
STATE OF NEBRASKA
OFFICE OF INSPECTOR GENERAL
OF THE NEBRASKA CORRECTIONAL SYSTEM



2023 ANNUAL REPORT

The Office of Inspector General of the Nebraska Correctional System (OIG) was established in 2015 to provide accountability and legislative oversight of the state’s correctional system. The office investigates complaints and critical incidents, identifies systemic issues, and provides recommendations for improvement. The OIG serves as an extension of the Legislature’s oversight and, as such, has **no authority or control** over the agencies within its jurisdiction. The Nebraska Department of Correctional Services (NDCS) and the Division of Parole Supervision are the agencies subject to OIG investigations, reviews, inspections, and audits.

Pursuant to the Office of Inspector General of the Nebraska Correctional System Act (Neb. Rev. Stat. § 47-901 et. seq.), this annual report summarizes the work of the OIG over the past year, and provides updates on various observations and recommendations the office has made in recent years.

As always, we want to acknowledge those who have assisted this office, including the Office of Public Counsel (Ombudsman), and the Office of Inspector General of Child Welfare. In particular, we thank the many individuals who have shared their own insights on the Nebraska correctional system, as well as the members of the Nebraska Unicameral for their ongoing support. Thanks is also extended to the many employees of NDCS and Parole who have cooperated with the OIG and shared their expertise and professional insights over the past fiscal year, as well as all of the incarcerated individuals and parolees who have shared insights.

HOW TO FILE A COMPLAINT

Anyone may file a confidential complaint with the OIG regarding concerns related to the Nebraska correctional system. Complaints should pertain to the Department of Correctional Services, the Division of Parole Supervision, or their employees or contractors, and should allege possible misconduct, misfeasance, malfeasance, or violation of a statute or of rules and regulations. Complaints may be filed by mail, email or phone.

Email

OIGCorrections@leg.ne.gov

Mailing Address

State Capitol
P.O. Box 94604
Lincoln, NE 68509-4604

Phone

402-471-4215

CONTENTS

- ABOUT THE OIG4**
 - History..... 4
 - OIG Activities..... 4
 - Attorney General’s Opinion..... 5
- NDCS OVERVIEW.....7**
 - Budget..... 7
 - New Prison..... 8
 - Reception and Treatment Center Expansion, Phase 3 9
- PAROLE OVERVIEW10**
 - Budget..... 10
- INCARCERATED POPULATION12**
 - Total Population..... 12
 - Design Capacity 12
 - County Jails..... 13
 - Demographic Data 14
 - Release Data..... 16
 - Related Past Recommendations 17
- POST-INCARCERATION POPULATION19**
 - Parole 19
 - Post-Release Supervision..... 22
 - Final Racial Breakdown..... 23
- NDCS STAFFING.....24**

General Staffing Data	24
Health Services Staffing	32
CLASSIFICATION	34
Current Custody Levels	34
Complaints	36
UNO Study.....	37
PROGRAMS AND MENTAL HEALTH	38
Program Evaluation Status.....	38
Other Program Information.....	39
RESTRICTIVE HOUSING	41
Less Restrictive Settings	43
NDCS Restrictive Housing Report	44
DEATHS AND OTHER INVESTIGATIONS	45
Death Investigations.....	46
Statutory Requirements and Limitations on Access to Information.....	49
Other Investigations	49
LEGISLATIVE ACTIVITIES	51
Interim Studies	51
2022 Legislation in Action.....	51

ABOUT THE OIG

History

The OIG was established as a result of the work of the Legislature’s Department of Correctional Services Special Investigative Committee, which was created through the adoption of Legislative Resolution 424 in 2014. In its final report, the Committee recommended “that the Legislature establish the ‘Office of Inspector General of the Nebraska Correctional System.’ The Office should conduct audits, inspections, reviews and other activities as necessary to aid the Legislature in its oversight of the Nebraska correctional system.”¹ The Office of Inspector General of the Nebraska Correctional System Act (Neb. Rev. Stat. § 47-901 et. seq.) was enacted in 2015 and the OIG has been active since September 2015. The staff of the OIG is comprised of an Inspector General, an Assistant Inspector General, and a half-time Intake Specialist.

OIG Activities

Since 2015, the OIG has examined and brought awareness to a variety of issues within the state’s correctional system, including staffing challenges, restrictive housing practices, transitional housing and other reentry needs, classification of incarcerated individuals, and medical and mental health care in state correctional facilities. A complete list of past OIG recommendations is included as an attachment to this report.²

Specifically, the OIG has released reports related to the following matters:

- Suspected sexual misconduct by some NDCS staff and questionable investigative and intelligence-gathering practices employed by the Department;³
- Significant staffing shortages resulting in dangerous living and working conditions within NDCS facilities;⁴

¹ https://nebraskalegislature.gov/pdf/reports/committee/select_special/lr424_2014/lr424_report.pdf.

² Attachment A: Past recommendations of the OIG.

³ https://nebraskalegislature.gov/pdf/reports/public_counsel/2021_OIG_Summary_Staff_Arrest_Report.pdf.

⁴ https://nebraskalegislature.gov/pdf/reports/public_counsel/2021_OIG_Staffing_Update_Report.pdf.

- Double bunking in restrictive housing and cellmate compatibility issues, following the murder of a man by his cellmate at the Tecumseh State Correctional Institution (TSCI);⁵
- Shortcomings related to preventative medical care and the NDCS’s lack of compliance with a statutory requirement that it maintain an electronic health records (EHR) system;⁶
- “Walkaways” from community corrections centers and the NDCS’s efforts to improve success at this critical point of a person’s incarceration;⁷
- Shortages of rehabilitative programming and providers at various levels of the correctional system;⁸ and
- The NDCS’s overall response to a variety of serious incidents, including those involving people with serious mental illnesses.⁹

Nebraska’s correctional system is not unique in facing many of these challenges. The OIG provides a layer of accountability and feedback to inform the state’s efforts when faced with such challenges.

Attorney General’s Opinion

On August 16, 2023, Nebraska Attorney General Mike Hilgers issued Opinion 23-008 regarding the constitutionality of the laws governing the OIGs. In response to this opinion, though the laws remain unchanged, NDCS restricted the OIG’s access to information previously available to this office. This response has included eliminating the OIG’s access to NDCS’s electronic case management system (NICaMS), which includes records about people who are or have been in the state’s custody or under supervised release, as well as reports of serious incidents. NDCS has also restricted access to information and records related to deaths of individuals in NDCS custody and the ability of OIG staff to visit and inspect correctional facilities and to speak with incarcerated individuals and correctional staff. Consequently, information that has been included in previous annual reports may be missing from this year’s report, and such omissions are noted

⁵ https://nebraskalegislature.gov/pdf/reports/public_counsel/2017berry.pdf.

⁶ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_oig_niccole_wetherell.pdf.

⁷ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_oig_walkaway_summary.pdf.

⁸ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_annual_report.pdf.

⁹ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_oig_lcc_fire.pdf,

https://nebraskalegislature.gov/pdf/reports/public_counsel/TSCI_Use_of_Force_Summary_Report.pdf and

https://nebraskalegislature.gov/pdf/reports/public_counsel/2017_oig_ncs_smu-fire.pdf.

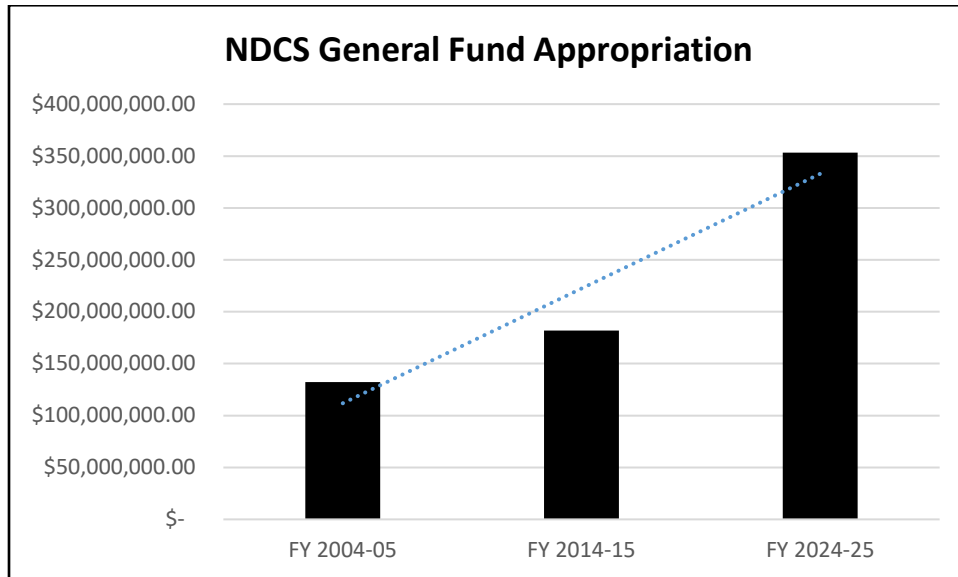
throughout. Although access to critical information has been limited, the OIG continues to work to meet its statutory obligations of providing accountability and oversight of Nebraska's correctional facilities. We are committed to the principles of accountability, transparency, integrity, and good government that form the foundation of the work of inspectors general.

NDCS OVERVIEW

NDCS is the largest agency for which the OIG provides oversight. It has been led by three different people during the past year. Former Director Scott Frakes retired in October 2022 and was replaced on an interim basis by Chief of Operations Diane Sabatka-Rine. Rob Jeffreys was appointed the agency’s new director in April 2023.

Budget

Over the past twenty years, the general fund appropriation for NDCS has increased from \$132 million to over \$353 million, an increase of approximately 167 percent. During that same time, the remainder of the state’s general fund budget (not including NDCS) grew by approximately 103 percent. The agency’s authorized general fund budget for FY 2024-25 (\$353 million) exceeds its general fund budget for FY 2022-23 (\$290 million) by over \$60 million.¹⁰ This does not include any funding for capital construction projects.



¹⁰ Attachment B: Excerpts from 2023 Budget Report.

New Prison

During the 2023 legislative session, \$96 million was transferred to the Nebraska Capital Construction Fund for the remaining funding to construct a new correctional facility. In total, the project is estimated to cost \$335 million and will be a multi-custody level correctional facility that will house over 1,500 incarcerated individuals.

In August 2023, Governor Jim Pillen and Director Rob Jeffreys announced the facility would be built near Lincoln at 102nd and Adams streets. A short time later, the City of Lincoln and the State of Nebraska announced they would trade property so the new facility would be sited north of Interstate 80 near 70th Street. It is east of the city's landfill and is mostly undeveloped, as seen in the photograph below.



It is anticipated that ground will be broken on the project next fall and it will be completed in 2027.

The state's Executive Branch has stated its intent is to close the Nebraska State Penitentiary (NSP) at 14th Street and Nebraska Parkway in Lincoln when the new prison opens. The new

prison will be larger than NSP, which houses approximately 1,200 to 1,300 people. However, the system will likely be more crowded than it is currently when the new facility is finished, despite the addition of 200 to 300 new beds, due to the continual growth of the correctional population.

Reception and Treatment Center Expansion, Phase 3

The Reception and Treatment Center (RTC) in Lincoln has undergone significant expansion in recent years, which has been discussed in previous OIG annual reports and is addressed to some extent later in this report. NDCS is preparing to break ground on three additional units at the facility, consisting of a total of 96 beds for geriatric individuals and those with special needs. The budget for the project is \$18 million.

PAROLE OVERVIEW

Under state law, the OIG's oversight includes the Division of Parole Supervision but not the Board of Parole; as such, the office does not pursue complaints related to Board actions. Supervision of people on parole is handled by the Division under the direction of the Board of Parole. The Director of Parole Supervision is Julie Micek. The Chairperson of the Board of Parole is Rosalyn Cotton.

The OIG visits with Parole staff on a regular basis and communicates with members of the Board of Parole as necessary. The number of complaints received by the OIG regarding the Division of Parole Supervision is minimal, and many of these are more focused on the actions of the Board of Parole rather than the Division of Parole Supervision.

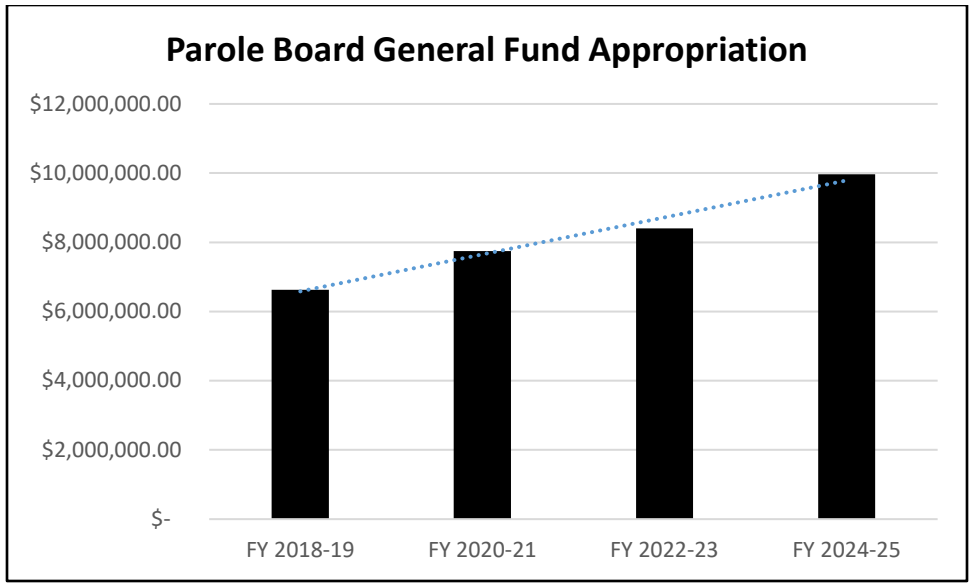
The Board of Parole and the Division of Parole Supervision publish an annual report that provides information regarding the parole process, data, priorities and other key information.¹¹

Budget

The Board of Parole's general fund budget appropriation, which includes the Division of Parole Supervision, has increased during the past few years.¹² This is the result of adding staff and providing additional services to parole clients.

¹¹ <https://parole.nebraska.gov/sites/parole.nebraska.gov/files/doc/CY%202021%20Annual%20Report%20Final.pdf>

¹² It was not until recently that the Board of Parole and the Division of Parole Supervision were separated from the budget of NDCS.



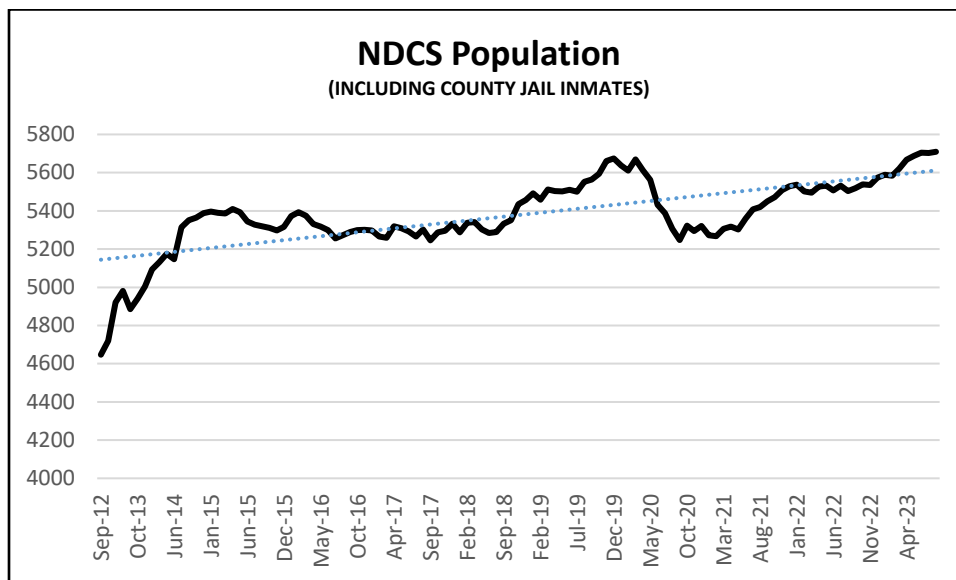
More information on the NDCS and Parole budgets can be found in the Legislature’s 2023 Biennial Budget Report.¹³

¹³ <https://nebraskalegislature.gov/pdf/reports/fiscal/2023budget.pdf>.

INCARCERATED POPULATION

Total Population

In spring 2020, just prior to the COVID-19 pandemic arriving in Nebraska, the total population in NDCS custody reached approximately 5,700. As a result of the pandemic and its impact on the justice system, the incarcerated population declined to under 5,300 by the end of 2020. Many believed that as courts began to operate more normally during the past years, the population figure would return to its previous level. On August 1, 2023, there were 5,709 incarcerated individuals in the system.



Design Capacity

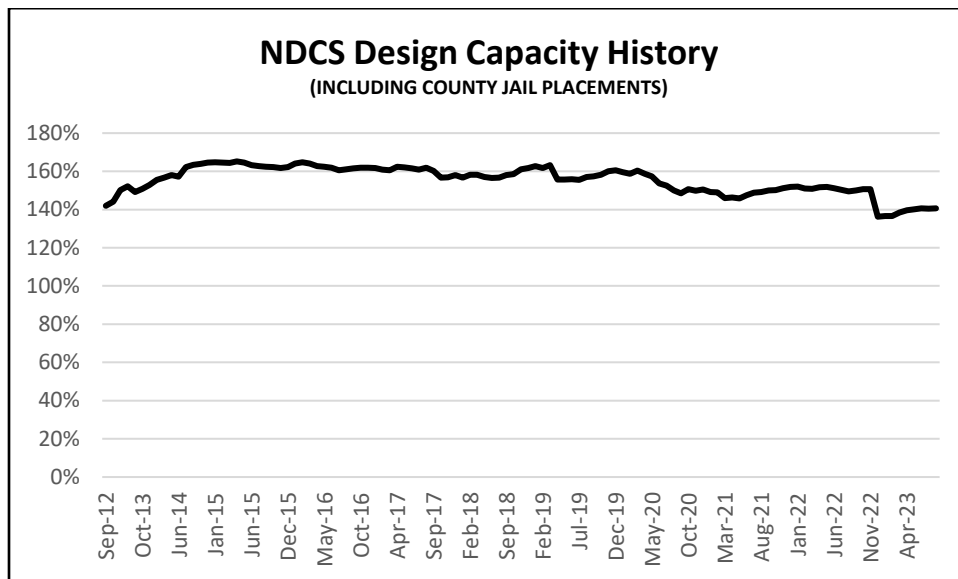
Design capacity is the total designed bed space in facilities operated by NDCS, as certified by the agency director.¹⁴ Currently, NDCS remains in an overcrowding emergency due to the incarcerated population exceeding 140 percent of design capacity as of July 1, 2020, a date specified in statute. This emergency remains in effect until the population decreases or capacity

¹⁴ Correctional System Overcrowding Emergency Act, Neb. Rev. Stat. § 83-960 et. seq.

increases to the point where it matches the system’s “operational capacity,” which is 125 percent of design capacity.

After peaking at slightly over 165 percent of design capacity in 2015, crowding within Nebraska’s prisons had stabilized until the pandemic, when the population dipped closer to 145 percent of design capacity. The OIG’s 2022 annual report projected the population would drop to 137 percent of design capacity when the 384-bed, high-security unit opened at the RTC in Lincoln. This proved true for a brief period, but the NDCS population has since increased. The system is now at 141 percent of design capacity. To provide some perspective, if the population increases to 6,000, it would be operating at approximately 150 percent of design capacity.

The current design capacity figures do not take into account the fact that Housing Unit 1 at NSP has not been occupied since November 2022.

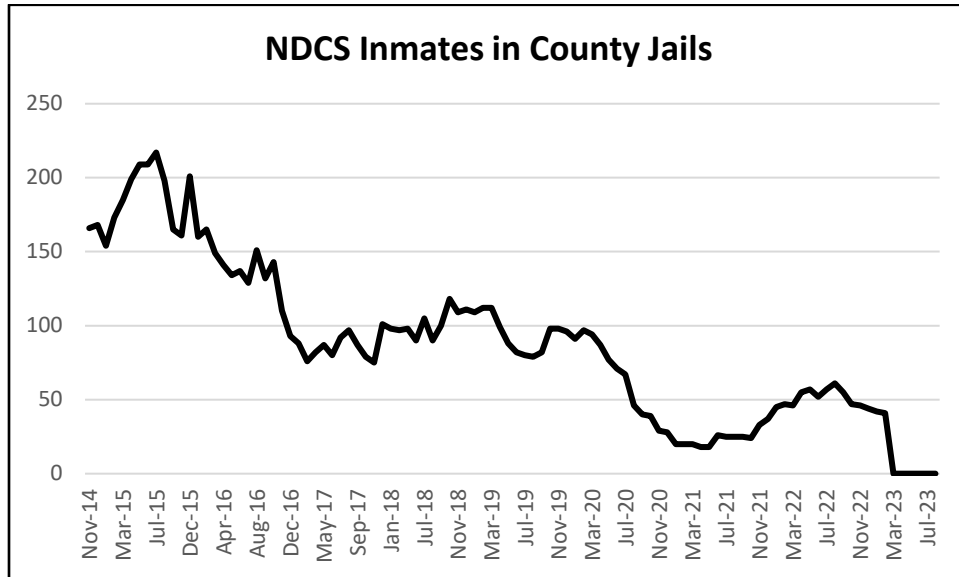


County Jails

In the past, NDCS contracted with a number of county jails to house state prisoners despite funding for this effort ending on June 30, 2017. The original purpose of this program was to help

ease crowding in the state prisons, particularly at the Diagnostic and Evaluation Center (DEC), NDCS’s intake facility for men.¹⁵

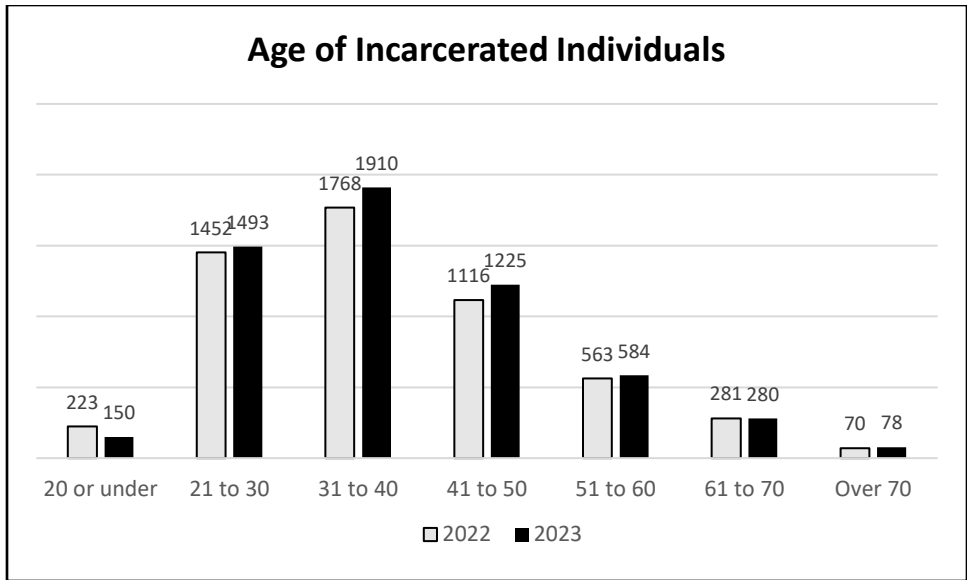
At one point, approximately 200 male incarcerated individuals from NDCS were being housed in county jails. In February 2023, NDCS ended all placements at county jails.



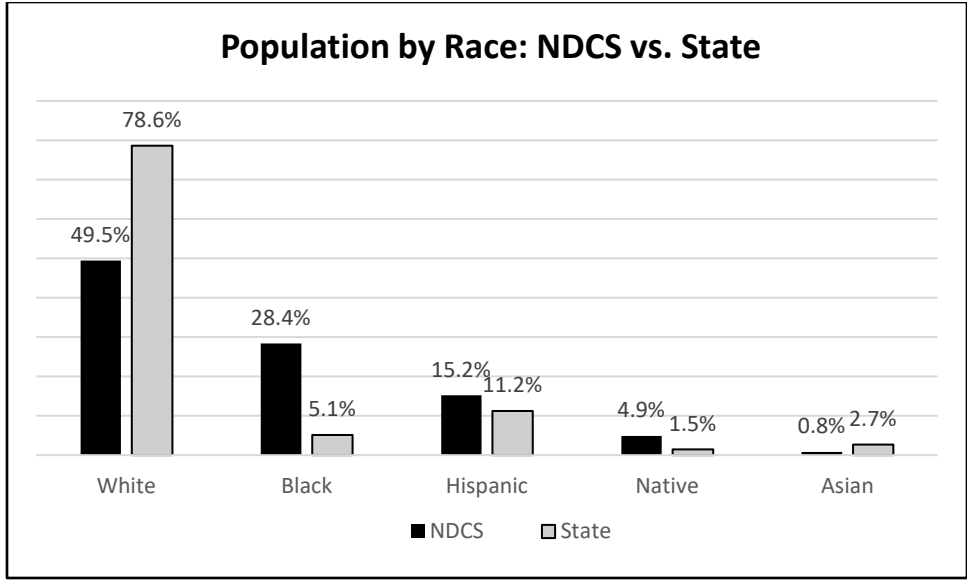
Demographic Data

Nearly 60 percent of the incarcerated population is between ages 21 and 40. There were noticeable shifts in age categories from 2022 to 2023, some of which could be accounted for by an increase in the overall population. The most significant change was the decrease in those 20 years of age and under, as it went from 223 in 2022 to 150 in 2023.

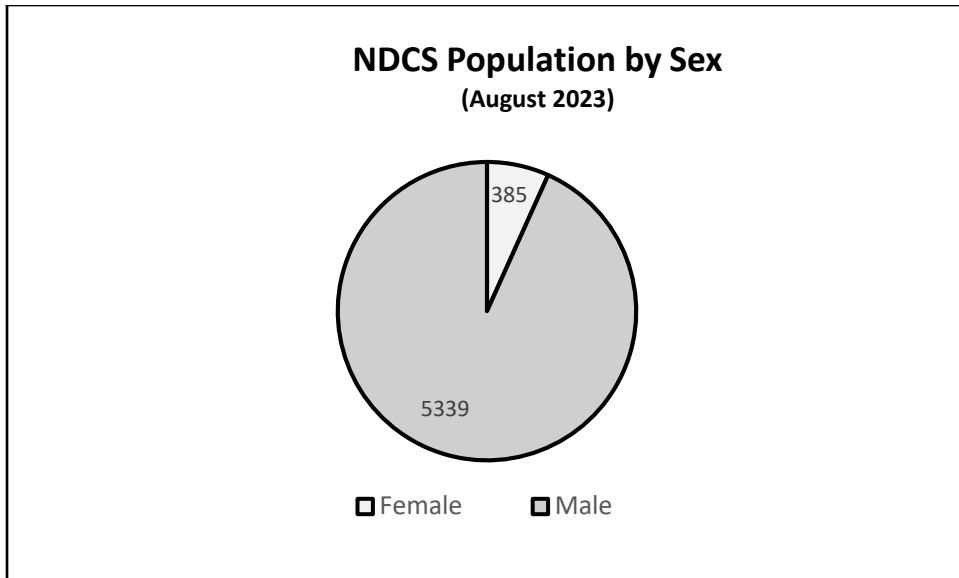
¹⁵ Now known as RTC South.



Overall, the racial demographics of Nebraska’s prison system continue to differ significantly from the state as a whole. More specific racial data will be included later in the report.



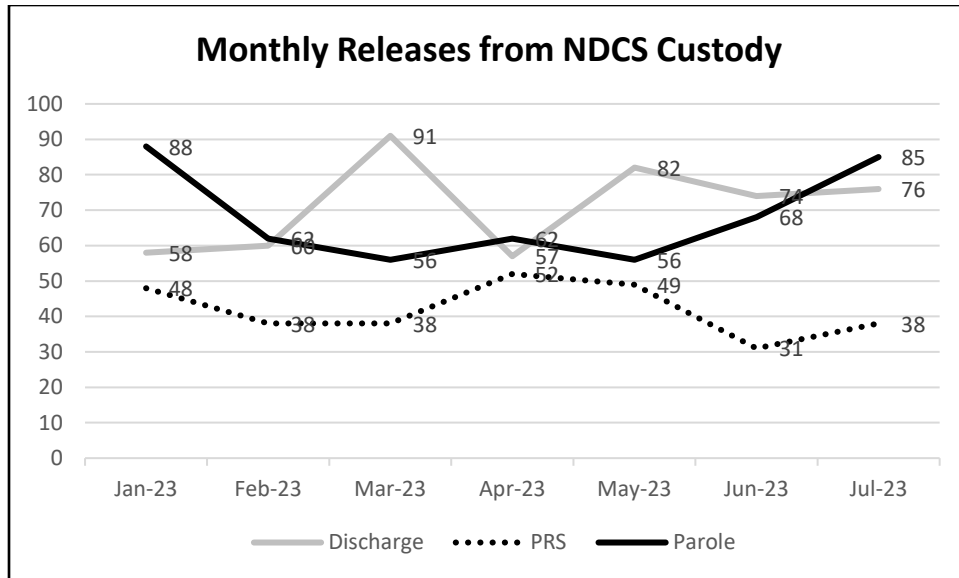
In Nebraska, men make up 93.2 percent of those incarcerated in the state correctional system. This is comparable with other jurisdictions. (For example, the federal Bureau of Prisons’ population consists of 93.1 percent men.)



Release Data

In Nebraska, people are released from a correctional facility on one of three different paths. One is to mandatorily discharge or “jam,” which takes place when someone has no more time on their sentence and must be released. The other two paths for release provide for supervision after a person leaves a correctional facility. If an individual is paroled, which requires a vote by the Board of Parole, they will be supervised for a period of time by the Division of Parole Supervision. If an individual is on post-release supervision (PRS), they will be supervised by the Office of Probation Administration for a set period of time determined at the time of their sentencing. Below is release data for the first half of 2023. NDCS and the Board of Parole jointly publish a mandatory discharge report each year that contains additional release data and information.¹⁶

¹⁶ The latest report can be found at https://nebraskalegislature.gov/FloorDocs/108/PDF/Agencies/Correctional_Services_Department_of/577_20230201-173251.pdf.



Related Past Recommendations

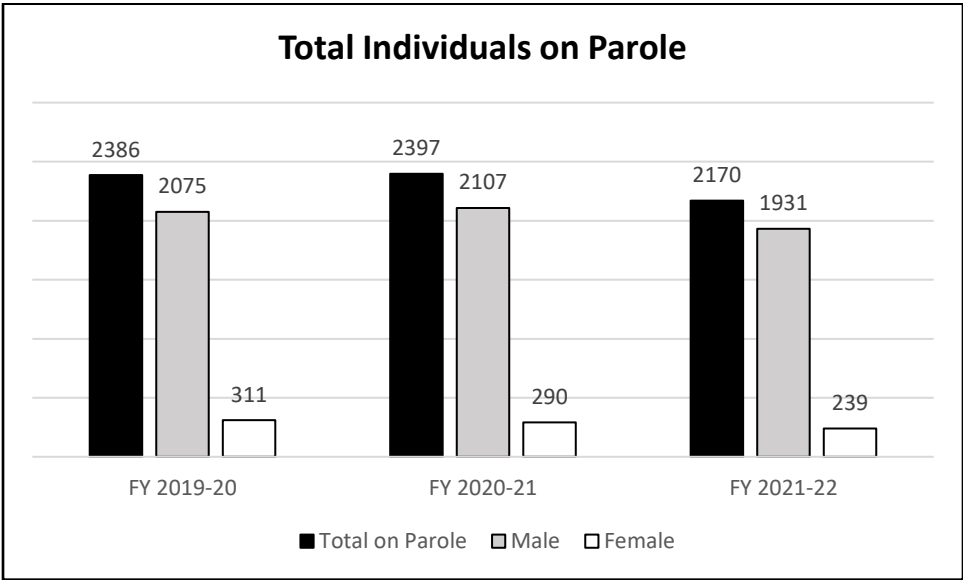
- Due to the number of changes in 2020, in its 2020 annual report, and each subsequent report, the OIG recommended that NDCS contract for an update of a recently completed population projection report. This information could have been included in the 2022 Correctional Facility Master Plan, but it was not.
- Also in 2020, the OIG recommended that NDCS implement a program to provide incarcerated people with an opportunity to have “good time” sentence reductions restored, even if those reductions were deemed “non-restorable” by NDCS, based on conditions such as good behavior. This was not accepted or implemented by NDCS. A program of this kind could potentially reduce the population. NDCS or the Legislature could contract with the Nebraska Center for Justice Research for an updated report assessing the use of good time in the correctional system.
- In 2018, the OIG recommended that NDCS conduct exit interviews of incarcerated individuals who are released from community corrections centers. NDCS responded that

it would pilot this in 2019 at the Community Corrections Center-Lincoln (CCC-L) in the female unit but did not do so.

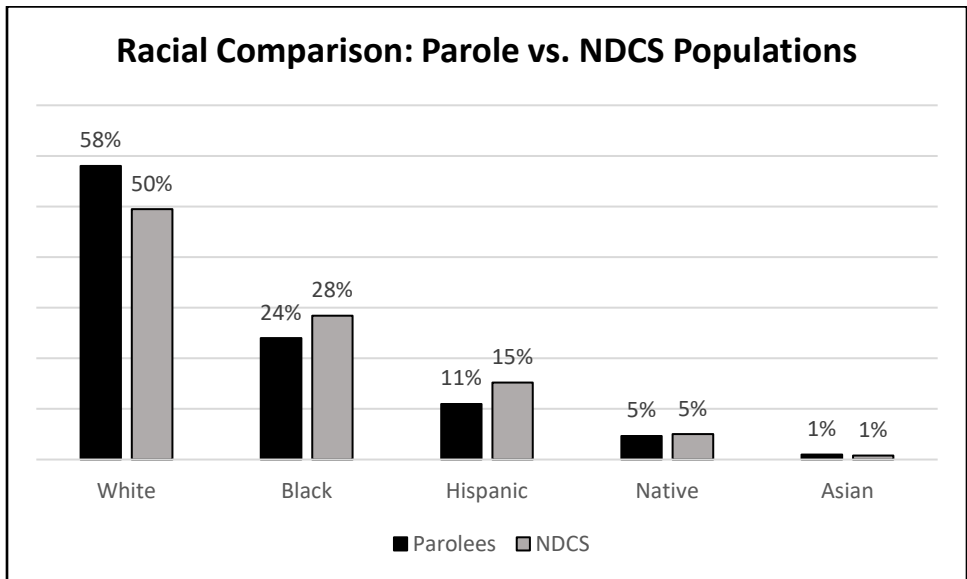
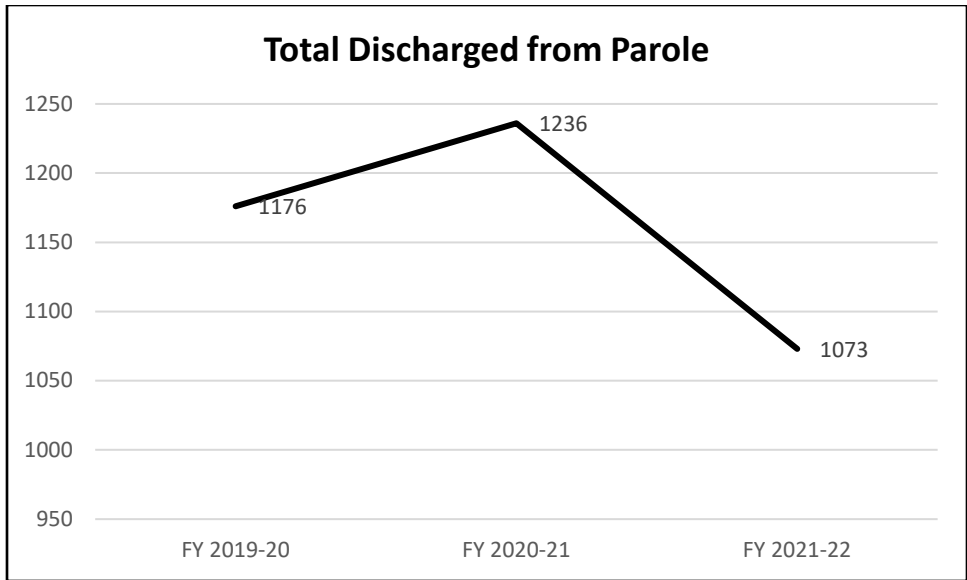
POST-INCARCERATION POPULATION

Parole

The total number of individuals on parole has decreased slightly during the past two years, while the number of individuals discharged from parole has varied.¹⁷



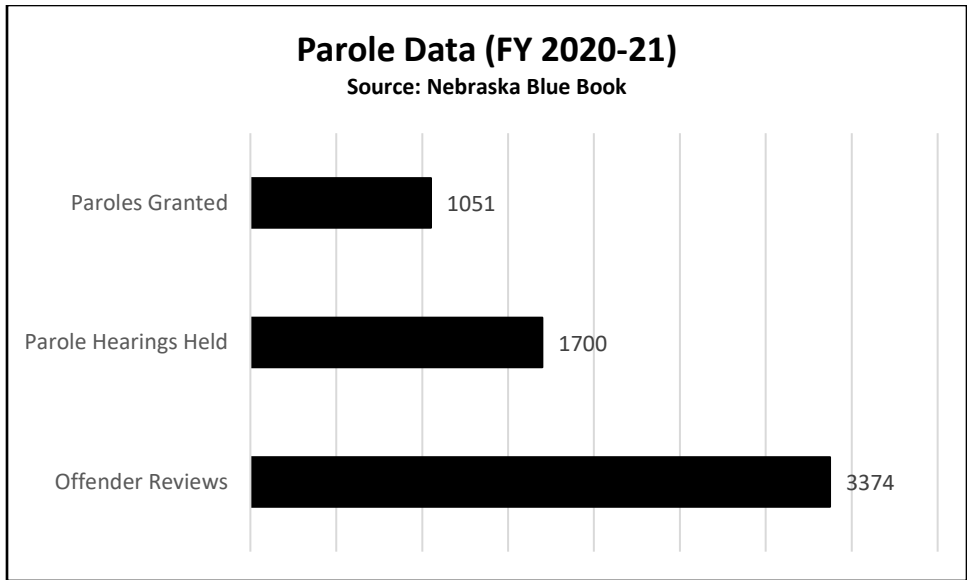
¹⁷ While the Board of Parole releases its own annual report, the parole data in this report is from the Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission) Community Corrections Division Annual Report. The Crime Commission report was completed in November 2022 after five years of no such report being produced. The report is required under Neb. Rev. Stat. § 47-624, which also tasks the Crime Commission with a variety of duties related to coordination of the state’s community corrections system. The full report can be found at https://nebraskalegislature.gov/FloorDocs/107/PDF/Agencies/Crime_Commission/518_20221104-134746.pdf.



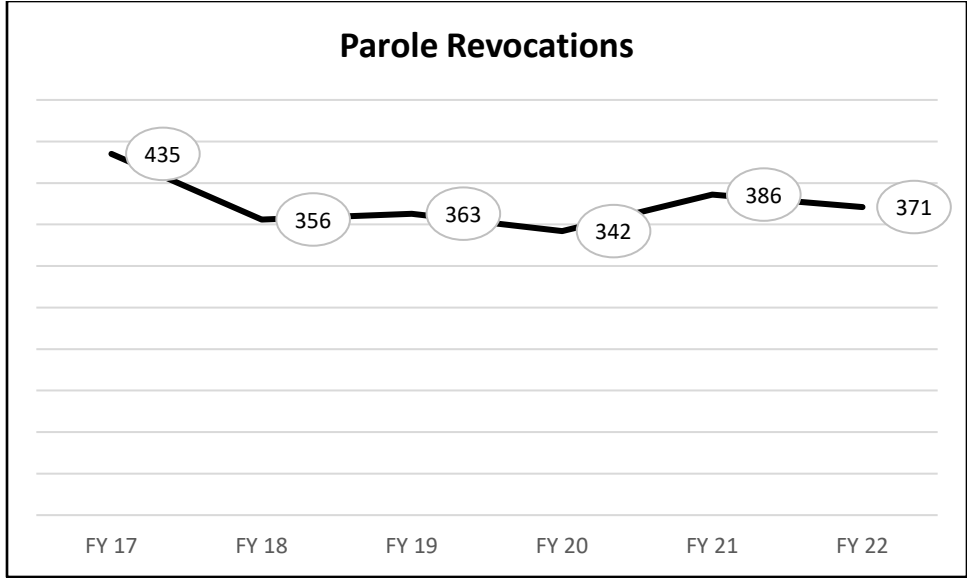
The only public source where the OIG was able to find an annual count of people released to parole by the Board of Parole is the Nebraska Blue Book. However, data in the most recent version of the Blue Book is from the fiscal year completed on June 30, 2021.¹⁸ As a result, more current data on the number of individuals paroled each year is not included in this report.¹⁹

¹⁸ <https://nebraskalegislature.gov/about/blue-book.php>.

¹⁹ Neither the Board of Parole annual report nor the Crime Commission report contain any annual data on the number of people placed on parole.



Parole issues a report each year that provides additional information and data on parole revocations. They have generally stayed relatively flat in recent years, as exhibited in the chart below.²⁰



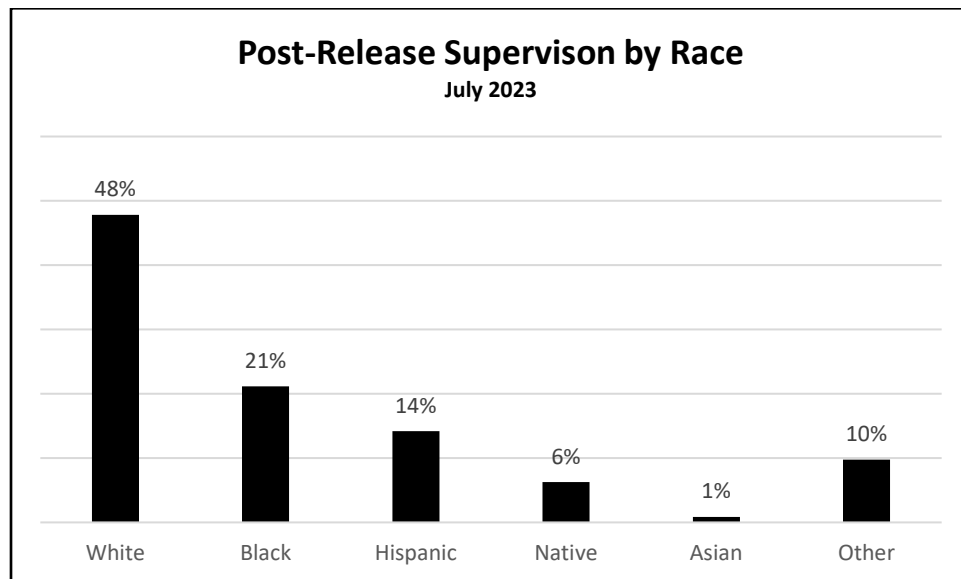
Parole’s next annual report will be released in January 2024.²¹

²⁰ <https://parole.nebraska.gov/reports-statistics>.
²¹ The 2022 report can be found at https://parole.nebraska.gov/sites/parole.nebraska.gov/files/doc/Annual%20Report%20FY%202022_4.pdf.

Post-Release Supervision

Neb. Rev. Stat. § 6-1904 established a process that includes a period of post-release supervision (PRS) by the Office of Probation Administration as part of a determinate sentence for certain felonies.²² As part of this process, the court receives a PRS plan no later than 45 days prior to the individual's anticipated date of release from NDCS. The plan is to be collaboratively prepared by the Office of Probation Administration and NDCS. This sets a process in place that results in the release of an individual from NDCS custody and the eventual oversight by the Office of Probation Administration for a set period of time.

There has been a decrease in the number of individuals on PRS over the past few years. There were 1,995 individuals on PRS in FY2019-20 and 1,575 individuals on PRS in FY2020-21.²³ As of July 5, 2023, there were 1,292 individuals on post-release supervision. A breakdown by race is included in the chart below.

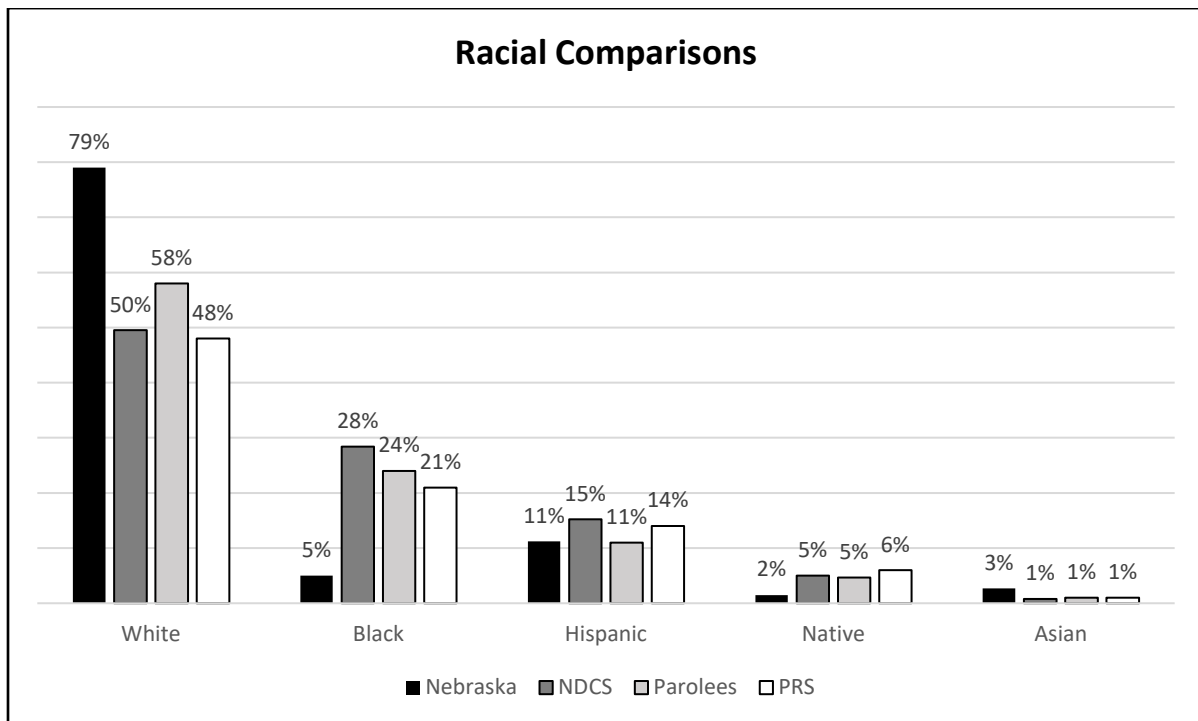


²² According to the FY2022 Adult Probation Annual Report, PRS probation is required any time a term of incarceration is imposed by the Court, regardless of the duration, in any Class III or IIIA felony. The passage of LB 686 in 2019 modified the minimum PRS term of nine-months for Class IV Felonies. The maximum PRS terms of up to 12 months is allowed in Class IV Felonies, 18 months in Class IIIA Felonies, and up to 24 months on Class III felonies.

²³ FY2022 Adult Probation Annual Report (https://supremecourt.nebraska.gov/sites/default/files/FY2022-Adult-Comm-Corr-Pgm-Centers-Tools-Serv-Supervision-Annual-Report_0.pdf)

Final Racial Breakdown

Previously, this report presented data regarding the racial makeup of the NDCS population, parole population and PRS population. The chart below compares all three to the statewide population. There are some differences found in the chart across the agencies. As shown in the previous PRS chart, the PRS breakdown includes 10 percent of the individuals in the “Other” category.



NDCS STAFFING

After nearly seven years of an ever-growing staffing crisis, significant action was taken two years ago to increase some NDCS salaries by a substantial amount. The starting salary for corporals and caseworkers, two entry level positions, was raised to \$28 an hour.²⁴ This has enabled NDCS to much more easily compete with the county jails in Lancaster, Douglas, and Sarpy counties, as well as prison systems in other states. However, it was anticipated that these other entities would also raise their pay rates. Douglas County's starting salary is now \$30 per hour, and Lancaster County's starting salary is \$28.64 per hour. Other states are starting to provide significant raises as well for their correctional staff.

Despite these raises and recently-ended bonuses and other incentives within NDCS, there are still staffing concerns in various parts of the correctional system. Staffing emergencies remain in effect at the Reception and Treatment Center (RTC) and the Tecumseh State Correctional Institution (TSCI). Both facilities operate near or below their minimum staffing levels on a regular basis, which impacts the operations of those facilities in a variety of ways. Staff at the RTC have shared with the OIG many specific examples of how the shortage of staff has made them feel unsafe and less secure during 2023.

Retention must be a critical focus going forward, particularly as other states and agencies raise their own correctional salaries.

General Staffing Data

In past reports, data in this section was accessed from three sources: NDCS Human Resources, NDCS quarterly data sheets, and the Nebraska Department of Administrative Services (DAS) Personnel Almanac.

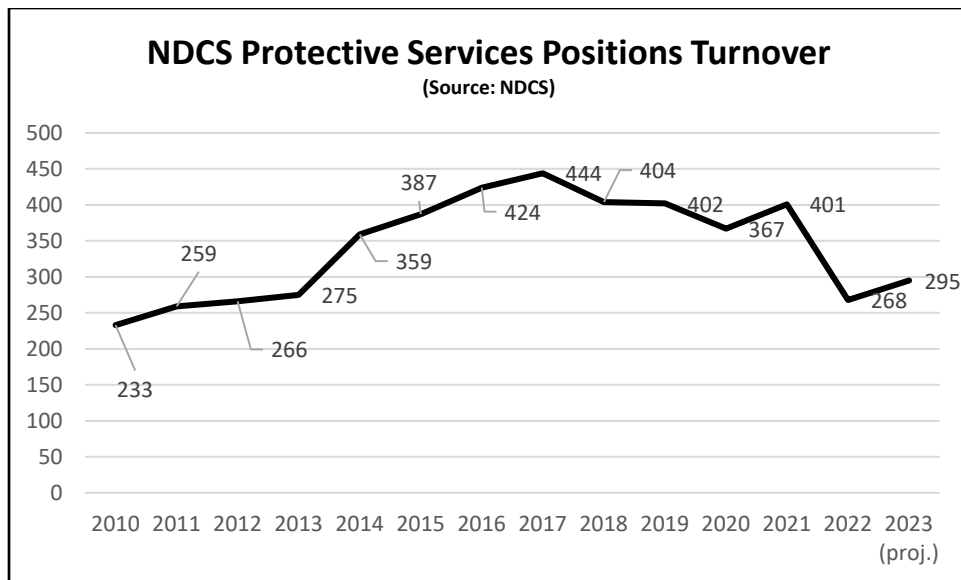
²⁴ It is now \$28.84 an hour.

As of August 30, 2023, NDCS had not published their most recent quarterly data sheet that has data through June, and DAS had yet to publish this year’s personnel almanac.²⁵ As a result, some key pieces of staffing data are missing from this report, including:

- Permanent full-time employees used;
- Staff racial demographics; and
- Updated behavioral health staffing data.

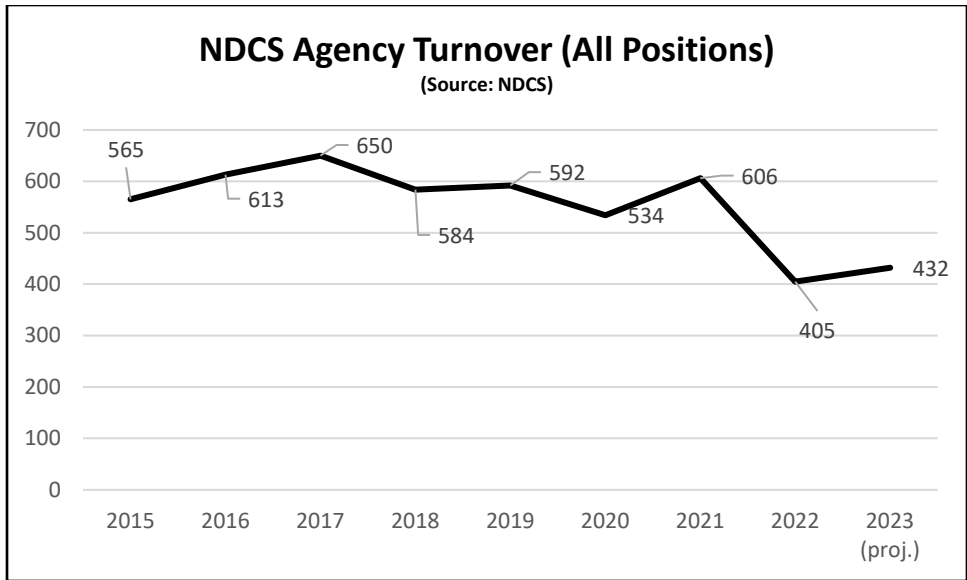
TURNOVER

While turnover has increased so far this calendar year for all positions, including protective services positions,²⁶ it is still lower than in the past several years. However, there is a slight uptick in the turnover of positions which is worth watching in the months ahead.



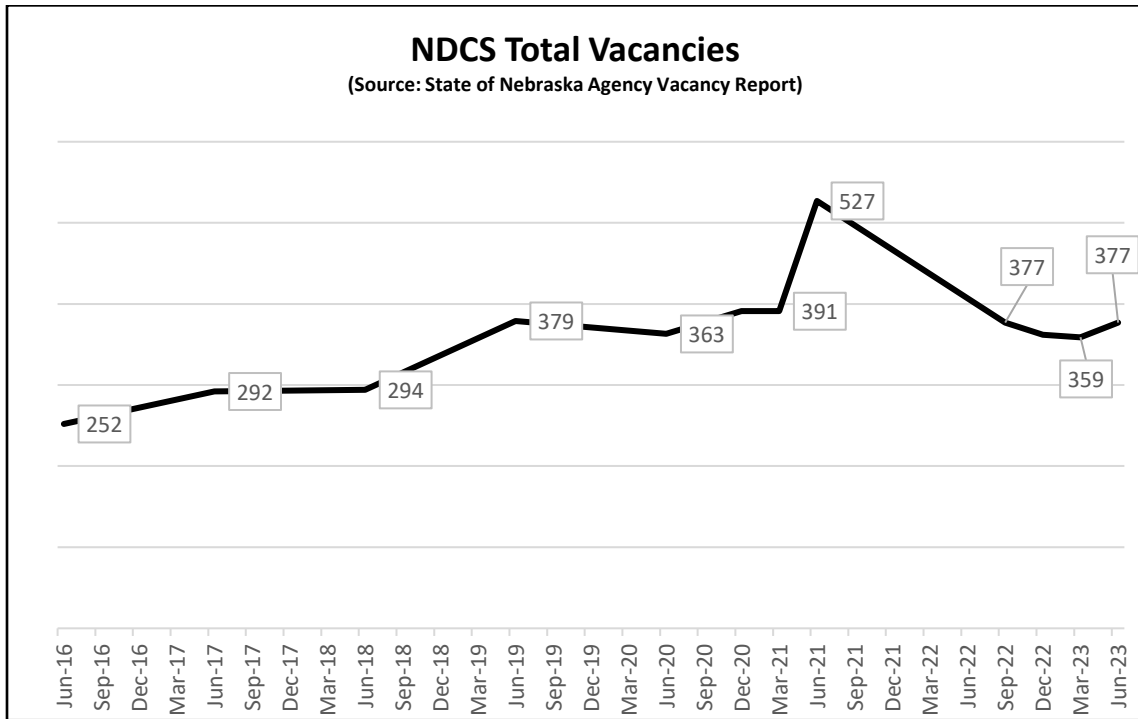
²⁵ All DAS personnel almanacs can be found at <http://govdocs.nebraska.gov/epubs/P2000/B004.html>. Up until the 2020 almanac, they were typically published in June. The 2020 almanac was published in July. The 2021 almanac was published in September. The 2022 almanac was published in August.

²⁶ NDCS corporals, caseworks, sergeants.



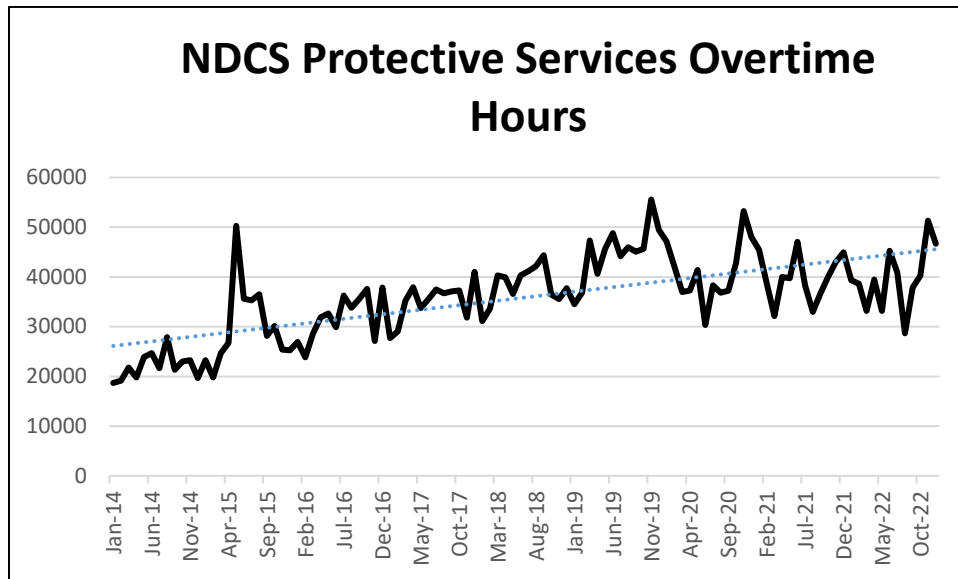
VACANCIES

NDCS total vacancies peaked in 2021 at 527. They decreased from there but have recently inched upward, and are now at the levels from 2019 and 2020. They still exceed the total vacancies prior to 2019, although some positions have been added to NDCS since that time.

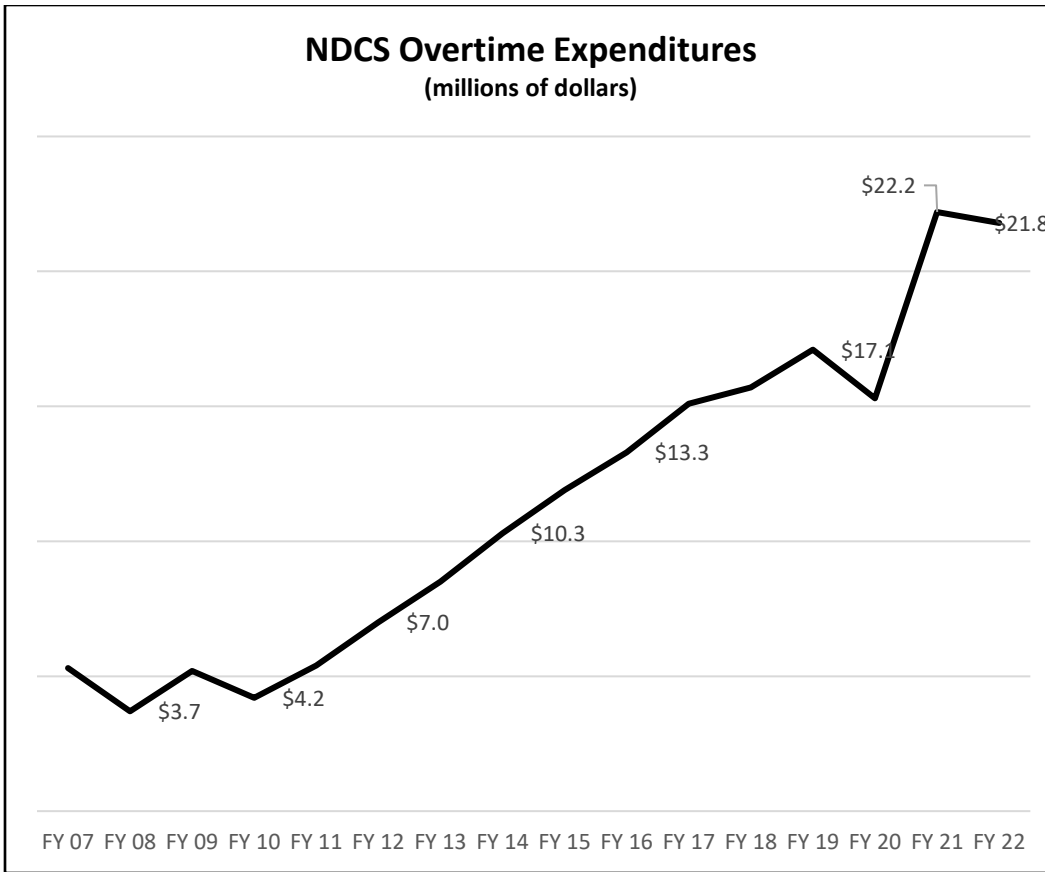


OVERTIME

Overtime hours by protective services staff continued to grow slightly during 2022. In January 2023, NDCS began running a new overtime data report and that data is not included in this report but will be included in future reports.



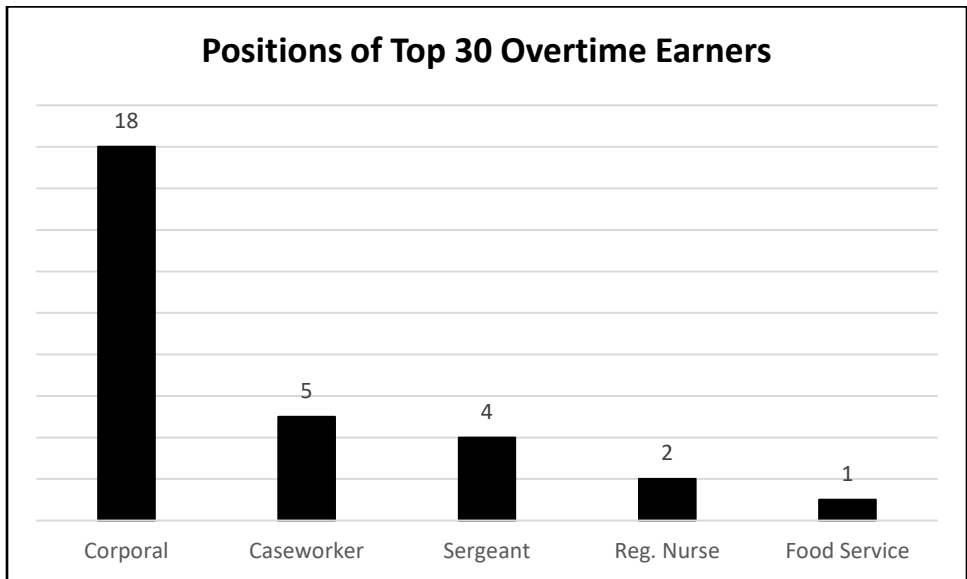
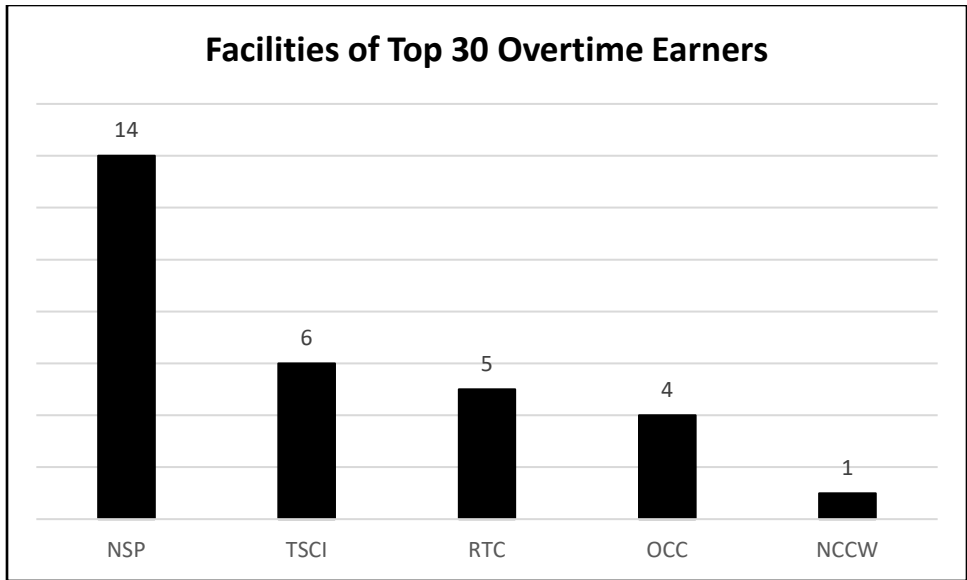
Overtime expenditures for all staff continued to be high, as nearly \$22 million was spent on overtime during the most recent fiscal year. Previous changes in the contract with the Fraternal Order of Police (FOP) union granting FOP-represented employees double pay for their overtime hours continued through June 2023.



TOP OVERTIME EARNERS

Past OIG reports have included data on the top overtime earners in NDCS. Due to the double overtime pay, the amount of overtime paid out to individuals significantly increased this past fiscal year. The top 30 overtime earners were each paid between \$58,510.54 and \$128,880.06 in overtime pay, which is in addition to their non-overtime salary. The positions and facilities varied for the top 30 earners, with NSP and corporals being the most prevalent.²⁷

²⁷ In the chart of the overtime earners, OCC is Omaha Correctional Center and NCCW is the Nebraska Correctional Center for Women.



EXIT SURVEYS

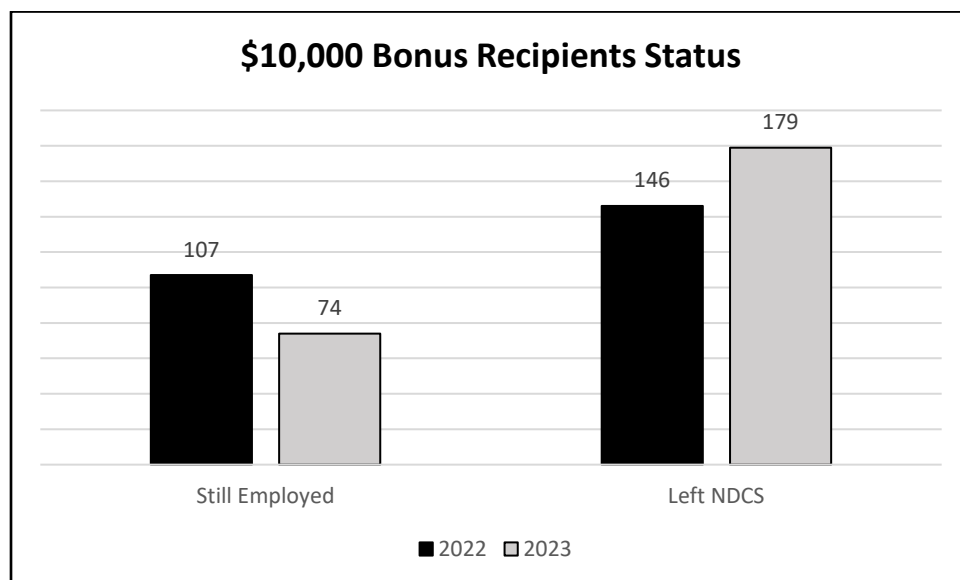
NDCS offers exit surveys for departing employees. This topic was initially explored at some length in the 2020 OIG Annual Report and in subsequent reports. This past year, 125 staff completed some portion of the exit interview, an increase from the previous two years, in which 66 staff and 100 staff respectively, completed some portion of the exit interview. This is a positive change that should provide NDCS with additional insight and data regarding why staff ceased their employment.

Many of this past year’s responses are similar to the previous years’ responses. However, there were a few noticeable changes. Exiting staff are asked to rate different statements based on their experience, and the choices are “poor”, “fair”, “good”, and “excellent”. Individuals who thought salary was “good” or “excellent” significantly increased. However, the number of staff who chose “poor” for “fair and equitable treatment” went up 12 percent. The number of staff who selected “poor” or “fair” for “clear mission and direction for work” went up about 10 percent. During the past year, over 70 survey respondents provided written comments which provided more detailed feedback.

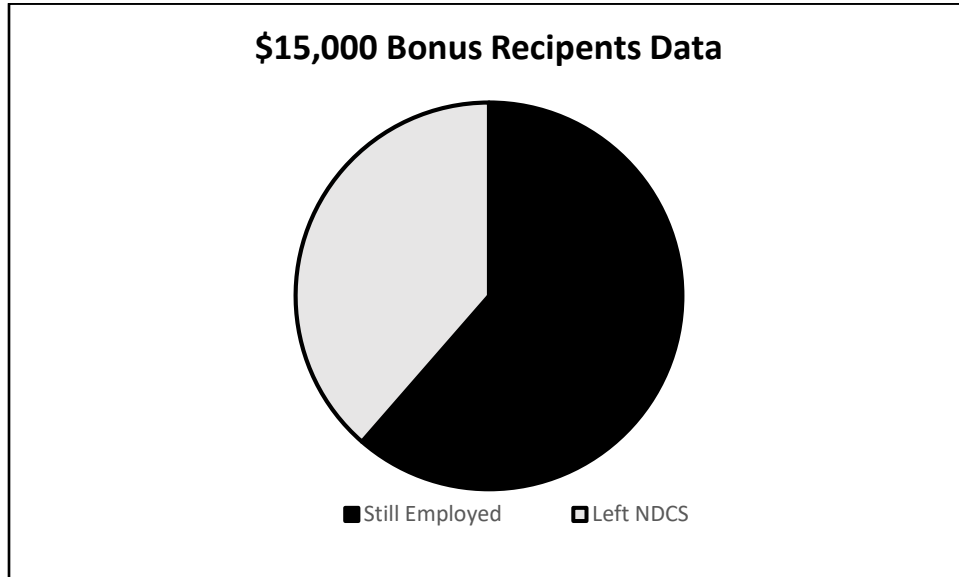
BONUS PROGRAM

For several years, NDCS has tried using various bonuses to incent individuals to accept positions with varying degrees of success. Past OIG reports provide additional information on these incentives. At the time of this report, there are no bonus programs being advertised by NDCS.

In October 2019, NDCS increased its hiring bonus to \$10,000 for specific protective service positions at facilities in need of those staff. Since then, 253 staff were hired who were eligible for the bonus. As of June 2022, 42 percent were still employed by NDCS. As of July 2023, 31 percent were still employed by NDCS. Additionally, 39 staff were paid the entire bonus because they stayed employed for three years.



In July 2021, the bonus was increased to \$15,000 for corporals at the RTC, TSCI, and NSP. This bonus ended on December 15, 2022. Since it was initiated, 298 staff were hired who were eligible for the bonus. As of July 2023, 61 percent were still employed by NDCS.



In previous reports, the OIG recommended that NDCS evaluate the impact of the \$15,000 bonus program. Given the cost to taxpayers, expanding such an evaluation to include other bonuses and incentive programs would be valuable for guiding future recruitment and retention efforts.

Health Services Staffing

Although health services staffing within NDCS continues to have vacancy challenges, it has been rather consistent in the past year, with only slight changes.²⁸

Position	Vacancies (2022)	Total Positions (2022)	Vacancies (2023)	Total Positions (2023)	Vacancy Rate (2023)
Registered nurse (RN)	29	54	27	54	50%
Licensed practical nurse (LPN)	19	34	17	30	57%
Physician	3	7	1	6	17%
Physician Assistant	0	6	3	8	38%
Dentist	5	7	4	6	67%
Dental assistant	2	5	2	5	40%
Behavioral Health Practitioner I	13	35	11	24	46%
Behavioral Health Practitioner II	20	34	25	38	66%
Behavioral Health Practitioner IV	4	21	4	22	18%
Psychologist	12	18	11	17	65%
Psychiatrist	2	3	3	3	100%
Social Worker	3	9	4	9	44%

Since February, NDCS has not had a permanent medical director. This is an important, statutorily-required²⁹ leadership position within NDCS, as it oversees all medical and behavioral health care in the agency. The nursing director position, another key leadership position, is also vacant.

²⁸ In the past, the OIG has used the NDCS quarterly data report to compare historical and current data. However, NDCS had yet to release the June 30, 2023 report as of the writing of this report. Instead, the OIG used a position control spreadsheet provided by NDCS in August 2022 and August 2023 to make these comparisons.

²⁹ Neb. Rev. Stat. §83-4,156.

State law requires the NDCS medical director to “ensure that each facility has at least one designated medical doctor on call at all times and that each facility housing more than five hundred incarcerated individuals has at least one full-time medical doctor assigned to that facility as his or her primary employment location.”³⁰ CCC-L, a facility housing more than five hundred incarcerated individuals, does not have a primary doctor.

In October 2022, the OIG provided a memorandum to the Judiciary Committee related to NDCS medical and behavioral health staffing.³¹ This information was also shared during an interim study hearing by the Judiciary Committee on October 13, 2022.

EHR Update

NDCS is in need of an electronic health records system (EHR) which this annual report has noted consistently since 2016.

NDCS indicated in its 2018 strategic plan that it would implement an EHR. The agency examined products offered by private vendors before opting to have a custom system created in-house, which significantly delayed the implementation. In the meantime, a 2022 OIG report documented the cancer-related death of a woman at the NCCW and noted that this woman had gone approximately a decade without receiving preventative care because the prison health system did not realize she was due for checkups.

As a result, the OIG met with then-Interim Director Diane Sabatka-Rine about the status of the EHR system. NDCS later ended work on the custom system and contracted with an outside vendor, without conducting a public bid process for the work. Concerns exist about the timeline for implementation and whether the vendor can implement a fully functioning EHR that communicates with outside health care providers. As a result, it is quite possible that additional funding maybe needed to upgrade this system in the future.

³⁰ Neb. Rev. Stat. §83-4,159.

³¹ Attachment C: October 7, 2022 Memorandum from OIG to Judiciary Committee.

CLASSIFICATION

Classification is the process by which NDCS assigns security/custody levels (maximum, medium, minimum, community) and makes other decisions related to a person’s placement within the correctional system. These decisions have a broad impact as they largely determine the kinds of programming and other services an individual can access, and the overall environment where each person will be housed. Analyzing how individuals are classified can also provide an indication of facility needs.

Each person in NDCS custody undergoes initial classification upon admission. Follow-up “reclassification” takes place every year to six months, depending how close the person is to their release date. Exceptions to this schedule can be made due to significant events, such as a person completing a recommended clinical program or being set for a parole hearing.

In addition to determining custody level, NDCS uses other classification processes to determine who should be in protective custody or long-term restrictive housing, to vet requests for off-unit work assignments (e.g. kitchen or shops), and to restore “good time” credits for sentence reduction.³²

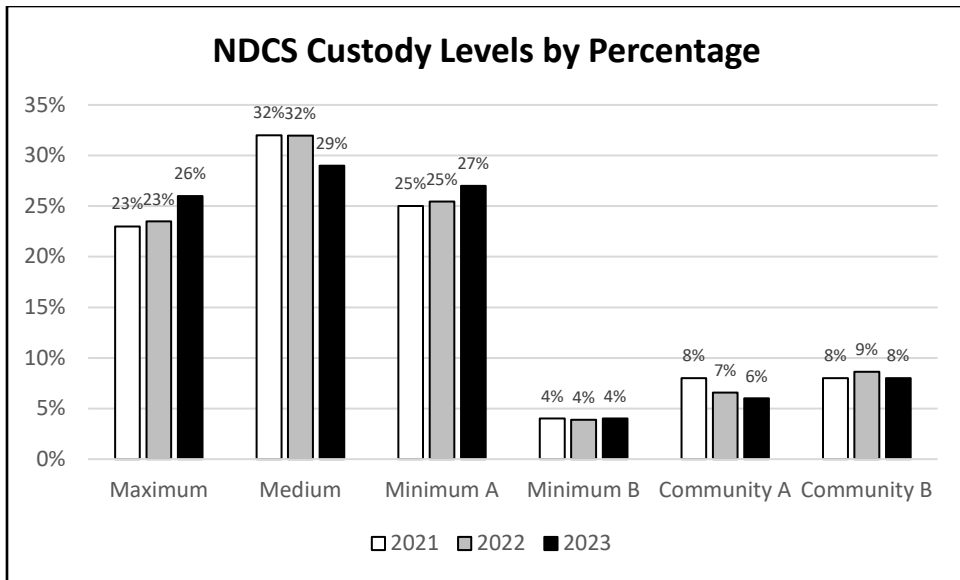
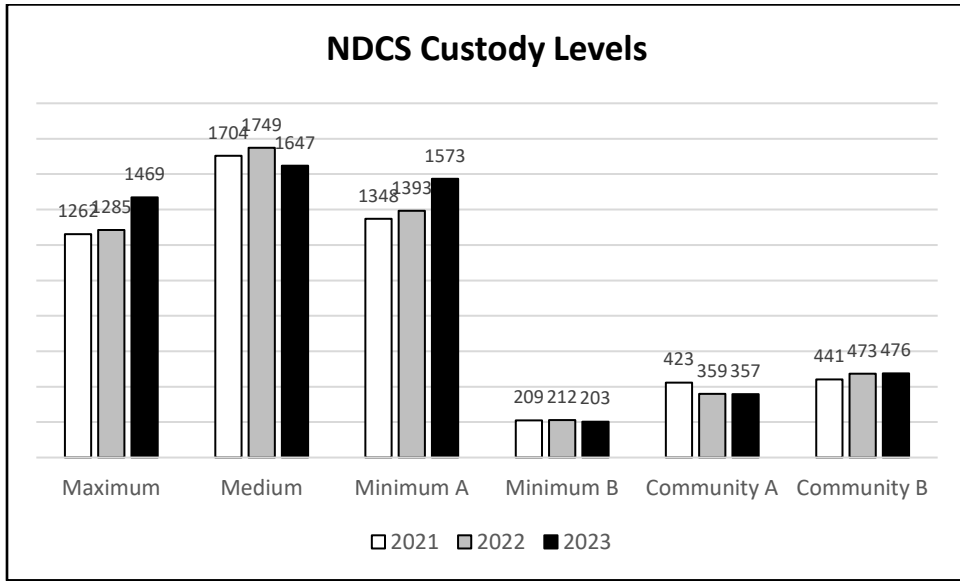
Current Custody Levels

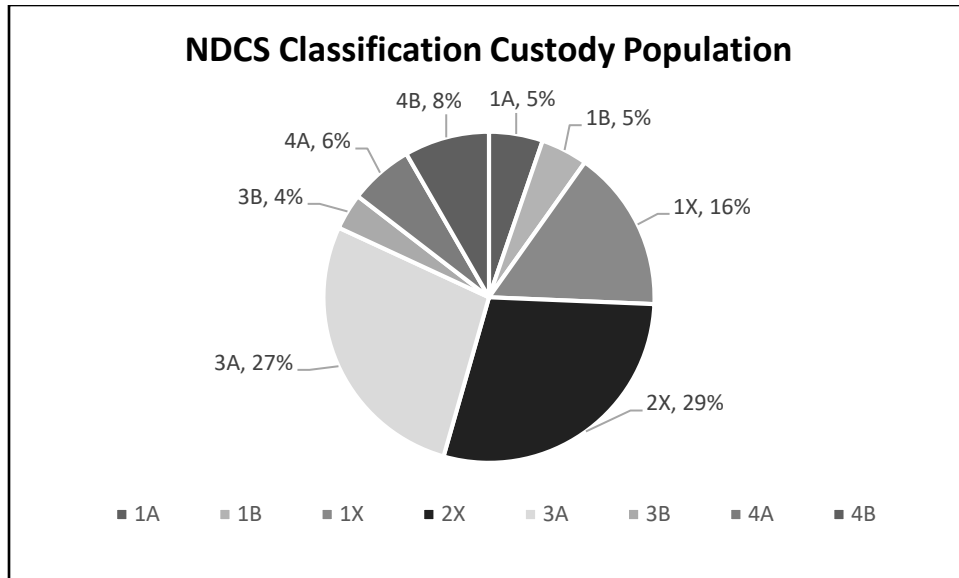
Custody levels in the system range from work release status (4B) to maximum custody (1X).³³ Between 2016 and 2022, the percentage of the population at each custody level stayed relatively stable, with some exceptions, such as a decrease in maximum custody classifications and a relatively close corresponding increase in community custody classifications. However, in 2023 there were more significant changes. There was an increase of 254 people in the overall

³² More information on the Department’s classification processes can be found in NDCS Policy 201.01, “Inmate Classification,” which is available online at <https://www.corrections.nebraska.gov/public-information/rules-regulations/ndcs-policies>, under “Classification.”

³³ Maximum custody was changed in 2023 to include individuals classified as 1A and 1B in addition to 1X. 1A and 1B are classifications that require a different type of maximum custody setting.

population. There were increases in maximum and minimum custody classifications and a decrease in medium classifications.





The addition of 384 new maximum-security beds at the Reception and Treatment Center (RTC) likely was the driving force behind the increase in maximum custody classifications and some of the drop in medium custody classifications. It is not exactly clear what led to the rather significant increase in minimum custody classifications, but it could be that, as NDCS decreased the male population of the intake side of the RTC, these men were reclassified as minimum custody and placed at different facilities. These men would previously have been classified as maximum custody pending transfer to a different facility. This part of the RTC has typically operated at 300 percent of design capacity but has recently operated at a lower level due to 150 to 200 fewer men being held there. This seemingly corresponds with the increase of minimum custody classifications of approximately 180 individuals.

Complaints

Due to its widespread impact on people incarcerated within NDCS, as well as management of the facilities, custody classification remains among the most common subjects of complaints to the OIG.

UNO Study

In 2021, the Legislature commissioned a study of the NDCS's classification process. The study is being conducted by the Nebraska Center for Justice Research, a nationally-recognized research center based at the College of Public Affairs and Community Service at the University of Nebraska-Omaha. This study was recommended by the OIG as senators sought additional information about the needs of the correctional system.

The timeline of the study indicated that technical reports were to be provided to NDCS in January 2022 and April 2022 with a final report and presentation due in September or October 2022. Last year, the OIG requested copies of the technical reports and an update on the status of the report from NDCS and was informed that no technical reports were completed and that the project had a new completion date of March 2023. The report has not been submitted to the Legislature at the time of this report.

Senator Justin Wayne introduced Legislative Resolution 126 during the 2023 legislative session. One purpose of this legislative resolution is to propose an interim study to review recent efforts to evaluate the classification system, including a review of the results of the classification study.³⁴

³⁴ <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LR126.pdf>

PROGRAMS AND MENTAL HEALTH

NDCS offers general mental health care as well as specific clinical programming to address behavioral health issues such as violence, substance use disorder, and sexual misconduct. The Department also provides nonclinical programs derived from evidence-based models and other programming which may or may not be informed by research.

General mental health services are offered on an inpatient and outpatient basis. NDCS operates high-security, acute mental health units for inpatient treatment at the RTC and TSCI. The Department also has a less structured chronic care mental health unit at the RTC. The Nebraska Correctional Center for Women (NCCW) houses women in acute and chronic care settings within units that also house women in protective custody or on behavioral restrictions.

All programming is optional. However, participation in clinical programming is necessary for many people in order to obtain release on parole, and the Department regularly requires people to complete clinical or nonclinical programs in order to leave restrictive housing, advance to lower levels of security within the prisons, or be approved for community custody/work release.

Programming and mental health account for a substantial number of complaints to the OIG, and people with serious mental illnesses who have complaints understandably consume a significant amount of the office's time.

Program Evaluation Status

In 2022, the Legislature updated state statute to require that NDCS contract with an academic institution in Nebraska to conduct ongoing evaluations of its clinical and nonclinical programs.³⁵ This requirement was consistent with past recommendations by the OIG, and brought to light in this office's 2021 annual report, which noted that the Department was not evaluating the quality of its programming, a requirement of state law passed in 2015.³⁶

³⁵ LB 896.

³⁶ Prior to enactment of LB 896, Neb. Rev. Stat. §83-182.01 required NDCS to evaluate the quality of the programs it offers, focusing on these programs' effects on recidivism. The Department was allowed to contract with an outside

In 2022, NDCS contracted with the Nebraska Center for Justice Research at the University of Nebraska-Omaha to begin conducting the evaluations. The first evaluation being conducted covers the Violence Reduction Program. As of the writing of this report, NDCS has not shared the status of this first evaluation.³⁷

Another purpose of Legislative Resolution 126 is to receive an update on the progress of the program evaluations required by state law.³⁸

Other Program Information

In past OIG annual reports, much information has been provided about both clinical and non-clinical programming, including information about where each program was being provided and data on current enrollees, completions, and outstanding recommendations. The OIG can no longer access this data and, therefore, is not including it in this year's report. Other than the information on changes to domestic violence programming, much of what was covered in the 2022 OIG annual report remains unchanged today.

DOMESTIC VIOLENCE PROGRAMMING

NDCS ceased providing domestic violence programming in 2015. The OIG recommended the reinstatement of this treatment program beginning in 2019 for public safety reasons and again recommended it in the 2022 annual report. These past recommendations were not accepted by NDCS. However, steps have recently been taken by NDCS to provide opportunities for individuals to take such programming. Currently, domestic violence programming is available at OCC, NSP and the Work Ethic Camp (WEC). This is in addition to some individuals at the community corrections centers receiving a different domestic violence program from community

entity for these evaluations, subject to available funding; however, the evaluation requirement was in place regardless. The OIG previously requested records from these evaluations and found that this requirement was not being fulfilled. LB 896 was introduced and passed without opposition as a result of the Department's noncompliance with existing statute.

³⁷ The Nebraska Center for Justice Research did publish a brief report titled "Evidence-Based Inventory of Criminal Justice Programs in Nebraska" in February 2023. It is an overview of the use of programs in the justice system. While not complete, it provides good background for those interested in this topic.³⁷

³⁸ <https://nebraskalegislature.gov/FloorDocs/108/PDF/Intro/LR126.pdf>.

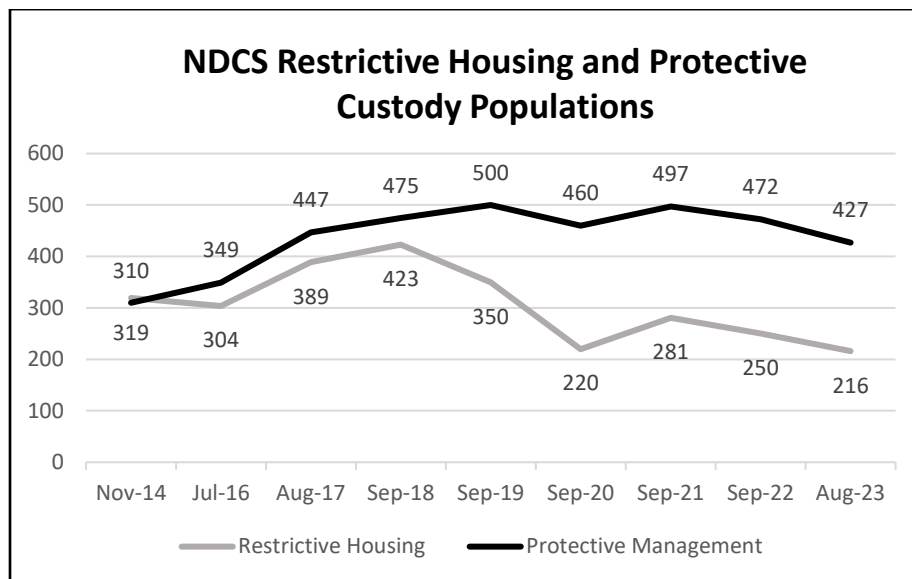
providers through an agreement with the Division of Parole Supervision. Some individuals may also pay for the program themselves while at that stage of their incarceration.

RESTRICTIVE HOUSING

In 2015 and 2016, statutory and operational changes were made to decrease the number of, and improve conditions for, people placed in restrictive housing, particularly those in long-term placements. During the past eight years, the number of individuals in protective management increased and has stayed relatively stable the past five years. The number of people in restrictive housing increased until late 2018 before decreasing. More information on the possible reasons for the decrease was provided in previous OIG annual reports.

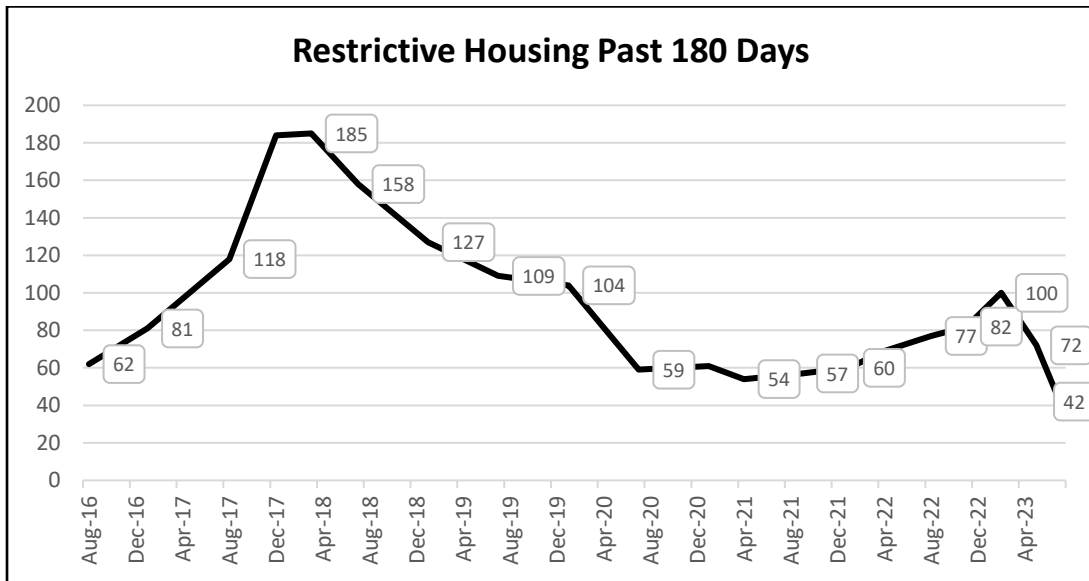
While some progress appears to have been made in this area, there are still concerns such as extended lengths of stay, double bunking, and out-of-cell opportunities.

With that said, there has been progress in reducing protective custody and restrictive housing populations as currently defined by NDCS.



Another key data point that the OIG has followed since 2016 is the number of individuals in restrictive housing for more than 180 days. This number was around 60 individuals in 2016 and grew significantly before peaking at around 185 individuals in early 2018. At that point, concerns were raised regarding this increase, and the number steadily declined over the next three years. This number began to increase again in 2022 and early 2023. As of August 2023,

NDCS had taken steps to decrease the number of individuals in a restrictive housing placement for more than 180 days.



As of August 1, 2023, there were nine men who had been in Long-term Restrictive Housing (LTRH) for over 2000 days at TSCI. One of these men, who has been in prison for over 10 years, is set to be released from prison in December without any oversight once he is released - he will not parole, but will be released directly into the community. Another individual had been in LTRH for over 1,350 days at the beginning of August and is also scheduled for release in December without any oversight upon his release. He has spent the majority of his current sentence in a restrictive housing setting.

Less Restrictive Settings

In recent years, NDCS has established housing units which are a step below restrictive housing but do not offer the freedom of movement and other features of general population units. A past example of this type of setting was the Intervention/Improvement Unit (IIU) at TSCI. Other examples include the gallery for those sentenced to the death penalty (“death row”), units for the acutely mentally ill at the RTC and TSCI, and the Behavior Intervention and Programming Unit (BIPU) at NCCW.

As shared previously, in early 2023, NDCS opened a new, 384-bed, high-security unit (it is technically split into two units) at the RTC. This essentially replaced and expanded upon the concept of the IIU at TSCI, which was converted back to a general population unit. “The 384,” as it is known, consists of newly built Housing Units F and G at the RTC. The units house people who had been in restrictive housing or the IIU, as well as a large number of people who were previously in general population settings but were effectively demoted to the 384 based on the criteria for the new units.

NDCS initially said it planned to operate the 384 as general population units. In September 2022, prior to the units opening, the OIG issued a report with recommendations for how these units might be operated. The report concluded that, if the 384 was operated in a manner similar to the IIU at TSCI, it would not meet the criteria to be considered general population.³⁹

While the 384 opened with a schedule that theoretically allowed for six hours of out of cell time each day, which is the minimum for a unit to be considered general population under NDCS regulations, it did not offer regular visits or programming or access to other parts of the facility available to the general population. Following a series of incidents on the two units, including one on May 31, 2023 in which staff were seriously assaulted, NDCS made significant operational changes to the 384 over the summer.⁴⁰ A new policy was implemented on July 31, 2023, mirroring the American Correctional Association standards for “special management units.” Such units are “used to house incarcerated individuals who have a demonstrated history of violent, disruptive, predatory or other serious misbehavior that is disruptive to the effective

³⁹ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_NDCS_controlled_movement_units.pdf.

⁴⁰ The unit was on a modified lockdown status for most of the month of June.

operations of the facility. Special management units provide a minimum of three and a half hours per day of out-of-cell time.”⁴¹ This allows the units to barely exceed the out-of-cell hours that are in the definition of restrictive housing.⁴² Of the four galleries that make up these units, one is a protective management unit. For purposes of this policy, protective management units are defined as “units used to house incarcerated individuals who cannot be safely housed in other general population units. Whenever possible, protective management units are operated similarly to general population units in out-of-cell time, access to programming, work, and recreation, etc.”⁴³

NDCS Restrictive Housing Report

Each year, NDCS produces a report to the Governor and the Legislature with information about the NDCS’s use of restrictive housing. Under statute, this annual report is due September 15.⁴⁴

During the 2023 legislative session, Legislative Bill 157 was passed and signed into law. Section 16 of the bill amended the language regarding the requirements for the Department’s annual restrictive housing report. It added a reporting requirement for settings that are neither general population nor restrictive housing. It stated what specific information needs to be included in future reports related to this change.⁴⁵

⁴¹ NDCS Policy 210.02 which is available in the law library at each correctional facility.

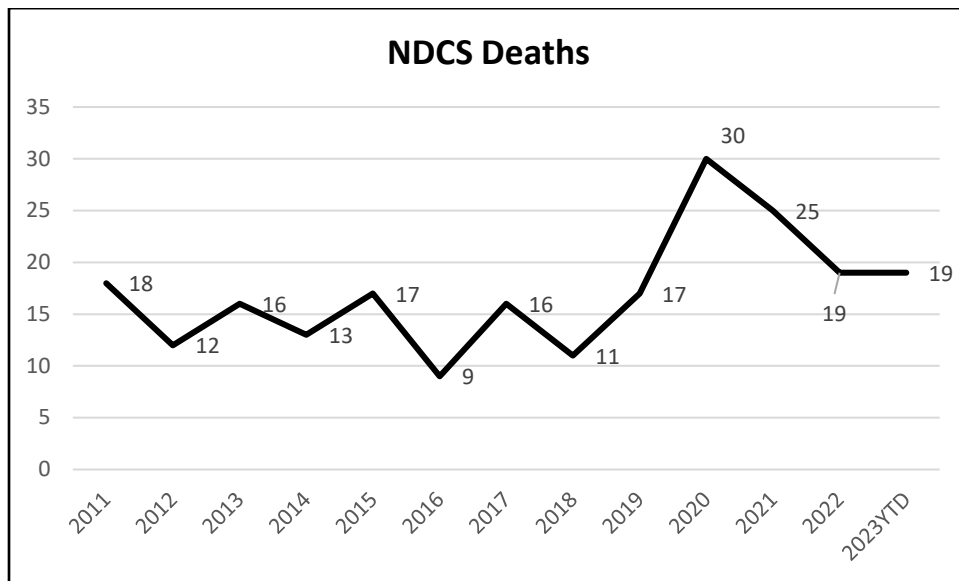
⁴² Neb. Rev. Stat. § 83-170 defines restrictive housing as “conditions of confinement that provide limited contact with other offenders, strictly controlled movement while out of cell, and out-of-cell time of less than twenty-four hours per week.” If there are no disruptions or staffing issues, an individual will receive 24.5 hours of out-of-cell time in the new unit under the current schedule.

⁴³ Ibid.

⁴⁴ Neb. Rev. Stat. § 83-4,114.

⁴⁵ The language in LB 157 is the following: “A description of all inmate housing areas that hold inmates in a setting that is neither general population nor restrictive housing, including the purpose of each setting, data on how many inmates were held in such settings, the average length of stay in such settings, information on programs provided in each setting, data on program completions in each setting, staffing levels and types of staff in each setting, and any other information or data relevant to the operation of such settings. For the purposes of this subdivision, general population means an inmate housing area that allows out of-cell movement without the use of restraints, a minimum of six hours per day of out-of-cell time, regular access to programming areas outside the living unit, and access to services available to the broader population.”

DEATHS AND OTHER INVESTIGATIONS



As can be seen in the chart above, the number of people who died in NDCS custody increased in 2020 and 2021. This coincides with the COVID-19 pandemic. Since then, the number of deaths each year has failed to return to its previous average. Nineteen people died in NDCS custody in 2022, more than any non-COVID year since at least 2011. As of this report, another 19 people have died in the system so far in 2023, putting the Department on pace to match or exceed the number from either COVID year.

In response to concerns about the number of deaths reported in spring and summer 2023, the OIG issued a memo to members of the Legislature’s Judiciary Committee on July 19.⁴⁶ That memo noted that most deaths in the prisons each year are due to natural causes, that elderly prisoners continue to account for a significantly larger share of the prison population, and that NDCS and other correctional agencies have struggled to keep drugs out of their facilities, which can cause overdoses, especially when incarcerated people do not know what substances they are using. The memo also noted the following:

“It is important to keep in mind that, while every death is a concern, these are still small numbers from a statistical perspective. We do not yet know if this is a trend or the result of one or more systemic issues, or if it is simply a

⁴⁶ Attachment D: July 19, 2023 Memorandum from OIG to Judiciary Committee.

coincidence. ... We will have more specific insights into these deaths at a later date, once the investigations are complete.”

Due to the limitations described later in this section, it is unclear when the OIG will have access to the information necessary to arrive at conclusions about the factors behind the number of deaths.

Death Investigations

While the OIG investigates all deaths of people in NDCS custody, most do not result in case-specific findings or recommendations. These are generally deaths due to natural causes or of people with pre-existing medical conditions.

However, in the year since the OIG’s previous annual report, the office has submitted two full reports to the Department with findings and recommendations related to three separate deaths.⁴⁷

➤ DEATH OF WOMAN INCARCERATED AT NCCW

One report documented the death of a woman who had been incarcerated at NCCW. The report raised concerns about the Department’s lack of a process for tracking when patients were due for preventative care, and delays in implementing a statutorily-required EHR system.

This report was submitted to then-Director Scott Frakes in late September 2022. Director Frakes said he appreciated the opportunity to respond to the OIG’s recommendations and requested a modification to one of them. Director Frakes ultimately accepted the OIG’s recommendations to better track preventative care (with a modification) and to accelerate its implementation of EHR. He rejected a recommendation to update the Legislature on the status of its EHR. A summary of this report was released in October 2022 and is available on the Legislature’s website.⁴⁸

Information was provided earlier in this report on the status of the EHR implementation.

⁴⁷ In May 2023, the OIG submitted several recent death investigations to Director Jeffreys.

⁴⁸ https://nebraskalegislature.gov/pdf/reports/public_counsel/2022_oig_nicole_wetherell.pdf.

➤ OVERDOSE DEATH AT OMAHA FACILITIES AND MEDICAL EMERGENCY RESPONSES

The second report focused on the death of a man who overdosed on methamphetamine at the Community Corrections Center-Omaha (CCC-O) and the unrelated death of a man following a medical emergency at NSP.

In the Omaha case, the man who died was 30 years old and had spent nearly five straight years in restrictive housing before being released into the general prison population seven months prior to his death. On the evening of November 10, 2021, staff performing a routine area check at CCC-O found his room in disarray and a large hole in the ceiling, but he was not there. The staff searched the building, eventually found him on the roof, and then called 911. Omaha police helped coax him down and drove him across the street to the Omaha Correctional Center (OCC), where he was placed in a holding cell under constant observation by NDCS staff. The man, who was visibly under the influence, continued to decline over the next hour. An ambulance ultimately took him to the University of Nebraska Medical Center, where he died two days later.

In the NSP case, the man who died was 58 years old and experienced a medical emergency while lifting weights on the NSP yard on May 22, 2021. He was pronounced dead at Bryan Medical Center three days later, after being kept on life support so he could donate his organs.

At the conclusion of these investigations, the OIG found as follows:

- NDCS' internal review processes do not make full use of available expertise in assessing staff members' response to medical emergencies.
- The CCC-O individual's years in long-term restrictive housing (LTRH) had negative impacts on his mental health and made it difficult for him to adjust to a less structured environment.
- NDCS rightly recognized the man would need to transition to a less-restrictive setting prior to his release from prison.
- His transition plan was not sufficient to account for his lengthy stay in LTRH.
- He was able to disengage from mental health services while remaining at OCC and advancing to CCC-O, despite indications he was struggling.

- There is no indication he was referred for treatment after he tested positive for amphetamines while at CCC-O.
- CCC-O and OCC staff remained patient and professional in their interactions with him during the November 10, 2021 incident. This is noteworthy considering the unusual nature of the situation and his well-known history of assaultive behavior.
- If OCC staff and supervisors on site felt his condition merited a quicker call to 911, they did not act on that belief.
- The level of authority possessed by medical staff during medical emergencies is unclear in NDCS policy.
- Key video footage of the Omaha incident was not made available to the NDCS's internal review team, the Nebraska State Patrol, or the grand jury investigating the death.

The OIG recommended NDCS take the following actions:

- Ensure medical administrators review available video footage of staff responding to medical emergencies which result in death, and provide feedback to nonmedical administrators.
- Revise policy to ensure restrictive housing transition plans address the period after a person is released from restrictive housing. This is particularly important for individuals who have been in LTRH for several years.
- Revise policy to require notification of substance use treatment staff any time someone in community corrections tests positive or receives a misconduct report for using an illicit substance.
- Revise policy to clarify chain of command during medical emergencies, and encourage administrators to reinforce that on-site staff are in charge during emergencies.
- Conduct a thorough review of policies, procedures, processes, guidance documents, and staff training related to storage, retention, and handling of video footage.

On February 2, 2023, this report was submitted to Interim Director Diane Sabatka-Rine, who said she appreciated the opportunity to respond. She rejected the first and fourth recommendations from the report. Recommendations to improve transitions for people coming out of restrictive housing and to improve interventions for those who relapse at community

corrections were both accepted, with modifications. Interim Director Sabatka-Rine requested modification of the recommendation related to storage, retention, and handling of departmental video footage, but the modification did not fully address the underlying concern. The OIG's other recommendations were rejected.

Statutory Requirements and Limitations on Access to Information

The OIG is statutorily required to investigate all deaths in NDCS facilities. These investigations are separate from grand jury investigations, which look for potential criminal wrongdoing. The primary goal of OIG death investigations is to identify possible improvements to the correctional system and its operations.

In 2022 and early 2023, NDCS began refusing to provide the OIG with medical and mental health records for people who died in NDCS custody.

On September 6, 2023, as is typical in its mandatory death investigations, the OIG requested video footage, reports, and other documentation related to two recent deaths of men at the Tecumseh State Correctional Institution. The Department denied this request.

Other Investigations

In addition to deaths, the OIG investigates serious injury incidents within correctional facilities. A report from one such investigation was released in the past year.

➤ TSCI USE OF FORCE

In June 2021, an incarcerated individual with a serious mental illness and a history of disruptive behavior caused a disturbance and threatened staff in the common area of a housing gallery at the TSCI. The investigation found the incident lasted several hours and the individual was shot by a combination of approximately 200 projectiles, receiving wounds all over his body, with three rubber bullets becoming embedded under his skin. The incident prompted a series of internal NDCS investigations which reached conflicting findings. The OIG released a summary of its report on this incident, including the office's findings and recommendations, in May 2023.

The investigation found the incident was mishandled in many ways, from incorrectly utilizing rules for a use of force to the unacceptable amount of time it took to get the situation under control. In addition, there was a lack of clear leadership and directions during the incident, in addition to a chaotic and confusing scene, which resulted in the unnecessary use of lethal force and excessive amounts of less-lethal force. NDCS received four recommendations, including updating NDCS's use of force policy to include attempts at de-escalation by a mental health professional and to implement a policy to develop individualized de-escalation plans for people with serious mental illnesses who have histories of volatile interactions with staff. NDCS accepted one recommendation, rejected another recommendation, and requested modifications of the remaining two recommendations.⁵⁰

⁵⁰ https://nebraskalegislature.gov/pdf/reports/public_counsel/TSCI_Use_of_Force_Summary_Report.pdf.

LEGISLATIVE ACTIVITIES

Interim Studies

The OIG has assisted or expects to assist with several interim studies being conducted by the Legislature this year. These are listed in order of their corresponding legislative resolution number:

- LR100 (DeBoer) – Interim study to examine future needs of Nebraska’s correctional system and potential opportunities arising from decommissioning NSP.
- LR126 (Wayne) – Interim study to review efforts to evaluate the classification system and the delivery of clinical and nonclinical programs to its incarcerated population.
- LR201 (Frederickson) – Interim study to examine mental health and addiction issues within the Nebraska criminal and juvenile justice systems and options to increase services and alternatives to current responses of the criminal and juvenile justice systems.
- LR207 (Cavanaugh, J.) – Interim study to examine circumstances regarding an individual's release from covered correctional facilities.
- LR217 (Bosn) – Interim study to examine transitional housing for parolees or justice-involved individuals in Nebraska.

2022 Legislation in Action

During the 2022 legislative session, legislation introduced by Senator John Cavanaugh was signed into law that required the Department of Health and Human Services (DHHS) to provide Medicaid enrollment assistance to individuals prior to leaving NDCS custody. The enrollment was required to begin by July 1, 2023 and NDCS and DHHS recently announced that this endeavor was operational.⁵² This is part of the reentry process for individuals leaving NDCS and should assist many individuals with having a more successful reentry process.

⁵² <https://www.corrections.nebraska.gov/ndcs-and-ndhhs-partner-medicaid-enrollment>.

Attachment A

Source	Recommendations
2016 Annual Report	Convene a work group on staff retention that includes people in positions throughout NDCS and individuals from outside NDCS.
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.
2016 Annual Report	Provide additional pay for employees who participate in extra duties that require additional training.
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).
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.
2016 Annual Report	Place limits on the amount of overtime that an employee can work in one week.
2016 Annual Report	Consider the banning of back to back 16 hour shifts by employees.
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.
2016 Annual Report	Place a renewed focus on improving communication between behavioral health administration and staff.
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.
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.
2016 Annual Report	Complete a staffing analysis for the entire Department of Correctional Services.
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.
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.
2016 Annual Report	Establish a goal to implement the restrictive housing peer support pilot program no later than October 1, 2017.
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.
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.
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.
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.
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.
2016 Annual Report	Review the necessity and the effectiveness of all work detail contracts.
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.

2016 Annual Report	Propose an increase in funding to the Vocational and Life Skills grant program.
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.
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.
2016 Annual Report	Work with the Inspector General to update the programming spreadsheet on a quarterly basis.
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.
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.
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.
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.
2017 Lamere Report	Review the ability to "turn down the volume" as it relates to response buttons.
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.
2017 Lamere Report	Increase the frequency and thoroughness of searches of staff as they enter the prisons.
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.
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.
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.
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.
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.
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.
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.
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.

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.
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.
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.
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.
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.
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.
2017 Berry Report	Continue the efforts by NDCS to reduce the number of individuals in restrictive housing and protective management settings.
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.
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.
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.
2017 Annual Report	Study whether or not it is feasible and fruitful to provide gender specific training and ongoing supports to female staff.
2017 Annual Report	Include data on vacancies identified in the 2016 staffing analysis when compiling and sharing data on staff vacancies at each facility.
2017 Annual Report	Conduct a full staffing analysis of NDCS.
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.
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.
2017 Annual Report	Invite members of the external restrictive housing work group to observe meetings of the internal restrictive housing work group.
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.
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.
2017 Annual Report	Report all unit lock downs to the OIG in a timely manner.
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.
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.
2017 Annual Report	Assess the need for an expansion of family programs for inmates within NDCS.

2017 Annual Report	Continue to look for ways to expand peer supports throughout NDCS.
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.
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.
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.
2017 Annual Report	Establish a long-term plan for higher education and vocational education opportunities and present it to the Governor and the Legislature.
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.
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.
2017 Annual Report	Review the operation of the inmate councils and determine whether or not a more formalized council should be utilized.
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.
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.
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.”
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.
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.
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.”
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.
May 29, 2018 Email to Deputy Director Rothwell	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.

June 13, 2018 Email to Director Frakes	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.
2018 Annual Report	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.
2018 Annual Report	Review the ability of NDCS to pay an additional bonus or stipend to staff who speak and utilize a foreign language during their employment.
2018 Annual Report	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.
2018 Annual Report	Revisit the past recommendation of providing additional pay for employees who participate in extra duties that require additional training.
2018 Annual Report	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.
2018 Annual Report	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.
2018 Annual Report	Provide a plan for improving and expanding core support needs to the Governor and the Legislature no later than December 1, 2018.
2018 Annual Report	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.
2018 Annual Report	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.
2018 Annual Report	Contact the Nebraska State Patrol whenever a staff member is assaulted in the line of duty, including any sexual contact or possible offenses.
2018 Annual Report	Review the numerous suggestions made by the OIG to NDCS in 2018 regarding restrictive housing practices.
2018 Annual Report	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.
2018 Annual Report	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.
2018 Annual Report	Review the success of the "Blue Room" at NCCW and determine whether or not this could be replicated at other facilities.
2018 Annual Report	Continue the work being done to review, improve and expand programming in all living units, including restrictive housing units.
2018 Annual Report	Create methods of tracking contraband in each facility, and in the entire correctional system.
2018 Annual Report	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.
2018 Annual Report	Support the work of the NDCS Suicide Work Group.
2018 Annual Report	Continue reviews of the effectiveness and accuracy of the classification tool.

2018 Annual Report	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.
2018 Annual Report	Issue a Request for Proposal for the risk and needs tool that is currently being provided by Vant4ge this fall.
2018 Annual Report	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.
2018 Annual Report	Review the need for razor wire around the fence at WEC.
2018 Annual Report	Consider reviving the plan for a qualitative analysis of clinical programming.
2018 Annual Report	Provide secure opportunities for inmates at the community corrections centers to apply for jobs using the internet.
2018 Annual Report	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.
2018 Annual Report	Conduct exit interviews of inmates who are released from community corrections centers.
2018 Annual Report	Review the innovative changes being made at LCC and other facilities to determine whether they can be expanded to other facilities.
2018 Annual Report	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.
2018 NSP Report	Currently, staff at the Tecumseh State Correctional Institute have the opportunity to be paid more for merit and longevity reasons. This pay program should be provided to staff at NSP in an effort to reduce turnover and vacancies.
2018 NSP Report	NDCS should review options related to the conversion of the external housing units into programming space and construct new minimum housing units that are rehabilitative and more efficient.
2018 NSP Report	Review the need to construct a second indoor recreation area for the facility.
2018 NSP Report	Place cameras in identified "blind spots" in the Internal housing units and review security camera needs throughout the facility.
2018 NSP Report	Review the use of the kitchen area in internal housing units and determine whether they can be used as a vending area or a recreation area.
2018 NSP Report	Provide for access to a law library computer in Housing Units 2 and 3.
2018 NSP Report	Develop a plan in the near future to address the nursing shortage. (Review past OIG recommendations if necessary.)
2018 NSP Report	End double bunking in restrictive housing so that the ACA standards will be met.
2018 NSP Report	Convene a short-term work group consisting of unit staff and inmates to discuss other options for creating day room space or out of cell opportunities within a living unit or connected to a living unit.
2018 NSP Report	Establish a goal to "right-size" Housing Units 7 and 8 so that they can function in a safe and productive manner. If these facilities had 100 men in them instead of 200 men the environment would be much better for the staff and the inmates.
2018 NSP Report	NDCS and the OIG should work together to conduct similar assessments of other state correctional facilities.
2019 Annual Report	NDCS needs to review the issue of wage compression between salary and non-salary staff, as well as the salary structure of wardens and other administrative positions.
2019 Annual Report	NDCS should develop a long-term plan for addressing and financing their maintenance backlog and for the development of appropriate and needed core support services throughout the system.
2019 Annual Report	NDCS should expand the use of body cameras, especially at LCC.
2019 Annual Report	NDCS should end the practice of double bunking in a restrictive housing setting in order to comply with ACA standards.
2019 Annual Report	NDCS should collect data on contraband turned over to the Nebraska State Patrol that is not shared with NDCS or the OIG.
2019 Annual Report	NDCS should reinstate domestic violence programming.

2019 Annual Report	NDCS should review the effectiveness of the delivery of the substance abuse treatment programs and consider working jointly with community treatment providers to improve and enhance the program. The review should also examine any issues with attracting and retaining staff for the program.
2019 Annual Report	Nebraska should take steps to enact state policies that encourage the hiring of previously incarcerated individuals.
2019 Annual Report	NDCS' next strategic plan should provide detailed information about each of the outcomes, strategies and measurements associated with the strategic goals to provide a more complete picture of what is taking place within NDCS. If goals are shared in the plan then details should be provided on how those goals are going to be achieved by NDCS.
2020 Annual Report	NDCS should establish a goal that the majority of incarcerated individuals receive and complete their clinical programming 12 to 18 months prior to their parole eligibility date or release date.
2020 Annual Report	The name of the Work Ethic Camp should be changed to reflect its current role in the correctional system.
2020 Annual Report	The OIG and NDCS should study the role of race as it relates to the transfer list and different custody stages within the system.
2020 Annual Report	Director Frakes and his leadership team should hold town halls for each shift of workers at CCCL and the incarcerated individuals at CCCL in order to receive candid and open input on the conditions at the facility.
2020 Annual Report	NDCS needs to address the issue of wage compression between salary and non-salary staff, as well as the salary structure of wardens, other administrative positions and positions highlighted in the 2020 Report by requesting additional funding.
2020 Annual Report	The Department and the Legislature should work together to identify the resource needs of the Department in order to increase opportunities for inmates to acquire vocational or other skills during incarceration that will help ensure their success upon reentry to the community.
2020 Annual Report	NDCS should revamp their exit interview process and then set up a system to report the outcomes and action items that result from an enhanced exit interview program.
2020 Annual Report	As part of the career pathways program at Peru State College, NDCS should initiate a repayment option for students that are not employed at TSCI for a certain number of years and they should also prioritize the recruitment of a diverse population to participate in the program.
2020 Annual Report	To demonstrate whether or not there was any impact by the reducing of the operational hours of NSP and TSCI in 2019, NDCS should examine the statistics discussed in the Frakes/Chambers exchange at the October 25, 2019 Judiciary Committee hearing and report those findings to the Judiciary Committee.
2020 Annual Report	NDCS should conduct inmate surveys regarding the conditions in their correctional facilities. This could be started by conducting exit surveys first.
2020 Annual Report	In 2021, NDCS should contract for an update of the recently completed inmate population projection report due to the number of changes in 2020.
2020 Annual Report	NDCS should implement a program to provide inmates with an opportunity to have good time that was designed "non-restorable" restored should they exhibit certain behaviors.
2020 Annual Report	NDCS or the Legislature should contract with the Nebraska Center for Justice Research for an updated report that assesses the use of good time in the correctional system.
2020 Annual Report	NDCS should provide a plan for addressing the maintenance backlog of over \$60 million in projects to the Governor and the Legislature no later than September 15, 2021.
2020 Annual Report	NDCS and Parole should do the following: 1) Review formerly incarcerated individuals in NDCS who had a domestic violence program recommendation and did not receive any such programming and determine their recidivism rates; 2) Review those formerly incarcerated individuals in NDCS who had a domestic violence program recommendation and did receive any such programming and determine their recidivism rates; and, 3) Review the five programs highlighted by the Institute's report and determine if they could play a part in the programming being offered within NDCS in the future.
2020 Annual Report	NDCS should reinstate the suicide work group to see if the steps taken in the past two years need to be updated or enhanced.

2020 Annual Report	NDCS should finish the three-part programming report started by Ada Alvarez and also conduct an analysis of the Alvarez report to determine if any action was taken as a result of that report and the effectiveness of any changes.
2020 Annual Report	NDCS should review how other state correctional systems provide data and information to the public and policy makers and consider changes to their system.
2021 Staffing Update Report	As the LCC/DEC project moves towards its completion date, NDCS should release a detailed plan for how it will ensure adequate staffing within this merged facility, while retaining necessary staff at other facilities.
2021 Staffing Update Report	Department leaders should engage in significant, ongoing discussions with individuals impacted by wage compression to gain a better understanding of their concerns and demonstrated their commitment to addressing this issue.
2021 Staffing Update Report	The department should examine the efficacy of its current \$10,000 bonus program to determine whether that initiative should be retained, modified or replaced. This examination should also take into account the impact on hiring and retention of caseworkers and other comparable positions. The results of this examination should be shared with the Governor and the Legislature so they are able to determine whether or not to continue to fund future bonus efforts.
2021 Staffing Update Report	NDCS should engage in significant, ongoing discussions with individuals who work in the behavioral health field to gain a better understanding of their concerns and demonstrate their commitment to addressing the vacancies in this area of NDCS. In addition, NDCS should develop an action plan for addressing these significant vacancies.
2021 Staffing Update Report	NDCS should determine what action can be taken to decrease the reliance on contracted medical positions such as nurses.
2021 Staffing Update Report	NDCS should examine statistics related to inmate conduct and rehabilitative outcomes at NSP and TSCI, and report to the Legislature on whether ongoing staffing emergencies at those facilities have impacted these performance measures.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Create one intelligence system with a clear chain of command and mission, but also one that maintains constant and transparent communication with the leaders of each correctional facility. As part of this process all Intelligence staff plus facility leaders should be involved in a review of the current system.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Establish a written policy for the use of recording devices as well as establish a tracking system for their location and utilization.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Verify who has the "loaner" listening device and provide this information to the Inspector General of Corrections and the Nebraska State Patrol as soon as possible.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Conduct an immediate NDCS investigation into the use of listening devices in the past and provide a written report regarding this review to the OIG and the Nebraska State Patrol.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Establish a more centralized and coordinated system of tracking when staff attempt to intercede with other staff who they believe may be targets for manipulation, deception or inappropriate relationships. Having a central reporting of these contacts at each facility will allow leadership at the facility to identify a growing concern about various individuals. This will allow for additional interventions that may be positive for the staff member and ultimately the facility. This investigation learned in the interview with the NSP Major that incident reports related to inappropriate activity by a staff member go to there and then she shares those with the Intelligence staff. What happens after that depends on the location of that employee. The NSP Major also shared that NSP and other facilities have a "Team Member Information Sheet/Contact Log" that is filled out. This could be the form that is coordinated in a more formal system.

2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Review how cases involving employees who have been identified as needing administrative or criminal intervention are handled throughout the system and determine whether or not this needs to be amended to create a better system for handling employee concerns and provide a written report regarding the results of this review to the OIG. As shared in this report, there were two tracks that were followed and this caused confusion and a lack of definitive action. As part of this effort, NDCS should clarify to facility administration and Central Office staff what the process is for suspending and terminating staff.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Review how criminal investigations, or a belief that a criminal investigation of an employee is needed, impacts possible administrative actions that may need to be taken against an employee and provide a written report regarding the results of this review to the OIG.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Implement a pilot program involving the use of a body scanner at NSP. Should NDCS move forward with this pilot program, there are challenges associated with their use. These challenges include proper training and use of the scanners, privacy concerns, any potential health concerns and several others. As part of this investigation, the OIG discussed the use of body scanners with the Fraternal Order of Police (FPO) and they discussed these challenges and concerns. If body scanners are utilized by NDCS they should incorporate the FOP and other staff into this process so that it can be accomplished in a manner that works for all of those impacted by this decision.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Update the NSP camera plan by the end of the year to include the need for additional video cameras in the kitchen area, including the possibility of higher resolution cameras.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Establish a system for tracking criminal cases referred to the Nebraska State Patrol and the local County Attorney, including the outcome of those cases. While it does not relate to this specific case it should also provide NDCS staff who are impacted by criminal cases (for example, a staff assault) with information on the outcomes of those referrals and cases.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Require Human Resources to maintain all documentation provided to them regarding requests to suspend or terminate an employee.
2021 Summary of the Report on Arrest of Staff Member at the Nebraska State Penitentiary	Provide data on an annual basis to the Governor, Legislature and the Inspector General of Corrections on the number of NDCS staff who are arrested and/or prosecuted for their activities within NDCS. In addition, data should also be provided to these entities regarding the number of NDCS staff who are asked to leave due to alleged inappropriate or illegal actions.
2021 Annual Report	As construction nears completion on the RTC expansion project, NDCS should release a detailed plan for how it will ensure adequate staffing within this merged facility, while retaining necessary staff at other facilities.
2021 Annual Report	The Department and the Governor should seriously consider utilizing outside resources under the state's control, such as the Nebraska National Guard, to provide relief for correctional staff and help secure facilities.
2021 Annual Report	Because public safety is an essential service, the State of Nebraska should craft a plan for immediate and long-term recruitment and retention of correctional staff which takes into account the potential for continued workforce shortages.
2021 Annual Report	Department leaders should engage in significant, ongoing discussions with individuals impacted by wage compression to gain a better understanding of their concerns and demonstrate a commitment to addressing this issue.
2021 Annual Report	The Department should examine the efficacy of its new \$15,000 bonus program. This examination should take into account the impact on hiring and retention of other key positions within NDCS. Results should be shared with the Governor and the Legislature.
2021 Annual Report	Update state statute to provide that the Board of Parole produce the annual overcrowding emergency report.
2021 Annual Report	Changes in policy and operation of restrictive housing units at NDCS should be transparent and provided to the OIG and the Ombudsman's office. In the recent past, the Department's level of transparency and cooperation has diminished.

2021 Annual Report	If the legislature decides to extend the life of the external long-term restrictive housing work group, it will be important that the following take place: *The work group should meet at least two times per year, but more often than that should be considered so that the non-NDCS members can stay more informed about the restrictive housing practices within NDCS;*The Director should follow state law and "provide the work group with quarterly updates on the department's policies related to the work group's subject matter and with any other information related to long-term restrictive housing that is requested by members of the work group." This has never taken place in the group's six years, despite continual updates and changes to policy by NDCS and it being a requirement in state law; *All members of the work group should be allowed inside the correctional facilities to witness what takes place within the restrictive housing units. There is currently one member of the work group who is not allowed inside the correctional facilities by Director Frakes.
2021 Annual Report	The legislature should consider clarifying the medical parole statutes to provide for emergency consideration and a shorter public notice period in cases where the applicant is terminally ill and has a short life expectancy, and to specifically allow for a power of attorney to appear in their place if the applicant is unable to participate in the proceedings.
2021 Annual Report	Additional, the Legislature should examine the medical parole system more broadly to determine if it is functioning as intended and whether additional statutory changes would be beneficial.
2021 Annual Report	The department should provide a comprehensive progress update of items mentioned in previous strategic plans to the Governor and the Legislature no later than December 31, 2021.
2021 Annual Report	The Legislature should review Neb. Rev. Stat. § 83-918 and determine whether it needs to be stricken or if it should be amended to apply to years beyond 2021.
2021 Annual Report	Update state statute to provide that the Board produce the annual overcrowding emergency report.
2022 Summary of the OIG Report on "Walkaways" in Community Corrections and other related issues	NDCS should pursue work release housing opportunities outside of Lincoln and Omaha, reduce the population at CCC-L so all units are operating at or below design capacity, and reexamine this facility's role in the system. New opportunities could include housing work release inmates in county jails or supervised community-based placements. The Department should also work with the Legislature as necessary to make this possible. This change would relieve pressure at CCC-L, and would allow portions of the facility to be repurposed for mission-specific housing, such as substance abuse treatment units.
2022 Summary of the OIG Report on "Walkaways" in Community Corrections and other related issues	The Department should provide all community corrections inmates with appropriate and beneficial mental health treatment. In order to achieve this, the Department should develop a plan that includes an analysis of community corrections inmates' mental health needs, a mental health staffing analysis, ways inmates may access mental health services in the community, and timelines for implementation.
2022 Summary of the OIG Report on "Walkaways" in Community Corrections and other related issues	Devote sufficient staff resources to electronic ankle monitors in order to justify their cost, particularly at CCC-L. This could include one or more full-time positions to facilitate the electronic monitoring programs at CCC-L and possibly CCC-O, and to provide feedback to those facilities as well as to Central Administration. EM staff would work in conjunction with unit staff to input/update personalized inclusion and exclusion zones, identify and diagnose technical issues, and conduct routine checks of individual EM records. Establishing this as a separate position would reduce the impact on existing staff, while not eliminating their EM-related responsibilities.
2022 Summary of the OIG Report on "Walkaways" in Community Corrections and other related issues	The Department should review the policies and procedures related to these issues and provide more specific guidance for situations involving community custody inmates and staff. This process should include direct input from staff at these facilities, as well as local law enforcement.
2022 Summary of the OIG Report on "Walkaways" in Community Corrections and other related issues	The NDCS Appeals Board should conduct a review of the Department's disciplinary records, including but not limited to escapes, and use this information to help improve equity in administrative sanctions.

2022 Summary of OIG Report on CCC-L Complaint	NDCS should review how the policy regarding the waiver process and the appeal process is currently being followed at CCC-L and CCC-O and implement any necessary changes so that the actual policy is followed at each facility no later than June 1, 2022. the OIG is only recommending this for the two community facilities because of the unique nature of each of them when compared to the other correctional facilities.
2022 Summary of OIG Report on CCC-L Complaint	NDCS should survey those incarcerated at CCC-L to determine if any other incarcerated individuals had a case similar to MR. X which needs to be fairly addressed no later than June 1, 2022.
2022 Summary of OIG Report on CCC-L Complaint	NDCS should review their process for dismissing guilty findings which are found to have been in error outside of the formal appeals process, and determine whether NDCS rules and regulations should be modified to provide for these situations no later than June 1, 2022.
2022 Summary of OIG Report on CCC-L Complaint	NDCS should identify and review other cases of TruNarc "inconclusive" test results assisting in the finding of guilt and determine whether any adjustments need to be made to the results of their misconduct reports. If identifying these cases is not possible through NICaMS, surveying the inmate population could result in discovering how many other individuals were potentially impacted by this issue. This effort should be completed no later than June 1, 2022 as this could impact release dates of individuals.
2022 Summary of OIG Report on CCC-L Complaint	NDCS should amend its current policy related to the proper use of drug detection devices and the use of the results of tests involving such devices that accurately reflect their proper use no later than June 1, 2022.
2022 Summary of OIG Report on CCC-L Complaint	NDCS should review the practices at all correctional facilities to determine if the facility does or does not document non-negative drug detection test results, whether from a TruNarc device or another drug detection device no later than June 1, 2022. If they do not, each facility should be directed to do so.
Fire at Lincoln Correctional Center Restrictive Housing Unit	Develop a specific plan to ensure all housing units at NDCS facilities are consistently monitored in the event of critically low staffing levels. This plan should be crafted in consultation with the labor unions representing NDCS workers and other stakeholders, and should be completed by July 1, 2023.
Fire at Lincoln Correctional Center Restrictive Housing Unit	Improve fire safety at the RTC.
Fire at Lincoln Correctional Center Restrictive Housing Unit	Use chronic care mental health housing only for inmates who required that form and level of care.
Fire at Lincoln Correctional Center Restrictive Housing Unit	Update policy to provide better procedural protections for individuals placed on these units.
Death of NCCW inmate Nicole Wetherell	Promptly ensure all facilities have a method of tracking when patients are due for preventative and chronic care and that the method of tracking follows them should they transfer to a different facility.
Death of NCCW inmate Nicole Wetherell	Provide the Legislature's Appropriations, Judiciary, and Health & Human Services committees with a detailed update on the Department's progress in implementing HER.
Death of NCCW inmate Nicole Wetherell	If EHR is not expected to be fully implemented by July 31, 2025, cease efforts to build an EHR system internally and request funds in the next biennial budget to purchase a system from an outside vendor.
Use of "Controlled Movement Units" Within NDCS facilities	BIPU Recommendation: Establish a real "yard" adjacent to the BIPU.
Use of "Controlled Movement Units" Within NDCS facilities	RTC Recommendations: Develop clear processes for determining who should be assigned to live in the new RTC unit and when they should be released to the general population.
Use of "Controlled Movement Units" Within NDCS facilities	RTC Recommendations: Move carefully and deliberately in filling the new RTC unit.
Use of "Controlled Movement Units" Within NDCS facilities	RTC Recommendations: Assign at least one full-time mental health position to the unit.
Use of "Controlled Movement Units" Within NDCS facilities	RTC Recommendations: Incentivize positive behavior on the unit.
Use of "Controlled Movement Units" Within NDCS facilities	RTC Recommendations: Provide for an appeal process for placements in the new RTC unit that extend beyond six months.
Use of "Controlled Movement Units" Within NDCS facilities	Recommendations for BIPU and IIU: Issue body-worn cameras to all floor staff in the new unit.
Use of "Controlled Movement Units" Within NDCS facilities	Recommendations for BIPU and IIU: Ensure that all staff working the unit have adequate experience.
Use of "Controlled Movement Units" Within NDCS facilities	Recommendations for BIPU and IIU: Provide information on controlled movement units in reports to the Legislature.
Use of "Controlled Movement Units" Within NDCS facilities	Recommendations for BIPU and IIU: Clearly define the goals of these units and study their effectiveness in accomplishing these goals.

Use of Force Incident at Tecumseh State Correctional Institution	Update the Department's use of force policy to include attempts at de-escalation by a licensed mental health professional, when time allows, for incidents involving people with known mental health issues.
Use of Force Incident at Tecumseh State Correctional Institution	Implement a policy to develop individualized de-escalation plans for people with serious mental illnesses who have histories of volatile interactions with staff.
Use of Force Incident at Tecumseh State Correctional Institution	Implement a reimbursement policy for on-call mental health staff by May 1, 2023.
Use of Force Incident at Tecumseh State Correctional Institution	Contract with an outside entity which specializes in training of first responders who interact with individuals with a serious mental illness to provide additional training for staff.

Historical General Fund Appropriations

While the previous sections provide an overview of the FY23-24 and FY24-25 General Fund biennial budget, Table 12 provides an historical perspective showing appropriations for the twenty year period FY04-05 to FY24-25.

Table 12 Breakdown of General Fund Appropriations – Last 20 Years

	w/o Deficits FY2004-05	w/o Deficits FY2014-15	Per 2023 Session	
			Enacted FY2023-24	Enacted FY2024-25
Agency Operations				
University & State /Colleges	433,776,904	592,212,914	724,181,629	758,983,840
Health & Human Services	180,700,556	209,854,144	346,270,934	359,485,585
Correctional Services	132,139,178	181,813,346	342,518,271	353,230,798
Courts	55,641,210	149,427,839	219,392,861	232,452,664
State Patrol	41,539,950	56,576,821	82,859,249	87,039,432
Retirement Board	17,048,711	46,645,251	60,972,169	63,139,000
Revenue	25,371,604	26,428,021	32,404,613	33,115,321
Other 39 Agencies	131,799,097	166,520,755	249,412,838	261,540,492
Total-GF Operations	1,018,017,210	1,429,479,091	2,058,012,564	2,148,987,132
State Aid to Individuals/Others				
Medicaid	470,355,382	777,723,897	1,007,479,783	1,012,640,639
Child Welfare Aid	113,269,755	137,778,999	182,692,600	182,611,996
Developmental disabilities aid	58,032,370	137,040,195	175,955,731	197,567,183
Public Assistance	77,852,044	110,319,888	86,130,054	86,380,054
Behavioral Health aid	30,919,130	67,444,214	84,505,211	85,382,211
Childrens Health Insurance (SCHIP)	12,510,455	27,560,027	26,384,947	26,246,298
Nebr Broadband Bridge Act	0	0	19,795,788	19,795,788
Business Innovation Act	0	6,760,000	19,234,402	19,234,402
Aging Programs	5,696,975	9,463,465	11,722,579	11,722,579
Community health centers	0	4,308,060	11,314,060	11,314,060
Nebraska Career Scholarships	0	0	19,107,500	20,240,000
Higher Ed Student Aid programs	5,766,815	7,553,156	9,593,430	9,593,430
Public Health Aid	2,898,516	6,437,612	6,877,196	6,877,196
Nebraska Rural Projects Act	0	0	4,896,460	4,896,460
All Other Aid to Individuals/Other	8,271,094	12,512,373	44,978,130	32,804,893
Total-GF Aid to Individuals/Other	785,572,536	1,304,901,886	1,710,667,871	1,727,307,189
State Aid to Local Govts				
State Aid to Schools (TEEOSA)	618,568,757	913,571,842	1,030,190,990	944,862,755
Property Tax Credit		Transfer	Transfer	Transfer
Special Education	161,146,721	213,767,961	235,724,474	235,724,474
Aid to Community Colleges	62,887,646	95,040,351	111,939,172	114,116,711
Homestead Exemption	48,838,100	73,521,000	128,000,000	133,600,000
Aid to ESU's	10,564,913	14,051,761	13,613,976	13,613,976
Aid to Counties programs	8,467,271	0	0	0
High ability learner programs	2,336,921	0	2,342,962	2,342,962
Early Childhood programs	2,097,180	9,235,164	11,119,357	11,119,357
Community Based Juvenile Services	0	4,950,000	5,798,000	5,798,000
Governors Emergency Program	0	500,000	5,000,000	5,000,000
Other Aid to Local Govt	5,693,592	6,735,912	15,721,124	6,569,394
Total-GF Aid to Local Govt	935,446,662	1,345,007,109	1,559,450,055	1,472,747,629
Capital Construction	19,046,316	26,437,444	21,303,928	21,303,928
TOTAL APPROPRIATIONS	2,758,082,724	4,105,825,530	5,349,434,418	5,370,345,878

General Fund Appropriations

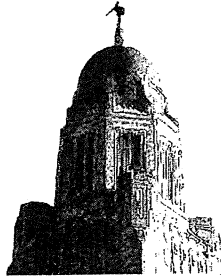
Table 11 contains a summary of the General Fund budget for the FY2023-24 and FY2024-25 biennium as enacted in the 2023 legislative session. Subsequent sections of this report contain a more detailed explanation of the various increases and reductions which are included in the totals shown below.

Table 11 - General Fund Budget as Enacted in the 2023 Session

	W/o deficits FY2022-23	Per 2023 Session		Change vs Prior Yr FY23-24 (w/o deficits)		Change vs Prior Yr FY24-25 (w/o deficits)		2 Yr Avg % Change	% Total FY23-24
		Enacted FY2023-24	Enacted FY2024-25	\$	%	\$	%		
Agency Operations									
University & State /Colleges	704,132,488	724,181,629	758,983,840	20,049,141	2.8%	34,802,211	4.8%	3.8%	13.5%
Health & Human Services	291,885,024	346,270,934	359,485,585	54,385,910	18.6%	13,214,651	3.8%	11.0%	6.5%
Correctional Services	289,961,758	342,518,271	353,230,798	52,556,513	18.1%	10,712,527	3.1%	10.4%	6.4%
Courts	204,357,073	219,392,861	232,452,664	15,035,788	7.4%	13,059,803	6.0%	6.7%	4.1%
State Patrol	70,282,670	82,859,249	87,039,432	12,576,579	17.9%	4,180,183	5.0%	11.3%	1.5%
Retirement Board	57,826,161	60,972,169	63,139,000	3,146,008	5.4%	2,166,831	3.6%	4.5%	1.1%
Revenue	30,222,159	32,404,613	33,115,321	2,182,454	7.2%	710,708	2.2%	4.7%	0.6%
Other 39 Agencies	224,524,827	249,412,838	261,540,492	24,888,011	11.1%	12,127,654	4.9%	7.9%	4.7%
Total-GF Operations	1,873,192,160	2,058,012,564	2,148,987,132	184,820,404	9.9%	90,974,568	4.4%	7.1%	38.5%
State Aid to Individuals/Others									
Medicaid	991,653,018	1,007,479,783	1,012,640,639	15,826,765	1.6%	5,160,856	0.5%	1.1%	18.8%
Child Welfare Aid	179,719,304	182,692,600	182,611,996	2,973,296	1.7%	(80,604)	0.0%	0.8%	3.4%
Developmental disabilities aid	174,638,509	175,955,731	197,567,183	1,317,222	0.8%	21,611,452	12.3%	6.4%	3.3%
Public Assistance	89,156,005	86,130,054	86,380,054	(3,025,951)	-3.4%	250,000	0.3%	-1.6%	1.6%
Behavioral Health aid	74,311,162	84,505,211	85,382,211	10,194,049	13.7%	877,000	1.0%	7.2%	1.6%
Childrens Health Insurance (SCHIP)	26,433,262	26,384,947	26,246,298	(48,315)	-0.2%	(138,649)	-0.5%	-0.4%	0.5%
Nebr Broadband Bridge Act	19,795,788	19,795,788	19,795,788	0	0.0%	0	0.0%	0.0%	0.4%
Business Innovation Act	19,251,162	19,234,402	19,234,402	(16,760)	-0.1%	0	0.0%	0.0%	0.4%
Aging Programs	11,722,579	11,722,579	11,722,579	0	0.0%	0	0.0%	0.0%	0.2%
Community health centers	11,314,060	11,314,060	11,314,060	0	0.0%	0	0.0%	0.0%	0.2%
Nebraska Career Scholarships	14,050,000	19,107,500	20,240,000	5,057,500	36.0%	1,132,500	5.9%	20.0%	0.4%
Higher Ed Student Aid programs	9,093,430	9,593,430	9,593,430	500,000	5.5%	0	0.0%	2.7%	0.2%
Public Health Aid	6,877,196	6,877,196	6,877,196	0	0.0%	0	0.0%	0.0%	0.1%
Nebraska Rural Projects Act	4,896,460	4,896,460	4,896,460	0	0.0%	0	0.0%	0.0%	0.1%
All Other Aid to Individuals/Other	33,937,821	44,978,130	32,804,893	11,040,309	32.5%	(12,173,237)	-27.1%	-1.7%	0.8%
Total-GF Aid to Individuals/Other	1,666,849,756	1,710,667,871	1,727,307,189	43,818,115	2.6%	16,639,318	1.0%	1.8%	32.0%
State Aid to Local Govts									
State Aid to Schools (TEEOSA)	1,038,686,234	1,030,190,990	944,862,755	(8,495,244)	-0.8%	(85,328,235)	-8.3%	-4.6%	19.3%
Property Tax Credit	Transfer	Transfer	Transfer	--	--	--	--	--	--
Special Education	235,724,474	235,724,474	235,724,474	0	0.0%	0	0.0%	0.0%	4.4%
Aid to Community Colleges	109,804,330	111,939,172	114,116,711	2,134,842	1.9%	2,177,539	1.9%	1.9%	2.1%
Homestead Exemption	121,300,000	128,000,000	133,600,000	6,700,000	5.5%	5,600,000	4.4%	4.9%	2.4%
Aid to ESU's	13,613,976	13,613,976	13,613,976	0	0.0%	0	0.0%	0.0%	0.3%
Aid to Counties programs	2,000,000	0	0	(2,000,000)	-100.0%	0	-	-100.0%	0.0%
High ability learner programs	2,342,962	2,342,962	2,342,962	0	0.0%	0	0.0%	0.0%	0.0%
Early Childhood programs	11,119,357	11,119,357	11,119,357	0	0.0%	0	0.0%	0.0%	0.2%
Community Based Juvenile Services	5,798,000	5,798,000	5,798,000	0	0.0%	0	0.0%	0.0%	0.1%
Governors Emergency Program	5,000,000	5,000,000	5,000,000	0	0.0%	0	0.0%	0.0%	0.1%
Other Aid to Local Govt	16,319,394	15,721,124	6,569,394	(598,270)	-3.7%	(9,151,730)	-58.2%	-36.6%	0.3%
Total-GF Aid to Local Govt	1,561,708,727	1,559,450,055	1,472,747,629	(2,258,672)	-0.1%	(86,702,426)	-5.6%	-2.9%	29.2%
Capital Construction	23,921,610	21,303,928	21,303,928	(2,617,682)	-10.9%	0	0.0%	-5.6%	0.4%
TOTAL APPROPRIATIONS	5,125,672,253	5,349,434,418	5,370,345,878	223,762,165	4.4%	20,911,460	0.4%	2.4%	100.0%

DOUG KOEBERNICK
Inspector General

ZACH PLUHACEK
Assistant Inspector General



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

Memorandum

To: Judiciary Committee
From: Doug Koebernick, Inspector General
Re: NDCS Medical and Behavioral Health Staffing
Date: Oct. 7, 2022

The following is a summary of recent staffing data and the results of a staff survey conducted by my office related to medical and behavioral health staffing within the Department of Correctional Services. My hope is that this information will be useful for you as the Judiciary Committee prepares for its October 13 hearing.

Staffing Data

These tables include data on key positions for medical and mental health services at NDCS as of Sept. 30.

MEDICAL

Position	Total FTE	Filled	Vacant	Percent vacant
Registered nurse (RN) ¹	52.5	26.5	26	50%
Licensed practical nurse (LPN)	34	14	20	59%
Physician	6	4	2	33%
Dentist	6	2	4	66%
Dental assistant	5	3	2	40%

¹ Also includes registered nurses assigned to mental health.

MENTAL HEALTH

Position	Total FTE	Filled	Vacant	Percent vacant
Behavioral Health Practitioner I-IV	88	53.5	34.5	39%
Behavioral Health Practitioner Supervisor	12	10	2	17%
Psychologist	18	6	12	67%
Psychiatrist	3	0	3	100%

Other items of note:

- Statute requires the NDCS medical director to ensure that there is a full-time medical doctor at each facility with a population exceeding 500 people.² The Department has five such facilities, and is not in compliance with this statute. At one time earlier this year they only employed three medical doctors.
- Total behavioral health vacancies within NDCS have nearly tripled since 2019.
- At the Reception and Treatment Center, which recently opened a new acute mental health unit and has a separate chronic care unit for people with serious mental illnesses, there is no designated psychologist. All four psychologist positions are vacant. Two people who managed the acute mental health unit – the clinical program manager and behavioral health practitioner supervisor – also left in recent months.
- At the Tecumseh State Correctional Institution, which also houses a significant number of people with serious mental illnesses, only one of the three allotted psychologist positions is filled, and they have had challenges even receiving applications for mental health positions at that facility.
- Half of the psychologist positions are vacant at the Nebraska State Penitentiary, the Department's largest facility.

Staff Survey

Last week, my office distributed an anonymous, nonscientific email survey of NDCS health services staff. The survey was emailed to all current staff listed in a roster of these positions, and 92 (approximately 50%) had responded as of Thursday morning.³ Key takeaways include:

- 54 percent of those surveyed said they looked forward to coming to work most days. The remainder disagreed or said they were undecided or neutral.

² Neb. Rev. Stat. § 83-4,159.

³ Charts showing responses to multiple choice and scale questions are attached to this memo.

- Most said they generally felt safe in the work environment.
- Asked if they were satisfied with their employment, less than half (46 percent) said they were. The remainder were not satisfied or were undecided/neutral.
- A significant majority said they expect to be working at NDCS one year from now.
- Survey respondents were critical of NDCS leadership. More than half of respondents said they disagreed or strongly disagreed with statements that the administration (clinical and nonclinical) positively supports staff in their fields. Less than 10 percent said they felt strongly that they were supported by nonclinical administrators within the Department and only about 18% agreed that their input was valued by the health care leadership team.
- Responses varied widely on whether the Department meets the medical and mental health needs of the incarcerated population, and whether the Department's medical and mental health systems meet the community standard of care as required under Nebraska law.

The scaled part of the survey is attached to this memorandum for your review.

The survey also included several open-ended questions, and nearly all respondents took time to complete written answers. The OIG is not making all of these public because some could potentially be used to identify the respondents, based on the information they shared.

In response to questions about why various fields have lost staff, what the Department could change to improve retention, and the current environment among those working in their field at NDCS, responses were split almost equally between low pay comparable to other employers and a poor working culture, including lack of support from administration. Specific responses that provide good insights to those questions included the following:

- "Get rid of the toxic environment that has been allowed to grow."
- "Pay. Why deal with inmates when you can make more on the outside and have all your own freedoms. Lack of trust and support from administration."
- "Agency nurses get 65 to 75 dollars an hour to work beside me. The department could pay state nurses better and not need to use agency nurses. If the pay was better they could maintain the state nurses that they have. When agency nurse calls in I still end up working so its hard to count on them, they have no ties to us."
- "Very, very low morale. At the point where we just throw our hands up now. I think we're at a tipping point right now, if we lost one more psychologist things would really start to go downhill."
- "I think the environment is tense due to heavy workloads and micromanaging from supervisors."

- “There is no environment. 1 staff member doing the job of what 3 were barely keeping up with.”
- “Good leadership at Central Office would be the primary change needed to retain employees. The administration at Central Office micromanages their Mental Health staff and keeps expecting Mental Health staff to do more tasks with less help.”
- It also seems like the administration at Central Office does not care about staff members leaving NDCS. Central Office keeps making clinical decisions without even consulting the Mental Health team.”
- “The current environment in [*my facility*⁴] is pretty positive compared to other facilities. It appears that there is a lack of leadership and communication, and several factions among staff, which is not conducive to a positive working environment. There are several facilities that are struggling daily, just to get basic mental health duties accomplished. I would not imagine coming to work to be much fun if you constantly feel like you are behind and unsupported.”
- “There are a lot of things that need to change. Management of behavioral health beds and units by psychiatrists at the institutions, not by CO (Central Office) or the Wardens; a lot more regular, effective therapy and not just statutory check-ins once a month; follow-on care to maintain gains; therapeutic environments; out-sourcing therapy via telehealth to community providers when we don't have enough staff/trained staff to provide care; better policies for developmental disabilities and neurocognitive issues, including TBIs, dementia; LISTENING to staff and actually involving us in the change process to improve services.”
- “Medical and mental health providers should be provided compensation for being on-call for the facilities. Currently there is NO compensation for those who take call for facilities, in medical or mental health. We are not permitted to flex time used for call either. This takes away from our personal time and we are given no monetary compensation, vacation time, or flex time compensation for this. If we are worried about the community standard of care for our patients, then we should also be concerned about the community standard of care for state employees. This includes competitive salaries and compensation for being on call. Call is not voluntary, we are forced to take it and not compensated for it in any manner.”
- “Currently, psychologists at NDCS make about \$13/hour less than psychologists at the Lincoln Regional Center (DHHS). We have yet to get a meaningful response on why there is such a high disparity for very similar jobs...other than hearing that non-clinical administrators and Frakes doesn't believe in us.”
- “HR should be a safe department to go to with questions about their job, not a department that people fear talking to.”

⁴ We took out the name of the facility.

The OIG also sought input on the quality of clinical programming and other treatment within the Department, and suggestions for improving programs, administration or the overall operations of the Department. Overall, medical staff spoke more positively than mental health staff about the level of care they feel they are able to provide. Specific responses included:

- “It seems like NDCS as a whole gives a lot of lip service to mental/behavioral health but then when it comes down to paying, staffing, and providing for our needs, we are ignored. ... This is an area where I think NDCS could face a lot of liability yet they don't seem to understand what our roles are or what we do for the department. When people pointed out that the new positions Central office created for full-time Non-clinical program facilitators was higher paying than licensed, masters-level clinicians who facilitate CLINICAL treatment, Frakes's response was to tell the clinicians to apply for the non-clinical roles.”
- “Staff shortages call into question the current ability of staff to deliver treatment that would be beneficial. Staff shortages at several institutions are at a critical level, which is unsustainable. The coming on line of a new residential treatment unit at RTC and the opening of additional beds for high risk inmates the inability to hire new MH staff will likely lead to a crisis in MH's ability to provide adequate care to a high need population in those institutions. Recently several MH staff assigned to the new RTC unit have taken other jobs, probably due to their realization that they would be fed into an understaffing meatgrinder if no additional staff are going to be hired.”
- “I think general medical treatment is solid, that some individual's health is probably better than if they were trying to manage it on their own in the community. But overall resources like lack of availability of specialized care like vision, dental, hearing aids, prosthetics, and limited ability to do travel orders (staffing), is a problem.”
- “Overall, I have been pleased with how things have been done. I do however wish that it was a clinician that oversees all of the programing for NDCS. There needs to be more individualized attention paid to when new programs are rolled out. I get that we need to provide programs to the population but "program fatigue' is real...Also do not roll out programs that there are not staff to run causing giant waitlists.”
- “We are doing great work here with the resources we have imagine what we could do if we had legitimate treatment only facilities including treatment wings at CCCO/CCCL or just a transition area at the treatment only facility. We need continued wrap around services provided to individuals as they complete their treatment and transition back to citizenship.”

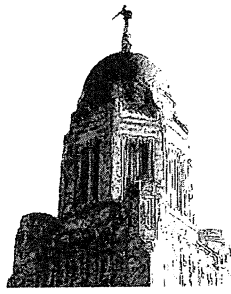
There are literally hundreds of other responses that mirror a lot of what is shared above or share additional insights. We were fortunate to receive such thoughtful and honest responses from those surveyed. These responses are also consistent with what the OIG hears when speaking with staff at facilities. A lot of what has been shared with the OIG echoes what you heard last year

during your security staff hearing as it really boils down to serious issues with leadership, trust and communication. These are all things that directly impact retention and a positive work culture.

I will be at my annual Inspector General conference next week so Zach Pluhacek, Assistant Inspector General, will be testifying on behalf of our office. Zach has spent a lot of time working on behavioral health issues and has met with multiple incarcerated individuals with mental illnesses and has also become familiar with behavioral and medical staff. He will be prepared to answer any questions that you may have at the hearing. I will be meeting with Dr. Deol and Dr. Williams to discuss the results of the survey on October 24th.

DOUG KOEBERNICK
Inspector General

ZACH PLUHACEK
Assistant Inspector General



Attachment D

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 Members
From: Doug Koebernick, Office of Inspector General
Re: Recent Deaths
Date: July 19, 2023

My office has received inquiries from members of the Legislature and the media regarding recent deaths within Nebraska Department of Correctional Services facilities. I thought it might be beneficial to provide you all with some basic information and context. The investigations into these deaths are ongoing, so I am unable to share any details at this time. However, none of the information in this memo is confidential.

So far this year, there have been 17 deaths within NDCS facilities, including six since the beginning of June. This number is about what we would expect for an entire year (prior to the pandemic). Setting aside the two COVID years, 2020 and 2021, the Department has averaged about 15 deaths per year since 2011. The table below shows the totals for each year:

YEAR DEATHS	
2011	18
2012	12
2013	16
2014	13
2015	17
2016	9
2017	16
2018	11
2019	17
2020	30
2021	25
2022	19
2023 (YTD)	17

Eleven of those who died this year had been at the Reception and Treatment Center in Lincoln. This is now the largest facility in the system with the greatest number of skilled nursing beds, so that is not surprising. Another four were at the Tecumseh State Correctional Institution, which also has a skilled nursing facility. The remaining two were individuals from Omaha Correctional Center and Community Corrections Center-Omaha. The average age of these individuals was 62.

It is important to keep in mind that, while every death is a concern, these are still small numbers from a statistical perspective. We do not yet know if this is a trend or the result of one or more systemic issues, or if it is simply a coincidence. However, I will share some observations:

- A majority of the deaths in the prisons each year are due to natural causes. Many if not most of the individuals who have died so far this year were being treated for significant medical conditions, something NDCS notes in its news releases to the public.
- Elderly prisoners continue to account for a significantly larger proportion of the prison population than they have in previous years. [This news article](#) from late last year includes a chart which helps illustrate this trend.
- NDCS, like other state correctional agencies, continues to struggle to keep drugs out of its facilities. This includes liquid intoxicants which can be applied to paper and smuggled into facilities. A strip of paper smaller than a piece of gum is enough to cause a significant “high” as well as potentially serious side effects, including overdose. Because of this, most mail coming into correctional facilities is now photocopied for the recipients, so the originals can be destroyed in case they contain drugs. We are told anecdotally that this has made an impact on the quantity of drugs in the facilities. Nonetheless, the incarcerated population is adept at finding other ways around institutional security. And unfortunately, they often do not know what substances they are using.

We will have more specific insights into these deaths at a later date, once the investigations are complete. In the meantime, feel free to contact me or Zach Pluhacek in my office should you have any questions about this process or about any of the broader issues mentioned above.