	4.4%
NE CENTER FOR WOMEN	110	4.4%
TOTALS	2522	

TOTAL ADULT POPULATION

AS OF JULY, 1994



CURRENT AGE OF TOTAL ADULT POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
15 and under	1	0.0%
16 to 17	18	0.7%
18 to 24	632	25.1%
25 to 34	923	36.6%
35 and over	945	37.5%
TOTALS (Frequency missing-3)	2519	

MOST SERIOUS OFFENSE CATEGORY		
TOTAL ADULT POPULATION		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
DRUGS	431	17.1
SEX OFFENSES	426	16.9
HOMICIDE	351	14.0
ROBBERY	255	10.1
BURGLARY	249	9.9
ASSAULT	211	8.4
THEFT	185	7.4
MOTOR VEHICLE	119	4.7
OTHER	85	3.4
FRAUD	81	3.2
WEAPONS	58	2.3
RESTRAINT	35	1.4
ARSON	19	0.8
MORALS	11	0.4
TOTALS (Frequency missing -6)	2516	

NEBRASKA STATE PENITENTIARY		
AGE OF POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
18 to 24	85	11.3%
25 to 34	290	38.7%
35 and over	375	50.0%
TOTALS	750	

NEBRASKA STATE PENITENTIARY		
MOST SERIOUS OFFENSE CATEGORY		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
HOMICIDE	173	23.1%
SEX OFFENSES	135	18.0%
ROBBERY	118	15.7%
ASSAULT	75	10.0%
BURGLARY	69	9.2%
DRUGS	67	8.9%
THEFT	38	5.1%
WEAPONS	16	2.1%
RESTRAINT	16	2.1%
OTHER	14	1.9%
FRAUD	10	1.3%
ARSON	8	1.1%
MOTOR VEHICLE	7	0.9%
MORALS	4	0.5%
TOTALS	750	

OMAHA CORRECTIONAL CENTER		
AGE OF POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
16 to 17	3	0.6%
18 to 24	144	27.1%
25 to 34	195	36.7%
35 and over	190	35.7%
TOTALS	532	

OMAHA CORRECTIONAL CENTER		
MOST SERIOUS OFFENSE CATEGORY		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
DRUGS	130	24.4%
SEX OFFENSES	109	20.5%
BURGLARY	52	9.8%
HOMICIDE	48	9.0%
ROBBERY	44	8.3%
THEFT	43	8.1%
ASSAULT	38	7.1%
MOTOR VEHICLE	18	3.4%
FRAUD	17	3.2%
WEAPONS	11	2.1%
OTHER	9	1.7%
RESTRAINT	9	1.7%
ARSON	2	0.4%
MORALS	2	0.4%
TOTALS	532	

LINCOLN CORRECTIONAL CENTER		
AGE OF POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
16 to 17	8	1.9%
18 to 24	181	42.1%
25 to 34	139	32.3%
35 and over	102	23.7%
TOTALS	430	

LINCOLN CORRECTIONAL CENTER		
MOST SERIOUS OFFENSE CATEGORY		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
SEX OFFENSES	117	27.2%
HOMICIDE	85	19.8%
ROBBERY	51	11.9%
ASSAULT	42	9.8%
BURGLARY	34	7.9%
THEFT	26	6.0%
DRUGS	21	4.9%
WEAPONS	17	4.0%
OTHER	16	3.7%
FRAUD	7	1.6%
RESTRAINT	6	1.4%
MOTOR VEHICLE	5	1.2%
ARSON	2	0.5%
MORALS	1	0.2%
TOTALS	430	

HASTINGS CORRECTIONAL CENTER		
AGE OF POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
16 to 17	1	0.7%
18 to 24	52	34.0%
25 to 34	50	32.7%
35 and over	50	32.7%
TOTALS	153	

HASTINGS CORRECTIONAL CENTER		
MOST SERIOUS OFFENSE CATEGORY		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
BURGLARY	29	19.0%
DRUGS	19	12.4%
SEX OFFENSES	19	12.4%
MOTOR VEHICLE	18	11.8%
THEFT	17	11.1%
ASSAULT	12	7.8%
OTHER	9	5.9%
HOMICIDE	7	4.6%
ROBBERY	7	4.6%
FRAUD	7	4.6%
WEAPONS	5	3.3%
ARSON	2	1.3%
RESTRAINT	1	0.7%
MORALS	1	0.7%
TOTALS	153	

NEBRASKA CENTER FOR WOMEN		
AGE OF POPULATION		
AGE RANGE	# OF INMATES	% OF INMATES
18 to 24	25	23.4%
25 to 34	46	43.0%
35 and over	36	33.6%
TOTALS	107	

NEBRASKA CENTER FOR WOMEN		
MOST SERIOUS OFFENSE CATEGORY		
TYPE OF OFFENSE	# OF INMATES	% OF INMATES
DRUGS	28	26.4%
HOMICIDE	21	19.8%
THEFT	13	12.3%
FRAUD	11	10.4%
ASSAULT	9	8.5%
ROBBERY	8	7.5%
SEX OFFENSES	4	3.8%
OTHER	4	3.8%
MOTOR VEHICLE	3	2.8%
BURGLARY	2	1.9%
ARSON	2	1.9%
RESTRAINT	1	0.9%
TOTALS (Frequency missing - 4)	106	

Revised Statutes of Nebraska ★ 1993 Cumulative Supplement

81-1826. Department of Correctional Services; confined persons; provide for employment; exceptions. The Department of Correctional Services shall, as far as possible, provide for the employment, eight hours per day, of confined persons by private businesses, except those youths committed to the Youth Development Center-Kearney, the Youth Development Center-Geneva, and other similar institutions. The employment may be provided under section 81-1827, 83-183, or 83-184.

Source: Laws 1978, LB 910, § 26; Laws 1980, LB 319, § 3.

81-1827. Business enterprise; employment of persons committed to the department. (1) The Director of Correctional Services may enter into such contracts as may be necessary to fully implement the Nebraska Crime Victim's Reparations Act. Such contractual arrangements may include, but not be limited to, rental or lease agreements for such buildings or portions thereof on the grounds of any Department of Correctional Services facilities, together with the real estate needed for reasonable access to and egress from the leased buildings, with a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of goods, wares, or merchandise or any other business or commercial enterprise deemed by the director to be consistent with the proper training and rehabilitation of persons committed to the department.

(2) Nothing in this section shall operate to limit the director's authority to enter into contractual arrangements as may be provided elsewhere in law.

(3) Any corporation operating a factory or other business or commercial enterprise under this section may employ offenders committed to the Department of Correctional Services and persons conditionally released subject to the provisions of section 83-184.

Source: Laws 1978, LB 910, § 27; Laws 1980, LB 319, § 4; Laws 1986, LB 540, § 27.

81-1828. Repealed. Laws 1980, LB 319, § 12.

81-1829. Department of Correctional Services; establish and maintain farms. The Department of Correctional Services may establish and maintain farms to provide food for the institutions under the jurisdiction of the department and also to provide opportunity for all inmates to work eight hours per day.

Source: Laws 1978, LB 910, § 29; Laws 1980, LB 319, § 5.

83-123. Department of Correctional Services; license plates; materials; Department of Motor Vehicles; duties. Out of the fund appropriated by the Legislature, the Department of Correctional Services shall purchase the materials for, manufacture, and deliver the license plates each year to the various county officials in the State of Nebraska. The Department of Motor Vehicles shall furnish the information concerning license plates, together with the number of plates to be manufactured and the designated county official pursuant to section 23-186 for each county in the state for the current licensing year, to the Department of Correctional Services.

Sources: Laws 1931, c. 22, § 2, p. 95; C.S.Supp., 1941, § 83-137; R.S. 1943, § 83-123; Laws 1951, c. 319, § 2, p. 1191; Laws 1953, c. 207, § 14, p. 730; Laws 1959, c. 442, § 2, p. 1488; Laws 1959, c. 264, § 2, p. 1178; Laws 1969, c. 497, § 2, p. 2067; Laws 1993, LB 31, § 24; Laws 1993, LB 112, § 46.

Note: The Revision of Statutes has pursuant to section 49-769 correlated LB 31, section 24, with LB 112, section 46, to reflect all amendments.

Note: The changes made by LB 31, section 24, became effective September 9, 1993. The changes made by LB 112, section 46, became effective March 23, 1993.

83-123.01. Repealed. Laws 1993, LB 31, § 83.

83-124. Administrator of Nebraska Veterans' Home; qualifications. The administrator of the Nebraska Veterans' Home shall (1) have served in the armed forces of the United States during a period of war as defined in section 80-401.01, (2) have attained the age of thirty-five, and (3) have been a resident of Nebraska for at least five years immediately preceding the date of appointment.

Source: Laws 1913, c. 179, § 11, p. 538; R.S. 1913, § 7189; Laws 1917, c. 131, § 1, p. 312; Laws 1921, c. 200, § 1, p. 722; C.S. 1922, § 6840; C.S. 1929, § 83-111; Laws 1935, c. 185, § 2, p. 685; C.S.Supp., 1941, § 83-111; R.S. 1943, § 83-124; Laws 1947, c. 329, § 1, p. 1045; Laws 1951, c. 320, § 1, p. 1092; Laws 1953, c. 340, § 1, p. 1113; Laws 1969, c. 817, § 71, p. 3107; Laws 1971, LB 334, § 5.

Cross Reference
For provisions relating to Nebraska Veterans' Home, see Chapter 80, article 2.

83-125. Repealed. Laws 1973, LB 100, § 1.

83-126. Repealed. Laws 1969, c. 817, § 87.

83-127. Repealed. Laws 1965, c. 538, § 40.

83-128. Officers and employees; official bond. Each official and employee who is given the custody of funds or property of the state shall be bonded under the blanket surety bond required by section 11-201.

Source: Laws 1913, c. 179, § 15, p. 541; R.S. 1913, § 7193; C.S. 1922, § 6844; C.S. 1929, § 83-115; Laws 1941, c. 186, § 1, p. 754; C.S.Supp., 1941, § 83-115; R.S. 1943, § 83-128; Laws 1978, LB 653, § 36.

83-129. State institutions; money received; remittance; report. All money derived from any source in any institution controlled by the Department of Public Institutions shall be remitted to the State Treasurer by the proper executive officer on the first day of each month. Detailed reports showing the source of all money received shall be made to the department every thirty days.

Source: Laws 1913, c. 179, § 15, p. 541; R.S. 1913, § 7193; C.S. 1922, § 6844; C.S. 1929, § 83-115; Laws 1941, c. 186, § 1, p. 754; C.S.Supp., 1941, § 83-115.

Cross Reference
Federal funds received, how handled, see section 72-249.

83-130. Emergency Revolving Fund; amount; source; accounting. An Emergency Revolving Fund, not to exceed three thousand dollars for any one institution, upon order of the Director of Public Institutions, shall be drawn from the State Treasurer, to be used by the chief executive officer of each institution as an emergency cash fund. The fund shall be drawn from the general maintenance appropriation for the director. An accounting of this fund shall be made by each executive officer once each month to the director.

Source: Laws 1913, c. 179, § 15, p. 541; R.S. 1913, § 7193; C.S. 1922, § 6844; C.S. 1929, § 83-115; Laws 1941, c. 186, § 1, p. 754; C.S.Supp., 1941, § 83-115; R.S. 1943, § 83-130; Laws 1951, c. 321, § 1, p. 1093.

83-144. Prison-made goods; Department of Public Institutions and Department of Correctional Services; administrative powers. The Department of Public Institutions and the Department of Correctional Services shall administer the provisions of sections 83-144 to 83-152.

Source: Laws 1935, c. 183, § 1, p. 678; C.S.Supp., 1941, § 83-956; R.S. 1943, § 83-144; Laws 1963, c. 526, § 6, p. 1650; Laws 1973, LB 563, § 28.

Cross Reference
Provisions relating to material division not applicable to purchase or use of prison-made goods, see section 81-146.

83-145. Department of Correctional Services-made goods; use; by whom; exchange of goods with other states; sales authorized. All departments, institutions, and agencies of this state which are supported in whole or in part by taxation for state purposes and all counties and other political subdivisions of this state shall purchase from the Department of Correctional Services all articles required by them produced, printed, or manufactured by offenders confined in facilities of the Department of Correctional Services, or elsewhere, including products of any farms operated by the department unless such articles of equal quality and materials could be purchased from another supplier at a lesser cost. The quality and materials must be certified as being equal by the materiel division of the Department of Administrative Services. No such article shall be purchased by any department, institution, or agency of the state from any other source unless excepted from the provisions of this section as provided in sections 83-144 to 83-152. Printing by offenders shall be restricted to such as may be required at the various institutions under the jurisdiction of the department and such other printing requirements as may be determined by the materiel division of the Department of Administrative Services pursuant to subdivision (3) of section 81-1118. No products of any institutional printing plant, other than that used by departments, institutions, agencies, and other political subdivisions of the state, shall be sold in competition with outside labor. Nothing in this section shall be construed to prohibit the department from exchanging Department of Correctional Services-made goods with other states. Goods received from divisions of corrections outside of Nebraska shall be of the same status and will be subject to the same restrictions and penalties as if they had been manufactured in the Nebraska Department of Correctional Services. In cases of exchange of Department of Correctional Services-made goods with other states, the department is authorized to pay or receive in cash any differences that may exist in the articles exchanged, the amounts paid or received to be charged or credited to the Correctional Industries Revolving Fund. In exchange of Department of Correctional Services-made goods with other states, the goods received in exchange shall be restricted to such use and needs as may be required in the various institutions under the jurisdiction of the department. Any authorized agency, bureau, commission, or department of the federal government or any charitable, fraternal, or nonprofit corporation may purchase from the Department of Correctional Services goods produced or manufactured by offenders confined in facilities of the Department of Correctional Services, or elsewhere, including products of any farms operated by the department.

Source: Laws 1935, c. 183, § 2, p. 678; Laws 1937, c. 201, § 1, p. 824; C.S. Supp., 1941, § 83-957; R.S. 1943, § 83-145; Laws 1967, c. 412, § 1, p. 2044; Laws 1969, c. 820, § 1, p. 3125; Laws 1973, LB 563, § 24; Laws 1974, LB 569, § 1; Laws 1980, LB 319, § 7; Laws 1981, LB 381, § 33; Laws 1983, LB 594, § 1; Laws 1992, Third Spec. Sess., LB 2, § 1.
Effective date October 6, 1992.

83-145.01. Department of Correctional Services; purchase of braille books; service of braille machinery; authorized. Any department, institution, or agency of this state and any private individual, firm, partnership, limited liability company, or corporation may purchase from the Department of Correctional Services braille books and materials produced and printed by offenders or misdemeanants confined in facilities of the Department of Correctional Services. The Department of Correctional Services shall also be allowed to service any braille machinery needed to print braille products.

83-146. Purchases; Department of Administrative Services; requisition. All purchases shall be made through the Department of Administrative Services upon the requisition of the proper authority of the department, institution or agency of the state, or of the county or other governmental subdivision requiring such articles.

Source: Laws 1935, c. 183, § 3, p. 679; C.S. Supp., 1941, § 83-958; R.S. 1943, § 83-146; Laws 1967, c. 603, § 1, p. 2045.

83-147. Director of Administrative Services; prison-made goods; discretionary powers. The Director of Administrative Services may create an exception from the mandatory provisions of sections 83-144 to 83-152 when in the opinion of the director, the article produced or manufactured does not meet the reasonable requirements of the department, institution, or agency of the state. The Director of Correctional Services may create an exception from the mandatory provisions of sections 83-144 to 83-152 in any case when the requisition made cannot be completely complied with on account of an insufficient supply of the article or supplies required, or otherwise. No such department, institution, or agency of the state shall be allowed to evade the intent and meaning of this section by slight violations from standards adopted by the department, when articles produced or manufactured by it in accordance with its standards are reasonably adapted to the actual needs of the department, institution, or agency.

Source: Laws 1935, c. 183, § 4, p. 679; C.S. Supp., 1941, § 83-959; R.S. 1943, § 83-147; Laws 1961, c. 416, § 20, p. 1273; Laws 1973, LB 563, § 30; Laws 1981, LB 381, § 34

83-148. Unauthorized vouchers; issuance; effect; malfeasance in office; punishment. No voucher issued by any such department, institution or agency upon the Director of Administrative Services shall be questioned by him or by the State Treasurer on the ground that sections 83-144 to 83-152 shall not have been complied with by the department, institution or agency; but intentional violation of the provisions of such sections by any department, institution or agency continued after notice in writing from the Department of Correctional Services to desist, shall constitute malfeasance in office, and shall subject the officer, officers or public employees responsible for the violations to suspension or removal from office, in the manner provided by law in other cases of malfeasance.

Source: Laws 1935, c. 183, § 5, p. 679; C.S. Supp., 1941, § 83-960; R.S. 1943, § 83-148; Laws 1973, LB 563, § 31.

83-149. Prison-made goods; catalog; estimates of materials required. The Department of Correctional Services shall prepare, annually, and at such other times as it may determine necessary, a catalog or bulletin sheets containing a description of all articles and supplies manufactured and produced by the department under sections 83-144 to 83-152. Copies of the catalog and bulletin sheets shall be sent by said department to all departments, institutions and agencies of the state referred to in section 83-145. On or before June 15 of each year, each constitutional state officer, each head of every executive department of the state and each titular head of each institution and other agency of the state shall report in writing to the Department of Administrative Services, estimates for the ensuing year commencing July 1, or ensuing quarter, if desired, the kinds and amounts of articles and supplies required by them for the ensuing year or quarter, referring in such estimates to the catalog and bulletin sheets issued by the Department of Correctional Services insofar as the articles and supplies indicated are included in the catalog or bulletin sheets.

Source: Laws 1935, c. 183, § 6, p. 680; C.S. Supp., 1941, § 83-961; R.S. 1943, § 83-149; Laws 1967, c. 603, § 2, p. 2046; Laws 1973, LB 563, § 32.

83-150. Correctional Industries Revolving Fund; created; use; investment. All funds received by the Department of Correctional Services under sections 83-144 to 83-152 shall be remitted to the State Treasurer for credit to the Correctional Industries Revolving Fund, which fund is hereby created. The fund shall be administered by the Director of Correctional Services. The fund shall be used to pay all proper expenses incident to the administration of sections 83-144 to 83-152, except that transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Correctional Industries Revolving Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1276.

Any money in the Nebraska State Use System of Department of Correctional Services Employment Fund on October 6, 1992, shall be transferred to the Correctional Industries Revolving Fund on such date.

Source: Laws 1935, c. 183, § 9, p. 681; Laws 1939, c. 135, § 1, p. 360; C.S. Supp., 1941, § 83-964; R.S. 1943, § 83-150; Laws 1959, c. 442, § 5, p. 1487; Laws 1969, c. 820, § 2, p. 3126; Laws 1969, c. 584, § 111, p. 2417; Laws 1973, LB 563, § 33; Laws 1992, Third Spec. Sess., LB 2, § 2.
Effective date October 6, 1992.

83-151. Department of Correctional Services-made goods; transportation and sale. Goods produced in whole or in part by persons confined to the department in this state may be transported and sold in the same manner as goods produced by free persons, if persons confined to the department are paid at least minimum wage under state law. The minimum wage requirement does not apply to hobby and craft items produced by persons committed to the department on their own time with their own resources.

Source: Laws 1935, c. 183, § 11, p. 682; C.S.Supp., 1941, § 83-966; R.S. 1943, § 83-151; Laws 1969, c. 820, § 3, p. 3126; Laws 1985, c. 817, § 73, p. 3108; Laws 1972, LB 1122, § 1; Laws 1977, LB 39, § 309; Laws 1980, LB 319, § 8.

Pursuant to the provisions of this section, any money derived from the sale of a hobby or craft item made by an offender is to be placed in the offender's account and the Department of Correctional Services. 205 Neb. 872, 289 N.W.2d 529. Randolph v. Dept. of Cor.

83-152. Goods made by confined persons; reciprocity. Goods produced in whole or in part by persons confined in another state or territory may be transported and sold in this state in the same manner as goods produced by persons committed to the department in this state may be transported or sold in that state or territory.

Source: Laws 1935, c. 183, § 10, p. 681; C.S.Supp., 1941, § 83-965; R.S. 1943, § 83-152; Laws 1969, c. 820, § 4, p. 3127; Laws 1969, c. 817, § 74, p. 3108; Laws 1980, LB 319, § 9.

83-182. Director; establish programs. The director shall establish appropriate programs for each facility designed as far as practical to prepare and assist each person committed to the department to assume his or her responsibilities as a useful citizen. In developing such programs, the director shall seek to make available to each person capable of benefiting therefrom academic or vocational training, participation in productive work, religious and recreational activities, and such therapeutic measures as are practicable. No person shall be ordered or compelled to participate in religious activities.

Source: Laws 1969, c. 817, § 13, p. 3079; Laws 1973, LB 31, § 31. Effective date September 9, 1973.

83-183. Persons committed; employment; wages; rules and regulations.

(1) To establish good habits of work and responsibility, to foster vocational training, and to reduce the cost of operating the facilities, persons committed to the department shall be employed, eight hours per day, so far as possible in constructive and diversified activities in the production of goods, services, and foodstuffs to maintain the facilities, for state use, and for other purposes authorized by law. To accomplish these purposes, the director may establish and maintain industries and farms in appropriate facilities and may enter into arrangement with any other department or agency of the state for the employment of persons committed to the department for state purposes.

(2) The director shall make rules and regulations governing the hours, conditions of labor, and the rates of compensation of persons committed to the department. In determining the rates of compensation, such regulations may take into consideration the quantity and quality of the work performed by such person, whether or not such work was performed during regular working hours, the skill required for its performance, and the economic value of similar work outside of correctional facilities.

(3) Except as provided in section 83-183.01, wage payments to a person committed to the department shall be set aside by the chief executive officer of the facility in a separate fund. The fund shall enable the offender to contribute to the support of his or her dependents, if any, to make necessary purchases from the commissary, and to set aside sums to be paid to him or her at the time of his or her release from the facility.

(4) The director may authorize the chief executive officer to invest the earnings of a person committed to the department. Any accrued interest thereon shall be credited to the person's fund.

(5) The director may authorize the chief executive officer to reimburse the state from a person's wage fund for:

(a) The actual value of state property intentionally or willfully and wantonly destroyed by such person during his or her commitment, and

(b) The reasonable costs incurred in returning such person to the facility to which he or she is committed in the event of his or her escape

(6) No person committed to the department shall be required to engage in excessive labor, and no such person shall be required to perform any work for which he or she is declared unfit by a physician designated by the director.

(7) The director may authorize that a portion of the earnings of a person committed to the department be retained by that person for personal use.

Source: Laws 1940, c. 817, § 14, p. 3080; Laws 1980, LB 319, § 10; Laws 1993, LB 31, § 32. Effective date September 9, 1993.

83-183.01. Persons committed; wages; disposition; director adopt rules and regulations. A person committed to the department who is earning at least minimum wage and is employed pursuant to sections 81-1827 and 83-183, shall have his or her wages set aside by the chief executive officer of the facility in a separate wage fund. The director shall adopt and promulgate rules and regulations which will protect the inmate's rights to due process, provide for hearing as necessary before the Crime Victim's Reparations Committee, and govern the disposition of a confined person's gross monthly wage minus required payroll deduction; and payment of necessary work-related incidental expenses for the following purposes:

(1) For the support of families and dependent relatives of the respective inmates;

(2) For the discharge of any legal obligations, including judgments for restitution;

(3) To pay all or a part of the cost of their board, room, clothing, medical dental, and other correctional services;

(4) To provide for funds payable to the person committed to the department upon his or her release;

(5) For the actual value of state property intentionally or willfully and wantonly destroyed by such person during his or her commitment;

(6) For reasonable costs incurred in returning such person to the facility to which he or she is committed in the event of escape; and

(7) For deposit in the Victim's Compensation Fund.

Source: Laws 1980, LB 319, § 11; Laws 1986, LB 540, § 40; Law 1987, LB 353, § 3.

83-184. Person committed; visit outside facility; work at paid employment; funds; disposal; violations; effect. (1) When the conduct, behavior, mental attitude and conditions indicate that a person committed to the department and the general society of the state will be benefited, and there is reason to believe that the best interests of the people of the state and the person committed to the department will be served thereby, in that order, and upon the recommendation of the Board of Parole in the case of each committed offender, the Director of Correctional Services may authorize such person, under prescribed conditions, to:

(a) Visit a specifically designated place or places and return to the same or another facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services, the contacting of prospective employers, or for any other reason consistent with the public interest; or

(b) Work at paid employment or participate in a training program in the community on a voluntary basis whenever:

(i) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(ii) The rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed.

(2) The wages earned by a person authorized to work at paid employment in the community under the provisions of this section shall be retained by the chief executive officer of the facility to such person's wage fund.

(3) A person authorized to work at paid employment in the community under the provisions of this section may be required to pay, and the Director of Correctional Services is authorized to collect, such costs incident to the person's confinement as the Director of Correctional Services deems appropriate and reasonable. Collections shall be deposited in the state treasury as miscellaneous receipts.

(4) The willful failure of a person to remain within the extended limits of his confinement or to return within the time prescribed to a facility designated by the Director of Correctional Services shall be deemed an escape from custody punishable as provided in section 28-912.

(5) No person employed in the community under the provisions of this section or otherwise released shall, while working in such employment in the community or going to or from such employment or during the time of such release, be deemed to be an agent, employee, or servant of the state.

Source: Laws 1969, c. 817, § 15, p. 3081; Laws 1978, LB 748, § 46.

The word willful herein means only intentional and not accidental or involuntary. State v. Genocigen, 191 Neb. 13, 213 N.W.2d 452. Failure to return to a hospital after a temporary leave constitutes an escape from custody. State v. Mayes, 190 Neb. 837, 212 N.W.2d 623. Sentence of one year for willful failure to return to Nebraska Penal and Correctional Complex from twenty-seven hour furlough was not excessive. State v. Cox, 189 Neb. 821, 205 N.W.2d 546. The Director of Corrections may refuse to release a prisoner for work under this section notwithstanding a favorable recommendation by the Board of Parole. Housand v. Stigler, 186 Neb. 414, 183 N.W.2d 493.

83-443. Financial interest in inmate labor prohibited; violation; penalty. No officer or employee of the Department of Correctional Services who has charge, control, or direction of any inmates shall be in any manner whatever financially interested in the work or profit of the labor of any inmate, and no such officer or employee shall receive any pay, gift, gratuity, or favor of a valuable character from any person interested either directly or indirectly in such labor. Any person violating this section shall be guilty of a Class IV felony. The offense may be reduced to a misdemeanor upon recommendation of the jury, if the court concurs in the recommendation. In such a case, the defendant shall be summarily discharged by the Director of Correctional Services.

Source: Laws 1921, c. 285, § 2, p. 931; C.S. 1922, § 6974; C.S. 1929, § 83-911; R.S. 1943, § 83-443; Laws 1971, LB 563, § 48; Laws 1977, LB 29, § 314; Laws 1993, LB 31, § 38.
Effective date September 9, 1993

83-444. Department officers and employees; interest in prison work prohibited. No officer or employee of the Department of Correctional Services shall employ inmates on work in which he or she or any other officer has a personal interest. No such officer or employee shall be connected with or have any interest in the business or shops belonging to the department.

Source: Laws 1977, c. 75, § 18, p. 138; R.S. 1913, § 7326; C.S. 1922, § 6986; C.S. 1929, § 83-923; R.S. 1943, § 83-444; Laws 1993, LB 31, § 39.
Effective date September 9, 1993

83-445. Repealed. Laws 1969, c. 817, § 87.

83-446 and 83-447. Repealed. Laws 1963, c. 528, § 12.

83-448 to 83-453. Repealed. Laws 1969, c. 817, § 87.

83-454. Howard's Day; observance in all state penal and reformatory institutions. The second day of September in each year, the birthday of John Howard, the author of prison reform throughout the world, shall be observed as a legal holiday in all the penal and reformatory institutions of this state and shall be known as "Howard's Day".

Source: Laws 1911, c. 135, § 1, p. 447; R.S. 1913, § 7352; C.S. 1922, § 7012; C.S. 1929, § 83-950.

83-915. Trust funds; investment; income; use. The chief executive officer of any state institution under the control of the Department of Correctional Services shall invest in United States government bonds, in federally insured bank instruments of investment, in federally insured savings and loan associations, or with the state investment officer any surplus of trust funds which he or she may have in his or her hands belonging to the inmates of the institution under his or her control. The income accruing from the investment shall be used for the general entertainment of the inmates of the institution.

Source: Laws 1973, LB 563, § 67; Laws 1980, LB 698, § 1

83-916. Buildings; erection; repair and improvement; contracts; bidding; procedure; exceptions; bond. (1) The Department of Correctional Services shall have general charge of the erection of new buildings, the repair and improvement of buildings, including fire escapes, and the improvement of grounds.

(2) Buildings and other improvements costing more than fifteen thousand dollars, exclusive of equipment not germane to construction and building material made in the institution, shall be (a) constructed under the general charge of the department as provided in subsection (1) of this section and (b) let by contract to the lowest responsible bidder after proper advertisement as set forth in subsection (5) of this section, except that buildings costing more than fifteen thousand dollars, such as shops, warehouses, or a cannery, when declared necessary by the department and to be constructed on the grounds of any Department of Correctional Services adult correctional facility, may be constructed by the use of inmate labor. Any construction by inmate labor shall have the approval of the department, the warden, and the chief engineer of the department.

(3) Inmate labor on the labor of state charges shall be employed, whenever the department deems it practicable, in all construction, repairs, and improvements at state institutions.

(4) The successful bidder at the letting referred to in subsection (2) of this section shall enter into a formal contract with the department, prepared as provided for by subsection (5) of this section, and shall furnish a bond for the faithful performance of the contract, except that a performance bond shall not be required for any project which has a total cost of fifteen thousand dollars or less unless the department includes a bond requirement in the specifications for the project.

(5) When contracts are to be let by the department as provided for by subsection (2) of this section, advertisements shall be published in accordance with rules and regulations adopted and promulgated by the state building division of the Department of Administrative Services stating that sealed proposals will be received by the Department of Correctional Services at its office on the date therein stated for the furnishing of materials, the construction of buildings, or the making of repairs or improvements and that plans and specifications can be seen at the office of the department. All bids or proposals shall be accompanied by a certified check or bid bond in a sum fixed by the department and payable thereto. All such contracts shall be awarded to the lowest responsible bidder, but the right shall be reserved to reject any and all bids. Whenever any material described in any contract can be obtained from any state institution, the department shall exclude it from such a contract. Upon the awarding of the contract or contracts therefor, the Attorney General shall review the contract or contracts to be entered into by the department and the contracting parties.

Source: Laws 1973, LB 563, § 68; Laws 1990, LB 257, § 6; Laws 1993, LB 31, § 69.
Effective date September 9, 1993.

FACT SHEET

CORNHUSKER STATE INDUSTRIES

GENERAL INFORMATION

From July 1993 to April 1994, an average of 306 inmate workers were employed by Cornhusker State Industries.

The selection process of inmate workers is governed by the Nebraska Department of Correctional Services Administrative Regulations 113.18 on Inmate Job Classifications and Pay Plan. Inmates are required to complete a pre-employment training program administered by a community college. Some inmates are involved with occupational training. Some inmates receive formal specialized training (for example: auto body repair, data entry, sewing).

Department of Correctional Services adult inmate population as of November 30, 1994, was 2,597.

There are approximately 100-150 potential inmate employees on a waiting list at the current time for Cornhusker State Industries employment.

In FY 1993, over 500,000 inmate hours were worked in Cornhusker State Industries..

In FY 1993, Cornhusker State Industries spent approximately \$2,525,000 for supplies and services.

In FY 1993, Cornhusker State Industries payroll (staff and inmates) was approximately \$1,917,343. This has a positive economic impact as the money is being put back into Nebraska's economy both by way of sales by private vendors and the savings enjoyed by customers purchasing CSI products.

Security responsibilities are shared by the institutions and Cornhusker State Industries.

If Cornhusker State Industries had not been in operation during the past five years, there would be more than 2,500,000 additional inmate hours that would have required supervision by Department of Correctional Services staff.

FACT SHEET

CORNHUSKER STATE INDUSTRIES (CSI)

TRADITIONAL INDUSTRIES

Traditional industries are those industries which have traditionally provided employment in the correctional institutions.

By statute, CSI sales are limited to state agencies, institutions, political subdivisions, counties, cities, and non-profit organizations.

The inmate hourly wages range from \$.38 to \$1.08 per hour plus performance incentives.

Products and services offered:

Wood office furniture	Paint and stains
Braille transcription	Printing
Janitorial products	Sewn products
Modular office systems	Office/clerical
Warehousing and distribution	Signs and decals
Telemarketing - CSI products	Data entry
Metal products	Telephone canvassing
Park and road crews	Furniture reconditioning (wood and metal)
Auto body repair	

In FY 1993, a monthly average of 231 inmates worked in traditional industries in Cornhusker State Industries.

FACT SHEET

CORNHUSKER STATE INDUSTRIES

PRIVATE VENTURE INDUSTRIES

The Private Venture Industries Program is certified through the United States Department of Justice and allows Cornhusker State Industries to contract with private companies to employ inmates or purchase products made by inmates for resale in the open market.

The average hourly wage for inmates working in private venture operations in FY 1993 was approximately \$6.07 per hour.

The certification program requires:

Inmate jobs cannot cause a layoff in the area where the operation is located.

Inmates cannot be trained in a discipline when there are people in the area with the same training that cannot find work.

Unions and similar businesses in the area will be notified of the start-up of the operation.

Inmates should be paid the prevailing wage of the area for similar work.

Inmates will pay taxes.

Inmates should pay into a victim fund.

Inmates should pay some inmate maintenance costs.

Inmates should pay some family support or pay into a required savings program.

Types of private venture operations (past and current):

Van conversion components (wood)

Lawn decorations (wood)

Metal grinding

Picnic tables

Sewn products

Wood furniture

Telemarketing

Locker Doors (wood)

In FY 1993, a monthly average of 137 inmates worked in private venture operations in Cornhusker State Industries.

LISTING OF SPACE AVAILABLE AT CORRECTIONAL FACILITIES

NEBRASKA STATE PENITENTIARY

- 1) The old sign shop area has approximately 5,000 square feet of air conditioned space
- 2) The old LaPen area has approximately 12,500 square feet of air conditioned space

LINCOLN CORRECTIONAL CENTER

- 1) The old TGS telemarketing area has approximately 1,000 square feet of carpeted and air conditioned space

OMAHA CORRECTIONAL CENTER

- 1) The old leukemia telephone area has 630 square feet of air conditioned space
- 2) For the right opportunity, the Wood Shop area could be converted. The Wood Shop area has approximately 10,000 square feet of space.

NEBRASKA CENTER FOR WOMEN

- 1) The new Cornhusker State Industries building has approximately 1,500 square feet of space that could be made available

HASTINGS CORRECTIONAL CENTER

- 1) The old TGS telemarketing area has approximately 1,800 square feet of carpeted and air conditioned space

(Information from Jerall Moreland, Cornhusker State Industries Sales & Marketing Manager)

LR 477 INTERIM STUDY TASK FORCE

During the 1994 interim, letters were sent to business leaders, Chamber of Commerce representatives and government leaders inviting them to participate on the LR 477 Interim Study Task Force. Sixty people responded that they were willing to share their time and talents and plans were put into motion to fulfill the Proposed Plan of Action for LR 477.

Staff meetings were held throughout June, 1994, in preparation for a series of tours and information meetings to be held later in the interim. Background information regarding correctional industries was compiled, and the first full Task Force meeting and tour was set for September 20, 1994.

SEPTEMBER 20, 1994 MEETING

On September 20, 1994, 34 people attended a tour of the Cornhusker State Industries shops at the Nebraska State Penitentiary followed by a tour of the shops at the Lincoln Correctional Center. At each institution, an inmate spoke to the Task Force members telling them about the importance of jobs to those incarcerated. Mr. Harold Clarke, Director of the Department of Correctional Services and Jack Falconer, Assistant Director spoke to the group. Don Lincoln, Superintendent of Cornhusker State Industries, told the group about the activities performed by Cornhusker State Industries throughout the state. Myra Butts of M.L. Butts and Associates spoke about her experiences in marketing the products manufactured by CSI.

David Giovannini of Ingersoll-Dresser Pump Company of Hastings spoke to the group about his experiences working with the inmates at Hastings Correctional Center. He indicated that Hastings is a low turnover, low unemployment area, and that there are some not so pleasant, labor-intensive jobs that cannot be filled locally. The inmates have filled this niche. He stated that the quality of inmate work is very good, the cost is competitive, as no benefits need to be paid, and that CSI has been extremely supportive. Inmates want to do the jobs and all in all they have had a positive experience although the negatives are the security issues, division of responsibilities and implementation time. Mr. Giovannini stated that it is important that any company considering coming into a private venture partnership with Cornhusker State Industries should consider the following points:

- (1) Understand your needs
- (2) Have Cornhusker State Industries visit your facility to see how it all fits together
- (3) Look for the win/win situation
- (4) Be ready for an upfront commitment of resources
- (5) Show interest in the people at the facility
- (6) Carefully select the supervisor
- (7) Set up monthly meeting for communication between business and CSI

Don Mihovk of the Nebraska Chamber of Commerce and Industry spoke and expressed the view that the State Chamber, as most people in the state, were totally unaware of the existence of Cornhusker State Industries and what they are currently doing, let alone what they have the potential for doing. He expressed the thought that with the state deficit and the shortage of skilled labor, pursuing employment opportunities for inmates would be a way to tackle both problems.

Duane Acklie of Crete Carrier Corporation discussed his earlier involvement in a prison industries study. He expressed the need to make it easier for employers to participate in work programs. This might need to involve statutory changes on both the state and federal levels.

OCTOBER 25, 1994 MEETING

Invitations were sent to state agency representatives and representatives of the University of Nebraska and state colleges to attend a tour and meeting on October 25, 1994. Agency directors and/or their purchasing agents were invited. Eighteen people went on this tour. Jack Falconer, Assistant Director of the Department of Corrections, spoke to the group about the importance of jobs to the inmates and welcomed any thoughts or suggestions about how CSI products could be improved.

Bill Bode of the University of Nebraska spoke about CSI products they had purchased for Varner Hall. Private bids for the project had ranged from \$7,000 to \$8,000 and the bid from Cornhusker State Industries was \$3,800. He also expressed the thought that although they had had delivery problems in the past, there were no recent problems with either quality or delivery time.

NOVEMBER 20, 1994 MEETING

After the October 25 meeting, it was decided that since traditional Cornhusker State Industries can only manufacture items for state agencies, cities, counties and non-profit organizations, it would be wise to invite county and city representatives to come and tour the facilities and become aware of the products that are being manufactured. Invitations were sent to the County Clerk in each county in the State and to city managers or clerks for larger cities across the state and to towns and villages in the vicinity of Lincoln.

Thirty people attended the tour and meeting. Associate Warden Alan Higley at the Lincoln Correctional Center stated that there were 280 inmates at LCC available to work. Jack Falconer, Assistant Director of the Department of Correctional Industries, stated that only a small percentage of the prison population is involved in an 8-hour work day.

Several suggestions were made by the attendees as to possible tax breaks for incentives for companies providing employment and/or raw materials to Cornhusker State Industries.

JANUARY 11, 1995 MEETING

The entire Task Force will meet again on January 11, 1995 to discuss the suggestions gathered at these meetings. It is possible that additional tours and meetings may be held throughout 1995 to allow additional people to see what is currently going on at CSI and the possibilities for the future.

LR 477 INTERIM STUDY TASK FORCE

Name	Representing
Duane Acklie	Crete Carrier Corp., Lincoln
Richard Baier	Greater York Area Chamber of Commerce
Dennis Bakewell	Adult Parole Administration
Dean Beck	Nebraska Department of Social Services
Bob Bell	Greater Omaha Chamber of Commerce
Bill Bode	University of Nebraska-Lincoln
Timothy Brazeal	Norfolk Area Chamber of Commerce
Barbara Brunkow	Senator Pedersen's Office
Myra Butts	M. L. Butts and Associates, Omaha
Margaret Clark	Nebraska Department of Education
Harold Clarke	Nebraska Department of Correctional Services
Dale Collinsworth	Columbus Area Chamber of Commerce
John Crawford	M-C Industries, Inc., Geneva
Allen Curtis	Nebraska Comm. on Law Enforcement & Crim. Justice
Mary deRegnier	University of Nebraska-Lincoln
Dan Dolan	Nebraska Department of Labor
Kevin Duffy	Judiciary Committee
Tom Egan	Valmont Industries, Inc., Valley
Keith Ellis	Scottsbluff/Gering United Chamber of Commerce
Donald Everett	Runza Restaurants, Lincoln
Jack Falconer	Nebraska Department of Correctional Services
John Farnan	Wayne Area Chamber of Commerce
Allen Frederickson	Accent Service Co., Inc., Omaha
David Giovannini	Ingersoll-Dresser Pump Co., Hastings
Jack Green	Leo A. Daly Co., Omaha
Robert Hallstrom	Nebraska Bankers Assn. & Nat. Fed. of Indep. Business
Jon Hill	Office of Juvenile Services
Roger Jasnoch	Kearney Area Chamber of Commerce
Gordon Jensen	University of Nebraska at Omaha
Kathy Kelley	Douglas County, Omaha
Jolene Kumpula	Nebraska Game & Parks Commission
Barbara Lawson	Nebraska Department of Administrative Services
Don Leuenberger	University of Nebraska Medical Center
Don Lincoln	Cornhusker State Industries
Michael Loeffler	Judiciary Committee
Gordon McDonald	Nebraska State AFL-CIO
Marilyn McElravy	Crete Chamber of Commerce
Cindy Meyer	Nebraska City Chamber of Commerce
Don Mihovk	Nebraska Chamber of Commerce & Industry
Jerall Moreland	Cornhusker State Industries

Name	Representing
P. J. Morgan	Duncan Aviation, Lincoln
Bryce Neidig	Nebraska Farm Bureau Federation
Norm Nelson	Lyman-Richey Sand & Gravel Co., Omaha
Roger Nygaard	Grand Island Area Chamber of Commerce
Trent Nowka	Governor's Office
Natalie Peetz	Greater Omaha Chamber of Commerce
Steven Poots	Seward Chamber of Commerce
Kent Popken	US WEST Communications
Larry Primeau	Nebraska Department of Administrative Services
Kelly Ptacek	Greater Omaha Chamber of Commerce
Don Reynolds	Hastings Area Chamber of Commerce
Dwayne Richard	Nebraska Retail Federation
Jane Sheldon	University of Nebraska at Kearney
Fred Simon	Omaha Steaks International, Omaha
Linda Smith	Beatrice Chamber of Commerce
Jack Swartz	Nebraska Chamber of Commerce & Industry
Brent Thompson	North Platte Chamber of Commerce
Loy Todd	Nebraska New Car & Truck Dealers Association
Duane Vicary	Lincoln Chamber of Commerce
George Watson, Jr.	Chadron State College
Jo Witkowski	Senator Pedersen's Office

RECOMMENDATIONS FOR EXPANSION OF CORNHUSKER STATE INDUSTRIES INMATE JOBS

Transfer some state microfilming operations to Cornhusker State Industries.

Manufacture most state signs at Cornhusker State Industries.

Cornhusker State Industries is currently performing data entry for the Department of Labor and the Department of Social Services. Other state agencies currently conduct data entry operations which might be a source of additional jobs for inmates.

Cornhusker State Industries could offer additional print shop services.

A centralized laundry could be built to handle all state institutional laundry.

At the present time mail sorting duties are contracted out. Except for confidential mail, most of these duties could be handled by inmates working for Cornhusker State Industries.

All institutional sewing could be centralized, and these duties performed by inmates working for Cornhusker State Industries.

All state reupholstery and refinishing could be done by Cornhusker State Industries.

Inmate work crews could be utilized to do repairs and painting of state-owned buildings, parking lots, and garages at substantial savings to the state.

All state agencies could be required to purchase at least 50% of their furniture from Cornhusker State Industries.

Explore the use of tax incentives to encourage private businesses to participate in a cooperative venture with Cornhusker State Industries.

Check the possibility of the state subsidizing the cost of raw materials for Cornhusker State Industries.

Additional utilization of inmate telemarketers to sell products manufactured by Cornhusker State Industries.

At the present time only a small percentage of the total available inmate population is involved in an 8-hour work day. Increase this percentage to at least 25% by 1996.

Continue informational tours and meetings designed to inform people of the existence of Cornhusker State Industries and their products.

Continue to encourage Chamber of Commerce and business representatives to suggest businesses that might be interested in participating in a program utilizing inmate labor.

Explore incentives for inmates to join the Cornhusker State Industries workforce if and when additional jobs are available so that inmates will want to work rather than spend idle time on the yard or in their cells.

CONCLUSIONS

The LR 477 Interim Study Task Force has worked to bring attention to Cornhusker State Industries. Although progress has been made, it appears that there is still a need to promote the products and services that are currently being offered by CSI. These traditional CSI products and services can be sold only to state agencies, counties, cities and non-profit organizations. Further publicity about the availability of these products can only increase demand and should be sought.

The consensus of those who took the time to tour the facilities and attend the meetings appeared to be that more people need to become aware of the products being manufactured and the possibility that inmates can pay for some of their financial commitments if they are able to work.

While the stated goal of the interim study committee is to encourage private business enterprises to come into the prison and employ inmates paying them decent wages from which they will be able to pay room and board, spousal or child support, taxes, and victim compensation, awareness of the possibilities appears to be the first step toward achieving this goal. The committee has attempted to contact businesses and hopes to continue to increase awareness through contacts made during the interim study process.

What the interim study committee has accomplished thus far is to increase awareness of the products, the quality, and the delivery system currently available to state agencies, counties, and cities. By continuing meetings and tours, the committee hopes to inform more governmental entities of the benefits of purchasing equipment and supplies manufactured by Cornhusker State Industries.

In conclusion, the work of the committee is not finished. It is hoped that the LR 477 Interim Study Task Force will be able to continue to meet to further the goals of this interim study and that legislation to carry out the recommendations of the committee will be forthcoming by the beginning of the 1996 Legislature.

NOTES FROM JANUARY 11 TASK FORCE MEETING

ATTENDANCE: Gordon McDonald, Frank Morrison, Myra Butts, Oscar Jones, Gordon Jensen, Tom Keenan, Bill Bode, Kent Popken, Duane Vicary, Jack Falconer, Don Lincoln, Jerall Moreland, Cindy Mayer, Tom Egan, Dan Dolan, Kelly Ptacek, Dean Beck, Dan Frederick, Allen Curtis, Don Everett, Jack Green, Don Reynolds, Richard Baier, Brent Thompson, Vernon Pearson, Jack Swartz, Bob Hallstrom, Dwayne Richard, Barb Lawson, Kevin Duffy, Barb Brunkow, Senator Dwite Pedersen, Cynthia Buettner, Senator Carol Hudkins, Norm Nelson

Senator Dwite Pedersen opened the meeting by discussing how the Task Force began and what has been done including the LR 477 Interim Study Report to the Judiciary Committee.

Jack Falconer, Deputy Director of the Department of Correctional Services, thanked Senator Pedersen for his efforts to do something about getting more jobs for inmates. He stated that the purpose of correctional industries is to provide inmates with meaningful work which is more of a social program and a business program. He emphasized that no state tax dollars go into Cornhusker State Industries except those which are spent by state agencies purchasing equipment, furniture and supplies. He emphasized that 95% of these inmates will eventually get out and that Nebraska's recidivism rate is approximately 23% compared to a national average of 55%. At the present time, 300 inmates out of a total adult population of 2600 are employed. The goal of Cornhusker State Industries is to employ at least 1/4 or 650 inmates. Mr. Falconer told the group that things have been happening since the study began including additional purchases by the University of Nebraska. He discussed the four security classifications of inmates--40% are maximum security inmates; between 25 and 28% are medium custody inmates, the rest are either minimum custody(may leave the premises under direct supervision) or community custody (may leave with periodic supervision). He stated that they are primarily looking for work to be done behind the walls. The wage scale is \$.38 to \$1.08 per hour. In response to a question about benefits, Mr. Falconer replied that the company would only need to provide worker's compensation--all other benefits are already provided by the state to incarcerated persons.

Former Governor Frank B. Morrison spoke about his feeling that the LR 477 Task Force is addressing a most important subject and that the primary purpose of government is to protect the people. He feels that the explosion of violent crime shows that we are not doing the job. He complimented Senator Pedersen and Jack Falconer for their work on this study. He related his experiences as Chairman of the Board of Pardon and Parole and stated that at that time the state AFL-CIO was apprehensive about work projects. He feels that if such a project is going to succeed you need cooperation from organized labor and he feels that can be done. He stated his thoughts that task forces make reports that are set on the shelf and no action is ever taken. He has told the present Governor that one of the main causes of crime is idleness. He feels that Corrections officials need more power to expand prison industries. We can use prisons as a factory to manufacture criminals or to change human behavior. You can't build self-respect without having the aspiration to contribute to society--how are you going to do that without putting them to work? We're not doing much as a society to equalize the playing field for those who are brought into the world. The old saying "idle hands are the devil's workshop" is never

more true than today. There are plenty of jobs to be done and we can do it without putting anyone out of a job or messing up the wage scale. The best managed prison he ever saw was the Shanghai Municipal Prison. Former Governor Morrison talked about people shedding crocodile tears for victims as being the same people who don't want prisoners to go to work. He offered his services to the Task Force.

Gordon McDonald, representing the Nebraska AFL-CIO spoke about the feeling of organized labor regarding correctional industries. He stated that Governor Morrison and Senator Pedersen make compelling arguments for work programs in the prisons, but that alot of the labor union members are concerned about it. He discussed an AFL-CIO diversionary program that was used in the past. He outlined labor's concerns as being that the items manufactured be exclusively for government use and that the prevailing wage used be no less than the private sector's prevailing wage. He stated that he would be willing to look at some of the ideas being offered by the Task Force and that he felt that working with the Task Force could ease some of his member's fears. He cited examples of jobs that would be of great concern to labor as any jobs that would compete with existing jobs in the private sector.

Suggestions were made that the Task Force expand its work to non-profits and private colleges and that marketing strategy recommendations be studied.

It was also suggested that a mini-Task Force or Ad Hoc Committee be set up to work with telemarketing firms.

Another meeting will be held later.

RECOMMENDATIONS FOR EXPANSION OF INMATE JOBS

At the January 11 Task Force meeting, participants were asked to break into two smaller groups to discuss the recommendations outlined in the LR 477 Interim Study Task Force report. The groups were asked to rate the recommendations by importance. Four of the recommendations were decided to be philosophical in nature and it was decided that these would be on-going recommendations. They are as follows:

Increase the percentage of total available inmate population involved in an 8-hour work day to 25% by 1996.

Continue informational tours and meetings designed to inform people of the existence of Cornhusker State Industries and their products.

Continue to encourage Chamber of Commerce and business representatives to suggest businesses that might be interested in participating in a program utilizing inmate labor.

Explore incentives for inmates to join the Cornhusker State Industries workforce if and when additional jobs are available so that inmates will want to work rather than spend idle time on the yard or in their cells.

The top seven recommendations for increasing work opportunities of the two combined groups were as follows:

Cornhusker State Industries is currently performing data entry for the Department of Labor and the Department of Social Services. Other state agencies currently conduct data entry operations which might be a source of additional jobs for inmates.

Manufacture most state signs at Cornhusker State Industries

Cornhusker State Industries could offer additional print shop services.

Inmate work crews could be utilized to do repairs and painting of state-owned buildings, parking lots and garages at substantial savings to the state.

Explore the use of tax incentives to encourage private businesses to participate in a cooperative venture with Cornhusker State Industries.

Manufacture most state signs at Cornhusker State Industries.

Transfer some state microfilming operations to Cornhusker State Industries.

Additional utilization of inmate telemarketers to sell products manufactured by Cornhusker State Industries

Additional suggestions of the group included:

Formulate a Comprehensive Marketing Plan for Cornhusker State Industries

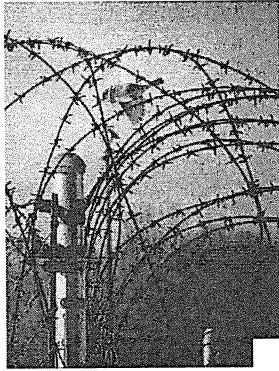
See what can be done to meet the needs of state agencies and the University of Nebraska who are importing certain goods from outside the state (formulate a “buy locally” type of program for these items).

Inmate labor could be used to augment current efforts of state agencies to do data retrieval and data entry for various information services such as Internet and other electronic data services.

Another observation of the group was that jobs should be targeted that would provide inmates with skills that they can use and readily apply to working experiences upon their release from correctional facilities.

Tommy Thompson: Help solve Wisconsin's coming labor shortage by rehabilitating prisoners

Tommy Thompson Published 10:23 a.m. CT April 20, 2018 | Updated 6:57 p.m. CT April 20, 2018



(Photo: Milwaukee Journal Sentinel)

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Throughout my career, perhaps driven by my passion and confidence in our great state, I've had an indelible belief, "Wisconsin works best when Wisconsin works together."

As governor, believing neither political party had a monopoly on innovative ideas, I would invite my Republican colleagues into a room to work on an issue, and enjoy watching their disbelief as their Democrat counterparts would be seated next to them. When we listened to one another mutual

respect grew — and good ideas became great ideas, with diverse opinions and experiences strengthening the end product.

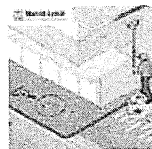
Today, I take great pride in sharing the credit for what we accomplished on key issues including welfare reform and school choice, successful policy innovations in which Wisconsin created a blueprint adopted across the nation.

But time and reflection provide powerful historical lenses. As is often said, "Success has a thousand fathers...failure is an orphan." I presided over the largest expansion of our state's prison system, believing our families are safer as a result. But I've also come to believe that our corrections system and incarceration practices are both financially unsustainable and provide questionable outcomes worthy of strenuous review.

BY MERRILL LYNCH

Unlock Your Home's Value

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While constituencies on both sides of the political divide often bristle at any talk of, "criminal justice reform," I believe there's achievable consensus when focusing on "outcome-based criminal justice reform."

Today, 22% of Wisconsin adults have criminal records. Setting aside those within the walls of our prisons who have so seriously violated the public trust that freedom is no longer an option, there remains an even larger population for which institutional constraint may one day come to an end.

Looking back, I regret not spending more time considering, "What does tomorrow look like for that parolee, and can we work together to help provide the necessary tools to reap a new opportunity?"

Past successes can lead to future challenges. Thirty years ago, I was fortunate to preside over the single largest period of sustained job growth in the state. The good news: We added more than 400,000 jobs. The bad news: Many of those who entered the Wisconsin workforce decades ago are retiring.

Wisconsin's rapidly aging workforce — objectively described as my peers — will leave a massive employment hole. By 2025, the 65 and older population is expected to have increased by two-thirds, causing the so-called, "aging workforce cliff," with 65-year-olds outnumbering 18-year-olds for the first time as soon as 2023. Add the 13,000 jobs Foxconn intends to bring our state, and there's no single solution to this challenge.

At first glance, the Wisconsin prison population and retirees seem to have little in common. But what if you could fill, in part, the coming job vacancies with a committed and highly-trained homegrown workforce? A workforce trained with both job and life skills, coupled with a support network fully vested in their success? A support network that included state government, employers, business associations, trade associations, educational institutions and public/private social support organizations? All sharing the belief that Wisconsin works best when we work together.

Our prisons are full of people who want another chance to succeed. Here's how we can help create better parolees and in turn help our state address workforce shortages:

- Create a core criteria/survey/interview process to find those incarcerated individuals who have both the desire and will to succeed after prison.
- Develop a "Second Chance Skills Institute" that would deliver certified job and entrepreneurial tools along with necessary life skills training. Participation would require a signed contract and a "no mistakes," immediate expulsion policy. The program would have to be fully completed, similar to a skilled technical college degree.
- Work with state government, employers, business groups such as Wisconsin Manufacturers & Commerce and trade unions both financially and for instructional and mentoring support.
- Convert an existing prison (or build a new one) to house the "Second Chance Skills Institute." This secure hub would be part of the Department of Corrections, but fully supported by other state agency efforts including the Department of Workforce Development and the University of Wisconsin and technical college systems.
- Draw on technical schools, two-year colleges and social service organizations along with specifically-hired instructors.
- Develop a highly-structured early parole opportunity, with specific responsibilities and a "no mistake" clause for the most qualified graduates, in which a sponsor-business would provide a skills-specific job opportunity.

The end product, a highly-skilled and marketable job applicant best-equipped to enter the workforce and far-better equipped to reenter society. This high-quality program would create a highly marketable and sought after payroll-ready employee, permanently attached to an ongoing "Second Chance Skills Institute" support network.

I can hear my wide-eyed fiscally conservative friends stammering, "Tommy, how are we going to pay for this?"

Not unlike the successful W-2 welfare reform program I built, this may cost a little more up-front. But in the end, it will be less expensive than paying to re-imprison these parolees as repeat offenders.

"Second Chance Institute" graduates will be working taxpayers rather than costing working taxpayers. But I tend to think merely being a contributing taxpayer doesn't fully- satisfy the front-end commitment and necessary investment program partners would need to make. I believe some sort of reasonable paycheck-drawn loan repayment is necessary, both in terms of addressing program costs but also to further define program value for our newfound successful graduate and working parolee.

I think it's time for the Legislature to take a hard look at the 702 job-related consequences of committing a crime. Training individuals for jobs they legally can't hold makes little sense.

The "Second Chance Skills Institute" could be part of a broader strategy to address the challenge of an aging workforce while also providing the tools, skills and lifelong supporting partners to generate opportunities for a select group of future parolees.

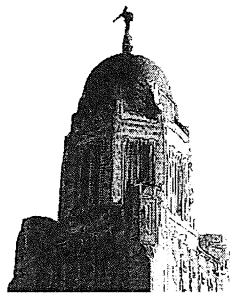
What if the first "Second Change Skills Institute" was located in Racine County, partnering with and neighboring the massive and employee-hungry Foxconn plant?

It's worth repeating: "Wisconsin works best when we work together."

It's time for everyone: our legislative leaders, business and trade associations, educational institutions and social support networks to get to work. Except for the retirees: They can relax and enjoy what they have already accomplished.

Tommy Thompson is the former governor of Wisconsin. Madison attorney Steve Hurley contributed to this commentary.

DOUG KOEBERNICK
Inspector General



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Memorandum

To: Judiciary Committee and Senator Kate Bolz
From: Doug Koebernick, Office of Inspector General
Re: County Jail Program
Date: March 21, 2018

In February, I testified before the Judiciary Committee in support of LB 853, a bill introduced by Senator Bolz. The bill would establish criteria for who the Nebraska Department of Correctional Services (NDCS) could place in a contracted bed in a county jail. Without this legislation, NDCS can continue to place anyone they choose in a county jail for a nearly indefinite amount of time.

At the hearing, I shared that I had recently visited five county jails that housed state inmates. After the tour, I visited with staff at NDCS who ran the county jail program and shared several concerns with them and asked that they address them. Below are my concerns and the NDCS response:

OIG: Barriers to the timely placement of inmate funds into county accounts.

NDCS: Direct deposit for transferring funds has begun in Hall, Platte, Dawson, Lincoln and Phelps Counties. Only Buffalo is left and they are working on the paperwork now. While the transferring of funds isn't instant (3 business days), it is reliable. As it continues on the inmates and jail staff will become accustomed to the fact that money arrives consistently.

OIG: Miscommunication regarding what property can be brought from the state system to each county jail.

NDCS: Platte, Buffalo and Phelps allow all property. Dawson and Lincoln allow legal papers, religious book, eye wear, address book, self-meds and inhaler.

OIG: Kites (inmate interview request forms that are sent by the inmates to the Department regarding concerns or complaints) going unanswered.

NDCS: With Ron Thompson now overseeing the program, IIRs are answered generally the same day they are received. They are emailed back and forth between Thompson and the jail staff (or inmate directly in Dawson's case), paper IIRs are brought to Thompson by transport staff and answered IIRs are usually emailed to the facility so that the inmates receive them sooner.

OIG: Grievance forms not being provided to inmates.

NDCS: There are now two designated transport staff assigned to cover specific county jails. Grievances are just one of many standard NDCS forms brought to each county jail each time caseload is done and would be available should an inmate requests said form. Inmates have also requested grievance forms via IIRs and Thompson ensures the type and amount of grievances are sent out to that specific inmate.

OIG: No caseworker contact with the inmates.

NDCS: There are now two designated transport staff assigned to cover specific county jails. Both have a large amount of experience in NDCS housing/casework that assists them with answering many of the inmate's questions involving the Jail Program, classification, grievances, etc. These two staff conduct the majority of transfers to and from the jails as well. This has vastly improved the continuity of the program and communication between NDCS and inmates.

OIG: Concerns about a lack of professional treatment by state staff who do visit the county jails.

NDCS: Haven't seen it, nor has my transport staff.

OIG: Timely medical care at county jails.

NDCS: All jails have round the clock medical staff available. Medical staff at the jails work with NDCS medical to determine when inmates need to return to NDCS for a medical need.

OIG: Minimal information on each inmate being share with the county by the state.

NDCS: County Jails have received information as requested. Otherwise Jails have been looking up the public info of inmates they receive and are satisfied with that information.

OIG: Meal concerns (quality and quantity).

NDCS: Transport staff have observed meals and noted that they all seem to match or exceed what the state provides in terms of quality and quantity. Jails are ensuring that they are following the caloric requirement set by the jail standards.

Barb Brunkow from the Ombudsman's office and I met with NDCS staff to go over these concerns and their responses. I was encouraged by the responsiveness of NDCS to these concerns and hope that they will address additional concerns and/or suggestions raised by Ms. Brunkow and myself. It is concerning that it took a tour of the facilities of an entity outside NDCS to bring these concerns to

the forefront. Some of the concerns raised resulted from NDCS staff not following through on previous practices and NDCS leadership not making sure that the program was being administered in a consistent and appropriate manner.

Ms. Brunkow shared that there had been an increase in complaints by inmates at the Work Ethic Camp due to their inability to advance to a community custody setting. It was confirmed by NDCS staff that this is accurate and that there is a demand for additional community custody beds. This demand will also be heightened due to changes that are being made by the Board of Parole regarding the scheduling of parole reviews.

After this meeting, I continue to support the concept of LB 853. I also stand by my testimony on the bill that I am hesitant to support placing state inmates in county jails due to the conditions in county jails.

Please feel free to contact me if you have any questions regarding this information.

Source	Recommendations	July 2017 Status	July 2018 Status
2016 Annual Report	Convene a work group on staff retention that includes people in positions throughout NDCS and individuals from outside NDCS	Various processes have been used to identify and implement strategies to improve retention. This concept has merit, but we have collected significant information from staff through the culture survey and the surveys conducted by the IG. Salary increases, leadership training, and various bonuses have had some impact on retention, but the overall effect is difficult to measure. HR is currently working with DAS to find new ideas.	Despite numerous str: agency, staff retention or workgroup will be for
2016 Annual Report	Present salary proposals to the Department of Administrative Services that would either result in longevity pay or the establishment of a tiered plan system where an employee can be rewarded for reaching certain work goals, achievements or certifications. For example, positions of Corporal I, Corporal II, and Corporal III could be created. To move from one tier to the other the individual would have to be in their position for a certain period of time, take outside classes, gain a special certification or accomplish goals established by NDCS. Health services staff could achieve something similar if they receive a form of health professional certification	A merit pay option was negotiated during the last bargaining session. We will push for funding in the next negotiation session. This is a mandatory subject of bargaining.	Still working on fund audit. With full impl option - it was succes bargaining occurs this table.
2016 Annual Report	Provide additional pay for employees who participate in extra duties that require additional training	Subject of bargaining.	Subject of bargaining
2016 Annual Report	Contact the Department of Administrative Services and begin the process of seeking a reclassification of correctional nurses (including Registered Nurses and Licensed Practical Nurses)	There is no reclassification option that is applicable to my nursing staff. The concept of correctional health care remains an longer term option to recognizing the special work conditions/patient load.	Work continues on th (staff are working on
2016 Annual Report	End the \$250 bonus program that is part of the \$1.5 million retention plan and use the remaining funds to provide bonuses to employees who did not receive the \$500 bonus that was announced in August 2016	Didn't agree.	no change
2016 Annual Report	Place limits on the amount of overtime that an employee can work in one week	Subject of mandatory bargaining, not feasible under current staffing challenges	no change
2016 Annual Report	Consider the banning of back to back 16 hour shifts by employees	Subject of mandatory bargaining, not feasible under current staffing challenges	no change
2016 Annual Report	Provide quarterly updates to the Legislature and the Inspector General for Corrections on turnover rates, vacancy rates, and overtime data for all classifications of positions	We are providing an updated quarterly data report beginning July 31st. If any of this information is not covered, it will provided upon request.	Revised quarterly dat: upon.
2016 Annual Report	Place a renewed focus on improving communication between behavioral health administration and staff	Done	

Source	Recommendations	July 2017 Status	July 2018 Status
2016 Annual Report	Review attempts in other correctional agencies to bring "new blood" into their agencies and develop short-term and long-term plans to do that for NDCS	With our turnover we are constantly bringing in "new blood". Compensation levels for most positions do not attract candidates from other states.	Efforts continue
2016 Annual Report	Continue to develop more program options for inmates that would assist them in being paroled, including the development of programs provided in foreign languages	The work continues.	Assessments are happy greatly expanded, cir VLS programs produ activities greatly expa opportunity to be reac
2016 Annual Report	Complete a staffing analysis for the entire Department of Correctional Services	Of no value at this time, and in light of the actions taken by the LR34 committee in this budget session – it could be years before there is any value in doing any further assessment.	Legislation passed in completed by Deceml custody staffing modk
2016 Annual Report	Provide regular updates to the Legislature and the Inspector General of Corrections regarding any changes that are made as a result of the Culture Survey	I'm not resourced to report on everything we are mandated to report on. I'm not going to add additional reporting on work that we initiated.	Efforts to change the
2016 Annual Report	Continually review placements of inmates in the county jail program to check that the inmates who are placed there actually are qualified to participate in the program	We do.	The date set in statute at NSP. It is a promi: of the concept over th
2016 Annual Report	Establish a goal to implement the restrictive housing peer support pilot program no later than October 1, 2017	I plan to meet the date in the AR.	
2016 Annual Report	Convene a work group on communication that includes people in positions throughout NDCS and individuals from outside NDCS including former inmates. The focus would be to address how NDCS administration can communicate more efficiently and effectively with staff and inmates	We are not resourced to form all the work groups that I would like to form. This is a good idea, but it hasn't risen to the top of the priority list.	A variety of projects/ Communication is alv
2016 Annual Report	Provide the Inspector General of Corrections and the members of the Nabarro suicide Critical Incident Review Team with regular updates on the progress of the recommendations made in the Critical Incident Review. NDCS should also do this for all Critical Incident Reviews that are done in the future	Critical Incident Reviews are internal tool used to improve processes. We will provide copies of the finalized CIRs when requested, and be responsive to questions. I'm not willing to create an external reporting process for an agency work tool.	
2016 Annual Report	Provide additional transparency regarding accountability for the conditions that led to the escapes from the Lincoln Correctional Center on June 9, 2016	We shared all information with you.	

Source	Recommendations	July 2017 Status	July 2018 Status
2016 Annual Report	Develop a plan that would allow female inmates to be able to utilize community custody beds in the Omaha area after the female beds at the Community Corrections Center-Omaha cease to exist	As I continue to learn more about female offenders I'm convinced that our approach of consolidating female community beds is the smartest, most effective way to give female offenders a safe, therapeutic, and reentry focused transition. These are people that have experienced significant life trauma, have high mental health needs, and are not going to succeed simply by getting a minimum wage job in Omaha. The value of work release is having a chance to put enough money away to pay for housing and basic needs upon release. The value of a gender based therapeutic reentry center far outweighs going to work release out by the Omaha airport.	Looking forward to o project is on schedule
2016 Annual Report	Review options pertaining to using county jails as work release placements for people who will be transitioning to areas near those county jails	Have an agreement with Scottsbluff – will continue to explore this idea.	With our commitmen beds, and 100 minimi hard to keep our lowe the cost associated wi
2016 Annual Report	Review the necessity and the effectiveness of all work detail contracts	With the huge expansion of community beds (250+), there will be ample opportunities for transition to work release. Engaging in detail work is an effective transition approach.	
2016 Annual Report	Review how inmates in community corrections are determined to be eligible for work detail versus work release in order to determine whether or not changes could be made to make more inmates eligible for work release	Same response.	
2016 Annual Report	Propose an increase in funding to the Vocational and Life Skills grant program	Not until we can show data that supports additional funding.	Data collection and an
2016 Annual Report	Expand the use of peer support programs by using inmates and people from outside NDCS. For example, consider using trained peers in restrictive housing settings or with individuals who turn down programming opportunities	We are on this path.	Pilot program has bee
2016 Annual Report	Reconvene the work group on travel orders and present a plan that has short-term and long-term solutions and related plans of action to the NDCS Director and the Medical Director no later than January 1, 2017	Dr. Deol was able to resolve the issue.	
2016 Annual Report	Work with the Inspector General to update the programming spreadsheet on a quarterly basis	We are close to having this ready for publication.	

Source	Recommendations	July 2017 Status	July 2018 Status
2016 Annual Report	Examine the benefits of establishing new positions in medical areas, such as medication aides or medical assistants, that would then allow other health services staff to focus on their more immediate responsibilities	Considered, but the compensation is so low that it is difficult to attract and retain people in these positions (Veteran's homes seeing very high turnover).	Efforts to use the Mec could not recruit candi
2016 Annual Report	Work jointly with the Adult Parole Administration and the Board of Parole to present a plan to the Governor and the Legislature detailing how a correctional system overcrowding emergency would be administered	When the time is right	Report will be publist
2016 Annual Report	Work with peer facilities in other states to establish video conferences or other communication opportunities for staff from those facilities to interact with comparable NDCS staff. The emphasis would be on communicating with staff who have gone through changes or situations similar to what is taking place in that particular NDCS facility	This is happening in a variety of ways, and we will continue to build on the concept.	
2016 Annual Report	Establish a two-year pilot program in order to provide "a specialized program to provide services for individuals with a developmental disability as defined by the Division of Developmental Disabilities." The program would require that the Department contract with a provider certified by the Division and that they track data related to the program and report it to the Governor and Legislature. An emphasis of the program would be to assist with the successful re-entry of this population into the community	We will have housing dedicated to cognitively impaired inmates by January, 2019, and programming to address their special needs. We will partner with HHS to develop evidence based approaches. This is an important issue, but we are not ready to focus on this project.	Due to competing den July 2019.
2017 Lamere Report	Review the ability to "turn down the volume" as it relates to response buttons		There are no volume c
2017 Lamere Report	Utilize substance abuse treatment staff to initiate a drug awareness campaign to educate inmates and staff regarding the dangers of using illegal drugs		A campaign was initi renew those efforts. N facilities' closed circu K2.
2017 Lamere Report	Increase the frequency and thoroughness of searches of staff as they enter the prisons		Contraband detection ensure the safety of st
2017 Lamere Report	Utilize drug dogs on a more frequent basis at the entrances of the prisons in order to act as a deterrent and to catch any illegal drugs that are being brought into the prisons		An additional canine resources have been a
2017 Lamere Report	Consider working with law enforcement agencies to assist with staff searches so that an outside entity is conducting the searches on a random basis		Idea considered, not a

Source	Recommendations	July 2017 Status	July 2018 Status
2017 Lamere Report	Review the search policy for visitors in order to determine whether or not it needs to be adjusted to conduct enhanced and appropriate searches of visitors		This is done on a regu
2017 Lamere Report	Conduct a review of visitor and staff searches at each prison, including whether or not the searches are being done in the manner prescribed by DCS, whether they are fairly and uniformly administered, and whether the ability to conduct such searches is impacted by staffing levels		Review completed in continues.
2017 Lamere Report	Report any action taken on these recommendations to the OIG		
2017 TSCI Fire Report	Review all policies regarding emergency situations where it involves possible dangerous and even deadly actions by an inmate in situations such as the one that Mr. YYYYYYYY was involved. Determine whether action against an individual could have been taken in this case and in future cases in which would allow such situations to be handled in a more timely and responsive manner		Addressed through CI
2017 TSCI Fire Report	Review the incident and determine whether or not Mr. YYYYYYYY's cell door should have been closed sooner than it was and whether or not the showers should have been turned off earlier than they were		Addressed through CI
2017 TSCI Fire Report	Always contact the fire department and the Nebraska State Fire Marshal in the case of a fire. In this case, review why those two entities were not contacted and address this lack of appropriate action as soon as possible		Addressed through CI
2017 TSCI Fire Report	Continue to improve the Immediate Segregation and Longer-Term Restrictive Housing placement policies, including the use of active STG in placing inmates in those placements		On-going efforts since
2017 TSCI Fire Report	Work with NDCS Health Services to determine whether medical staff could be moved closer to the location of a serious health incident so that triaging and more timely medical care could be provided		reviewed, no changes
2017 TSCI Fire Report	Review an inmate in a restraint chair every 15 minutes in order to determine whether or not he could be safely removed from it rather than placing him or her there automatically for two hours		Policy addresses use o
2017 TSCI Fire Report	NDCS, the Nebraska State Patrol, the Office of Inspector General for Corrections, and any other relevant parties should meet within 60 days to discuss the policy for maintaining video of serious incidents that take place at facilities operated by NDCS		Need was addressed th

Source	Recommendations	July 2017 Status	July 2018 Status
2017 TSCI Fire Report	Review the Immediate Segregation and Longer-Term Restrictive Housing policies that allow for bedding and other supplies to be left in a gallery while inmates are allowed to walk through the gallery unattended		Addressed through CI
2017 TSCI Fire Report	Report all actions related to these recommendations to the OIG in a timely manner		
2017 Berry Report	Immediately suspend the practice of double bunking in restrictive housing units until the NDCS Restrictive Housing Internal and External Work Groups have had the opportunity to review the policy of double bunking in restrictive housing units and issue a recommendation regarding the policy to the Director of NDCS		Practice reviewed, documentation appropriate.
2017 Berry Report	Review the Restrictive Housing Assignment of Living Location worksheets that have been done since January 1, 2017 in order to determine if they were completed correctly		Past documents were reviewed with inmates was initiated/identified/addressed per
2017 Berry Report	Continue the efforts by NDCS to reduce the number of individuals in restrictive housing and protective management settings		Efforts have been undertaken
2017 Berry Report	Examine the possibility of using peer mentors to work with inmates who choose not to follow orders to move to another cell		Peer mentoring pilot program
2017 Berry Report	Conduct a comprehensive review that examines why Mr. Berry was located at TSCI, whether or not he received the services and programming he needed in order to successfully begin to transition into the community, and whether or not a different placement would have been more appropriate for him as a result of his crime, age, behavioral challenges and sentence length		CIR addressed relevant
2017 Berry Report	Report any action taken on these recommendations to the OIG		
2017 Annual Report	Consider the directing of front-line recruiting efforts at staff who are employed at correctional facilities in Kansas and Missouri due to their lower rate of pay for those positions		Recruiting efforts reactivated
2017 Annual Report	Study whether or not it is feasible and fruitful to provide gender specific training and ongoing supports to female staff		NDCS is hosting an NDCS in the fall of 2018. Other considered.
2017 Annual Report	Include data on vacancies identified in the 2016 staffing analysis when compiling and sharing data on staff vacancies at each facility		This recommendation analysis is fully funded. Information has no approval
2017 Annual Report	Conduct a full staffing analysis of NDCS		Will be complete by December

Source	Recommendations	July 2017 Status	July 2018 Status
2017 Annual Report	Present a recommendation to the Governor and the Legislature regarding the need to request retention and recruitment funding from Legislature, including a plan on how those funds would be utilized if appropriated		Our focus is on on-go time funds that do not
2017 Annual Report	Work jointly with the Office of Parole Administration and the Board of Parole to present a plan to the Governor and the Legislature by March 1, 2018 detailing how a correctional system overcrowding emergency would be administered		A plan will be complete
2017 Annual Report	Invite members of the external restrictive housing work group to observe meetings of the internal restrictive housing work group		We will consider this workgroup membership positions).
2017 Annual Report	Determine whether or not the membership of the external restrictive housing work group needs to be adjusted, as well as whether or not the role or mission of the work group needs to be changed		Per statute, the purpose group shall advise the related to the proper term restrictive housing particular ways to modify the most beneficial di
2017 Annual Report	Request an exception from the Governor's office to allow for the rules and regulations process to move forward regarding the Administrative Regulation for NDCS restrictive housing		No exception is needed
2017 Annual Report	Report all unit lock downs to the OIG in a timely manner		Reports of modified o
2017 Annual Report	Audit Immediate Segregation and Longer Term Restrictive Housing practices to determine if the regulations and procedures are being followed by staff and the administration, including the timeliness and accuracy of paper work		A review of RH procedures upcoming revisions to housing.
2017 Annual Report	Review restrictive housing practices in other states to determine whether the 24 hour out-of-cell time is still appropriate or needs to be adjusted		Have not identified any housing as being any different per week. Most state 22/2 model.
2017 Annual Report	Assess the need for an expansion of family programs for inmates within NDCS		Legislation was introduced use of Inmate Welfare 2018, but did not move
2017 Annual Report	Continue to look for ways to expand peer supports throughout NDCS		The success of the NS steps.

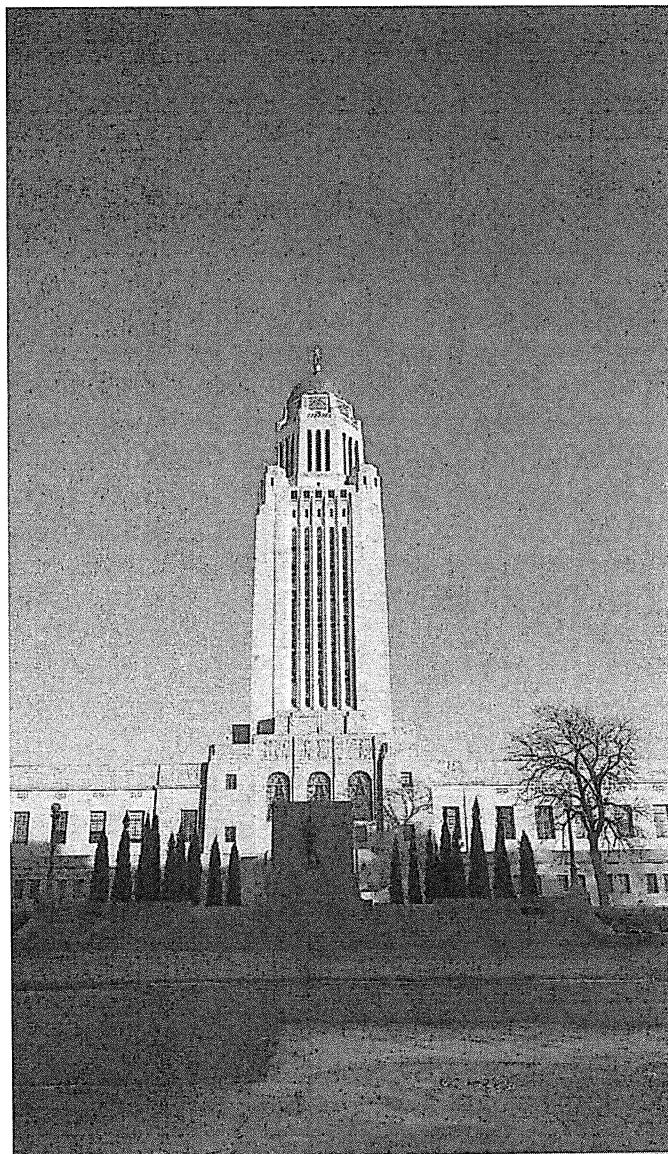
Source	Recommendations	July 2017 Status	July 2018 Status
2017 Annual Report	Establish a work group of staff, inmates and outside interests to review the inmate job system, including a review of inmate pay rates, job classifications, and any other issues identified by the work group or NDCS		To fully impact the ir from the current prac inmate in the system. compensation for the waitlists for people w cultural change - one is right.
2017 Annual Report	Determine whether additional re-entry specialists are needed now and in the future due to changes being made by NDCS and Parole		Two positions were a remains on addressing management capacity inmate activities/mov focused on preparing supervision, reentry's resources for those in We have not yet ache resources.
2017 Annual Report	Provide updates to the OIG and the LR 127 Committee regarding the medical care transition at TSCI in October 2017 and December 2017		The transition went w with filling nursing st location), requiring th
2017 Annual Report	Establish a long-term plan for higher education and vocational education opportunities and present it to the Governor and the Legislature		Current focus is ensui quality assurance, anc
2017 Annual Report	Request that the Department of Administrative Services review the wage scale for Mental Health Practitioners, Substance Abuse treatment staff, and any other positions identified by NDCS as needing an updated and more accurate wage scale		Compensation review issues will continue.
2017 Annual Report	Work with policy makers to determine whether or not the inmate welfare fund state statute should be updated so that the funds are able to provide additional quality of life opportunities for inmates beyond what is currently in state statute		Legislation was intro use of Inmate Welfare 2018, but did not mov
2017 Annual Report	Review the operation of the inmate councils and determine whether or not a more formalized council should be utilized		The inmate councils f communication and c
2017 Annual Report	Prepare a budget request for the Governor and the Legislature that fully addresses the needs of NDCS to carry out their responsibilities, including what is needed to recruit and retain all staff, infrastructure and building needs, programming needs, and any other needs identified by NDCS		This is done every tw

Source	Recommendations	July 2017 Status	July 2018 Status
December 20, 2018 Email to Director Frakes	My suggestion is that the Department consider providing body cameras to staff who escort inmates outside the facilities so that if an incident takes place it can be captured on video. I believe this would be helpful for the Department.		We continue to gather project at TSCI. Bod and the benefits for c
February 2016 Letter to Director Frakes	"The Nebraska Department of Correctional Services should include data of the inmates assigned to the county jails in their Nebraska Inmate Case Management system. The data of those inmates should be included in the data just as it would be if they were located at a state correctional facility. In addition, I would also recommend that a separate tab be created within the system so that the data for this population can be viewed and assessed in a transparent manner."		Data for all inmates c regardless of the pers intends to continue to be all but incidental u at CCCL (if not befor
February 6, 2018 Letter to Director Frakes	I would recommend that the Department review options related to providing text message updates to interested people for each facility.		Considered, not adop
February 6, 2018 Letter to Director Frakes	First, reinforce with the different levels of decision makers that they need to make their recommendations based on information that they have seen and they feel is correct, as well as in the behavior of the inmate. If they feel based on their work with that person that they deserve an opportunity to transition out of LTRH then they should make that recommendation.		This is, and has been,
February 2018 Letter to Director Frakes	Second, the Behavior/Programming Plans for individuals should provide more concrete transitional information for the inmate and more effort should be made to follow the AR and have inmates actively "participate in discussions and planning of criteria and next steps for each transition opportunity" and also to have them "help craft individualized goals and areas for improvement."		Getting inmates to eni challenge. We curren population that refuse others to not engage.
March 21, 2018 Email to Director Frakes	I would like to make one recommendation to the Department as a result of my review. It is my understanding that there was intelligence obtained that showed that Mr. Rogers was attempting to "use" the Ombudsman's office to move back to a correctional facility. Based on his prior history, it appears that his intent was to return to Lincoln so he could initiate new plans at escaping from a correctional facility. My recommendation is that the Department consider working with the Ombudsman's office and even my office to establish a process that would result in sharing information such as that in the future.		We will continue to r manner that ensures th

Source	Recommendations	July 2017 Status	July 2018 Status
<p>May 29, 2018 Email to Deputy Director Rothwell</p>	<p>I would suggest that NDCS look at changing the policy on overtime as it relates to the facilitators. Right now this is causing a significant hardship at NSP and they are struggling to run classes. I think this would be an immediate change that could help with that. I would actually suggest that you consider changing that policy for facilities with staffing issues, for at least the next six months</p>		<p>Changes are underwa where staffing is imp:</p>
<p>June 13, 2018 Email to Director Frakes</p>	<p>In December I shared with you a suggestion that I had regarding the use of body cameras when staff transport inmates outside of facilities. I would like to add to that based on a number of cases that I have recently reviewed. I would actually recommend that you examine using body cameras during those transport times, during cell extractions (actually on a member of the team doing the actual extraction), and during cell searches. I think this could allow for more accountability and transparency but also more protection for staff who are accused of abuse, etc.</p>		<p>We continue to gather project at TSCI. Bod and the benefits for c</p>

Annual Update

FY 2018



Division of Parole Supervision
Nebraska Board of Parole

What Two Years Can Do

On July 1, 2016, we started on a journey to define evidence-based practice for an agency that was trying to define itself in a sea of criminal justice reform. By applying the principles of evidence-based practice to every decision we made, we charted a course to look at all pieces of our agency, to redefine our business, and to solidify our space as community corrections leaders in Nebraska.

In year two, we developed partnerships with community providers to strengthen our service network and looked to individualize the treatment that each client on parole received. The Division of Parole Supervision offers a variety of groups and services in several locations statewide. Our offerings are as diverse as the clients we work with and it is our goal to ensure every client, no matter which areas of the state they may live in, has an opportunity to participate in services that lead to positive change. Our newest partnership with Valley Hope offers clients a one of a kind short term residential treatment opportunity that has never been made available to clients reentering into our communities. The partnership offers personalized treatment with a collaborative reentry plan facilitated by the client's therapist and parole officer. This partnership has led to some promising outcomes for clients. Officers and clinicians partner together to best plan for the needs of the client as they continue to learn to manage their addiction and begin to lay a foundation for their future.

Along with programs and services we continue to strive to enhance our case management strategies. Assessment is the beginning of our work with our clients. The ORAS has become the tool that guides our daily work. When we evaluate risk and need we learn what our steps should be to have the greatest positive outcome with each client. Paired with the consistent application of the EPICS case management model, we ensure that clients receive the appropriate dosage of cognitive behavioral interventions at every opportunity. We know that this is the best path to lasting behavior change.

Data and quality assurance has also played a pivotal role in year two. By using the data to drive decisions and manage our workloads, we have become more efficient and effective in our business. Data gives us information that allows us to take a look at what we are doing and has become something that staff relies on consistently. This transparency creates a culture of a willingness to look and listen. By using the data we have ensured that we stay focused on the principles.

I am proud to say that we have made tremendous strides in a very short time. From these lessons we hope to share what we have learned and continue to learn everyday by examining the science of community corrections and the art of supervision.



Julie Micek

***Director of Supervision and Services
Nebraska Board of Parole and the Division of Parole Supervision***

For more information, go to our website at parole.nebraska.gov or look for the **Division of Parole Supervision** on the following platforms:



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Jeff Hunter
University of Nebraska-Lincoln

Parole Supervision Data at a Glance: FY 2018

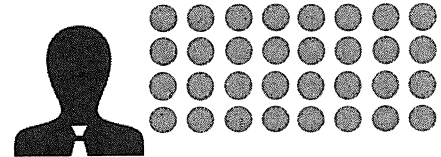
988 Nebraska inmates placed on parole for the first time on current sentence **270** Nebraska inmates reparaoled following revocation



172 Clients paroled to NE from other states

2601

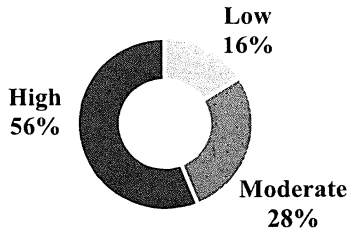
2601 Parole clients supervised in FY 2018



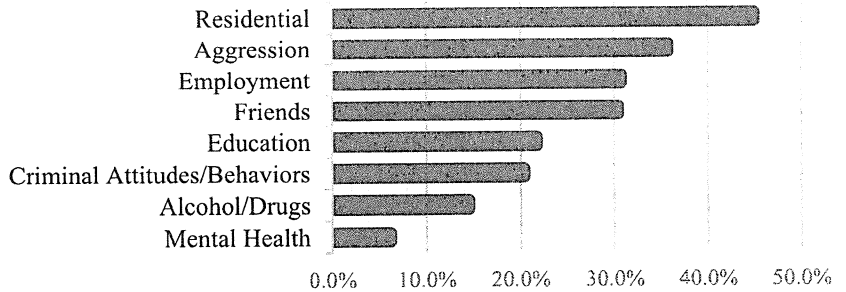
Average caseload per officer: 32

RISK/NEEDS ASSESSMENT

Risk Breakdown:



Percent of Parole Clients with High/Moderate Needs by Domain:



INCENTIVES, SANCTIONS, AND REVOCATIONS

346

Incentives Issued for Pro-Social Behaviors

1,585

Sanctions Issued for Antisocial Behaviors

465

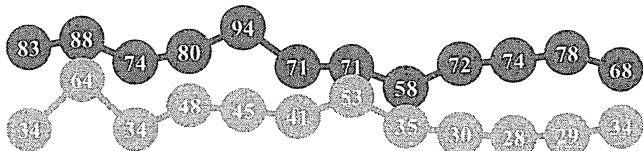
Custodial-Sanction Days Issued for Parole Violations

384

Clients Revoked Due to Serious Parole Violations

CLIENT DISCHARGES/OUTCOMES

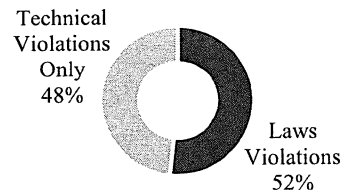
No. Successful/No. Unsuccessful



July 2017

June 2018

Violation Breakdown of Revoked Clients:



Our Mission

It is the mission of the Nebraska Board of Parole and the Division of Parole Supervision to continue its research, understanding and implementation of **evidence-based approaches** as it pertains to the release of clients who have appropriately been prepared for community supervision. The Board and the Division of Parole Supervision are dedicated to maintaining public safety, reducing recidivism and addressing the need of victims, while integrating clients into society through a balance of best practice supervision and treatment strategies.

Our Vision

The Nebraska Board of Parole and the Division of Parole Supervision are committed to serving and protecting the public. The Board will strive to make informed and appropriate parole decisions by giving due consideration to and utilizing the resources of the Division of Parole Supervision, including innovative case management for the successful re-entry of clients back into the community to become productive and responsible citizens.

Our Values

We believe that **change** provides opportunities for growth for our clients as well as our agency and that we can serve as effective catalysts for that growth through the use of collaborative, intentional, and evidence-based practices, which promote not only client success but also staff development and public safety.

We believe that **consistency** is critical for the accountability and success of our clients, staff, and agency and to achieve that consistency we must clearly communicate our expectations and utilize a systematic approach that provides individualized case management in decision-making, supervision practices, and agency operations.

We are **dedicated** to promoting behavior change with our clients to help them reintegrate successfully, to respecting our coworkers and supporting one another through teamwork, to the shared goals and mission of our agency, and foremost to ensuring the safety of the public and our communities.

EBPs

Evidence-based principles and practices for corrections and community supervision:



Assess actuarial risk and needs using assessments to guide case decisions



Enhance intrinsic motivation using rewards and sanctions



Target intervention based on risk, need, and responsivity factors



Skill train with directed practice



Increase positive reinforcement using cognitive-behavioral techniques



Engage ongoing support in natural communities with pro-social influences











Measure relevant processes and practices



Provide measurement feedback and use data to guide actions

Applying EBPs in Parole Supervision

The Division of Parole Supervision has realigned its work to ensure adherence to the principles of evidence-based practices throughout the agency. Below is a brief listing of the different practices that are used in day-to-day community supervision by parole officers and supervisors to build and reinforce those principles across Nebraska:

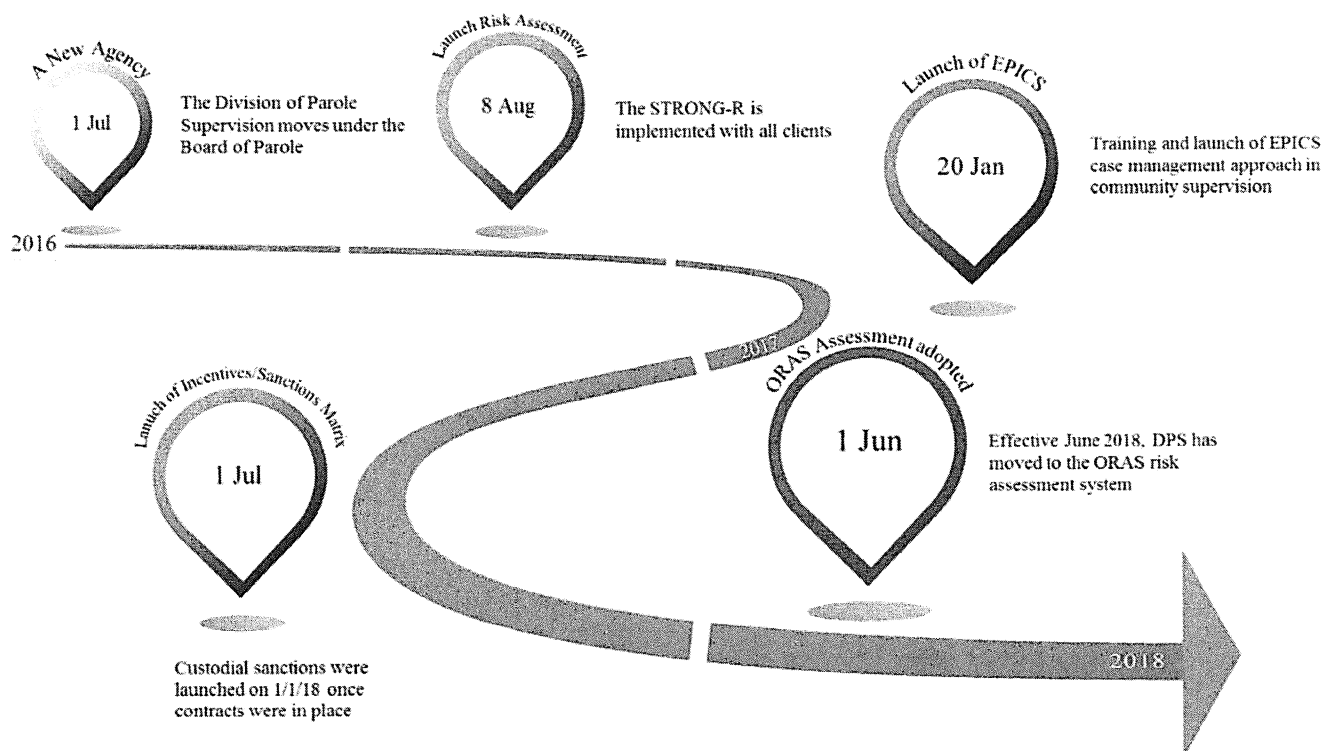
	Risk Assessment	Assessments used to evaluate risk and needs include Ohio Risk Assessment System (ORAS), Static-99, Stable 2007, Acute 2007
	Enhance Intrinsic Motivation	Since 2017, parole has utilized an incentives and sanctions matrix to provide swift recognition and response to both negative and positive behaviors and, in 2018, began employing custodial sanctions for technical or limited laws violations
	Target Intervention	Parole officers use assessment results in combination with the Effective Practices in Community Supervision (EPICS) model of case management to identify interventions that fit the client
	Skill Train with Directed Practice	Officers use EPICS cognitive-behavioral interventions, skill-building, and problem-solving techniques to deliver dosage to clients and to assist them with their reentry into the community
	Increase Positive Reinforcement	Beginning in 2017, parole incorporated the use of the Carey Group's 4:1 BMS software to easily identify meaningful positive responses for each client and to track use of those incentives as well as use of sanctions
	Engage Ongoing Support in Natural Communities	In the course of the last two years, parole has built a network with providers to provide short-term residential drug treatment, relapse and pretreatment classes, and transitional housing partnerships so clients can receive services in their home communities
	Measure Relevant Processes	Obtaining over \$250,000 in grants has allowed for the adoption of new case management software, updating and integration of the existing client management system, and data dashboards to measure client progress, outcomes, and even agency operations
	Provide Measurement Feedback	Quality assurance and continuous quality improvement processes have been implemented with assessments, case management, drug testing, use of incentives and sanctions to ensure that data is used to improve and adapt existing practices in pursuit of the best outcomes for clients and public safety

Where We've Been...

July 1, 2016–June 30, 2018

Bringing EBPs to Parole

One month after the Division of Parole Supervision moved under the Board of Parole, parole began use and implementation of risk and needs assessments for all clients; from that point forward, the agency has worked to build in EBPs as the core of what we do. From 2016 through 2018, a lot has changed for us—just see the timeline below! We're excited that in June of 2018, DPS adopted the Ohio Risk Assessment System (ORAS), providing the agency with a wealth of tools that better match and meet the needs of parole officers and clients. Our work on EBP implementation and continuous quality improvement is a long-term effort to which we have mindfully committed and are dedicated to seeing through for our clients and communities.



From 2016 to 2018, how have things changed?

- 100% of parole clients are now assessed for risk of recidivism in the first 30 days of their parole term using a validated risk assessment tool developed for community supervision
- Sanctions are now used on a consistent basis with clients, including custodial sanctions—in FY 2018, parole officers utilized 1,585 sanctions and reduced the number of review of parole hearings held during the year by 17%
- The average length of time on parole for successful clients has increased by 7% from 9 months to 9.7 months

...and Where We're Going

Building Our Resources to Expand Our Success

We have always had a plan for where we are going in the future. We knew tracking our early successes was critical, so that we could see all that we had accomplished and motivate ourselves to keep moving. As we move into year three, the blueprint for our agency has become defined by the use of data-driven practices and processes that focus on the three goals we feel define the way in which we want our business to grow and change: **Client Behavior Change and Accountability, Capital/Service Management, and System Change**. As we pursue these goals, the following initiatives will be enacted, reviewed, and assessed:

1 Client Behavior Change & Accountability Initiatives

- **Cognitive-behavioral group intervention sessions** conducted by specialized parole officers using CBI-CC techniques in conjunction with the EPICS model
- **Complete assessments and EPICS sessions** consistently and partner with the UCCI team to complete ORAS validation

2 Capital/Service Management

- Further development of our **metropolitan resource centers** within the parole offices in Lincoln (Heritage Square) and Omaha (Nebraska State Office Building)
- Creation of new processes and dedication of significant resources to provide more **transitional housing** options to clients who cannot afford independent housing
- **Reallocation of staff** resources to support Western regional parole officers and supervisors

3 System Change








- Expansion of the **existing provider network and partnerships**, particularly in the rural regions of the state
- Development and issuance of a second **Request for Proposals** to identify additional networks and/or services that reinforce EBPs across parole
- Completion of work with the **National Governor's Association** and **National Parole Resource Center** to support the work of the **Seamless System of Services**

Our Strategic Goals

July 1, 2018-June 30, 2020



Goal 1: Client Behavior Change and Accountability

In order to improve our effectiveness and enhance public safety, DPS must adopt client supervision practices that are supported by existing evidence-based practices and research. We must strive to measure our outcomes and ensure high-quality work to enhance public safety and behavior change for the clients under our supervision.

-  Ensure client assessments are completed consistently and accurately, implement and evaluate the best option for conducting assessments regarding special populations
-  Begin monitoring effects of EPICS, ensure staff is aligned with case management/supervision model and cognitive tools/programs, ensure that training continues to support staff in their work as change agents
-  Ensure all staff have been trained in all case management and supervision strategies reflecting the EPICS model, ensure referrals for service/programs are targeted, develop a case plan for high and moderate-risk clients
-  Match client's traits with the right intervention (the art of supervision)
-  Review and measure sanction utilization and effectiveness, develop recommendations on how sanctioning practices can be further improved, expand utilization of custodial sanction and loss of good time
-  Establish baselines for data-driven outcomes and meaningful data collection related to supervision, ensure supervision and direct services are delivered with fidelity, document current levels of training and knowledge
-  regarding cognitive-behavioral interventions amongst staff, continue to provide quality assurance and train staff through boosters and targeted support




Goal 2: Capital/Service Management

In order to ensure that our financial decisions are consistent with our agency goals understanding our resources and the management of those resources is important to our success. We are committed to directing our resources to delivering cost-effective services. This goal targets interventions that will give the best results and promote long-term sustainability.

-  Review budget to ensure spending meets needs and targets prioritized resources; review/modify job classifications and specifications for each position within the agency; develop a 3-year comprehensive training plan that identifies agency needs, job competencies for each position, and measurable outcomes for yearly evaluations;
-  deliver both individualized (based on position) and agency-wide trainings to address job expectations and competencies; assess and address the need for new technology, safety procedures, and infrastructure; begin implementation of agency-wide continuous quality improvement plan; complete facility and property evaluations statewide; develop a cost-benefit analysis for supervision and services; make adjustments to strategic plan based on data-driven outcomes; recruit, hire, develop, and manage staff and volunteers with the right skill sets and competencies; create a workplace that allows for leadership, succession planning, and career growth; review all internal processes for efficiency, opportunities to streamline, and whether agency practices are meeting goals

Goal 3: System Change

In order to continue to foster the work surrounding Justice Reinvestment, the Division of Parole Supervision is committed to serve as leaders in system change and unite partners to collaborate for the good of the whole. We will use our mission to guide our practice and focus on our growth of evidence-based principles throughout our agency and impact system partners and community partnerships.

-  Review policies and practices to determine if they are in line with EBP and the mission and vision of our agency;
-  Develop contracts for services within the metro/rural areas; continue to develop resource centers in Lincoln and Omaha; provide information and training to external stakeholders and the general public; continue to develop roles in the Seamless Services system; collaborate with criminal justice partners on meeting victim needs
-  Develop a set of standards for assessing the culture within our own agency and track implementation; work with criminal justice partners to assess current and collaborative practices

Spotlight: Valley Hope



In 2018, the Division of Parole Supervision partnered with Valley Hope of O’Neill to begin offering residential substance abuse treatment services in the community for those who were eligible for parole but unable to complete residential treatment inside a Department of Corrections facility prior to their parole eligibility date. The pilot program, developed over several months prior to the launch, is based on providing comprehensive community supervision. Parole officers work directly with staff at Valley Hope, conduct face-to-face meetings with clients on site in O’Neill during the 30-day treatment schedule, and set clients up for success through ongoing consultation with clinicians, EPICS case management and interventions, and arranging for transitional housing support upon residential treatment completion.

Valley Hope and the Division of Parole Supervision have joined together to bring residential treatment to parole clients who are not able to get that service prior to being paroled. This pilot program shows great promise, as all of the parole clients who received treatment there have successfully remained on parole or successfully discharged following completion of their term of community supervision.

The success of this program can be measured in both tangible and intangible ways. To date, 100% of clients that have received treatment at Valley Hope while on parole have discharged or remained successfully on parole following completion. Relationships built with the staff in O’Neill have also been resoundingly positive and as a result, the program has already made changes to allow for more leeway with current parole clients who may need additional time in treatment. This is critical to facilitating the successful discharges and outcomes that we are seeking for all clients. Although the program is still in its pilot stage, the initial results have been so positive that Valley Hope has already expanded the number of beds offered to parole clients. In short, this program has made great leaps and bounds in building out our treatment network across Nebraska.

Accomplishments: FY 2018

1

WE GREW OUR AGENCY

LB 841's passage allowed us to make some needed changes and we completed our agency-wide optimization study and reorganization to align agency needs with resources. We've hired a full-time business manager, created the Awards and Recognition Committee to recognize our staff's achievements, and developed a team approach to several processes.

2

WE CHANGED TO SUPPORT OUR CLIENTS

In order to meet our clients' needs, we've closed our Fremont office, relocated the Norfolk office and will be opening new locations in Beatrice and York. We adopted the ORAS risk assessment tool and we've modified or created new policies and procedures to align with what our population requires. And we're innovating with our reentry division and resource centers to meet clients where they're at.

3

WE'VE TRAINED... AND WE'RE TRAINERS!

Our state-of-the art training center was completed this year! Staff have been trained in Cognitive Behavioral Intervention-Comprehensive Curriculum (CBI-CC), EPICS supervisor training, and the Ohio Risk Assessment System; 7 officers are now EPICS Trainers and supervisors are EPICS coaches! We're partnering with NIC on a curriculum for field training. And we've got Lynda with access to 6,500+ courses!

4

WE'VE IMPROVED OUR EFFICIENCY

All agency staff have been certified as Lean Six Sigma Yellow Belts, we launched several QDIP boards, and began conducting team huddles in early-mid 2018.

5

WE'RE NATIONALLY RECOGNIZED

Our Research and Training Team won the Presidential Award from the American Probation and Parole Association. And we've been selected for competitive technical assistance partnerships with the National Governor's Association and the National Parole Resource Center.

6

WE'VE REALLY EXPANDED OUR NETWORK

We've branched out in so many ways:

- Custodial sanctions with 8 county jails;
- Our first RFP built our provider network and we'll be putting out a second RFP in November;
- Collaboration with the Sherwood Foundation to explore reentry on a larger scale;
- Collaboration with the Department of Labor to bring employment classes to parole clients;
- Data-sharing partnerships with CSG, BJS, and the Nebraska Center for Justice Research
- Project Integrate grant partner with Probation
- Valley Hope residential treatment program
- Partnership with the Mental Health Association and Honu House to build housing options
- Ongoing partner in the Seamless Systems collaboration with NDCS and Probation

7

WE'RE GRANT- AND DATA-DRIVEN

We've obtained over \$300,000 in grant funding to purchase tablets for officers, modify the Parolee Information Management System, integrate EBP software, and built data dashboards. This data has guided our quality assurance processes and built our caseload assignments on risk and our IT advances have helped propel our paperless initiative.