

STINNER: [03:06:41] Thank you. Questions? Seeing none, thank you. Any additional proponents? Seeing none, any opponents? Seeing none, anybody in the neutral capacity? That concludes our hearing on Agency 15. We will now open our hearing on Agency 46, Department of Corrections. Afternoon, Director Frakes. Sorry you had to wait this long.

SCOTT FRAKES: [03:07:30] It's OK. Now all I have to do is find and get everything out. With all that time, you think I would have been better organized. All right. All that time to be organized. Good afternoon, Chairman Stinner and members of the Appropriations Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the director of the Nebraska Department of Correctional Services. We appreciate Governor Ricketts' and the Appropriations Committee's support of our budget request. I'll provide a brief overview of NDCS budget request which were included in the Governor's recommendations as well as the committee's preliminary recommendations. This also includes information regarding the capital budget request, capital budget issues for the maximum-security beds at the Lincoln Correctional Center. Facility staffing: NDCS is requesting funding in PSL for four unit case managers for fiscal years '20 and '21. Additional unit case managers are needed to ensure caseloads are appropriately managed based on security level. To ensure effective and proactive communication, case managers need to meet frequently with inmates on their units. This interaction provides the means to identify criminogenic-- criminogenic factors, identify stages of change, develop a case plan, and provide follow-up. Case managers also provide an active role in facilitating programming. As part of the unit management model, this approach enhances safety in the units and the facility. These positions are tentatively set to deploy at OCC, NSP, NCCW, and CCCL. And there's additional information included. Staffing analysis: NDCS conducted a staffing analysis after receiving training from the National Institute of Corrections, NIC. The final report was submitted in July 2016 and identified the need for an additional 138 FTEs of custody staffing

or protective services staffing divided among the ten facilities operated by NDCS. Below, listed below is a summary of the staffing analysis positions appropriated to date, in which we received PSL and funding for 19 positions in this biennium, and then in the midbiennium budget last year I received authority using existing funding to bring on 29 more positions, which are about to all be brought on line. The 2018-2019 biennium budget fully funded 19 FTE. In 2018-- I just said that. Appropriation is required to fully fund these positions at their annualized salary. So that would be the 29 that we brought on this fiscal year. We used existing funding. NDCS has identified phase two of the staffing analysis for which 24 FTE are needed in FY 2020 and an additional 24 FTE brought on in FY 2021, for a total of 48 FTE by the end of fiscal year 2021. And then phase three would address the remaining 42 custody positions from the staffing analysis and would be requested in the 2022-2023 biennium budget request. And then I break down the numbers tied to that request. Three, inmate programming: NDCS is requesting \$250,000 for fiscal years '20 and '21 for inmate programming. These funds will maintain existing resources and establish an ongoing budget to provide training and materials, as well as expanded capacity for cognitive behavioral interventions. These funds will provide more programming opportunities to individuals prior to their parole eligibility date. This request will allow NDCS to continue to, pardon me, to continue to expand the delivery of cognitive behavioral interventions during incarceration, increasing inmate engagement, and addressing criminal thinking. The return on investment estimates the cost will be covered by the end of the biennium and show a positive return going into year three. Additional requests are listed at the top of page 3, top of page 3 on mine. It's probably not the same page. And I can speak to any of those if there's specific questions related to any of those additional requests. NDCS also requested the capital construction-- also requested capital construction funds for the '20-21 biennium budget. I've attached to my testimony the planned uses for capital construction, Programs 913 and 914. Next I will provide an overview of the RTC project which was included after the biennium budget was submitted. RTC project phase two: This project will provide

correctly designed general population living space for high-security inmates that demonstrate risk to others and cannot be safely housed in any existing general population living units within NDCS. This population engages in assaults, directs violence against others, introduces dangerous contraband, and/or other high-risk behaviors. Because of our current physical plant limitations, these are inmates who cycle in and out of restrictive housing with increasingly longer stays. High-security general population housing will allow NDCS to offer meaningful programming, treatment, and other interventions that are difficult or impossible to achieve in a restrictive housing setting. NDCS has identified the RTC phase two project as a higher priority capital construction need since the biennium budget was submitted in September 2018. NDCS is requesting just over \$2 million in fiscal year '20, just under \$32 million in fiscal year '21, and then just under \$15 million to complete the project in fiscal year '22. Nebraska capital construction funds are being requested for this project to be completed in June of 2022, and there's a project breakdown. And I would be happy to try and answer any questions you may have at this time.

STINNER: [03:14:23] OK. Questions? Senator Wishart.

WISHART: [03:14:31] Thank you, Director Frakes.

SCOTT FRAKES: [03:14:32] Sorry you didn't have my testimony in hand. I--

WISHART: [03:14:34] No, that's OK. We--

SCOTT FRAKES: [03:14:34] Things got organized wrong-- different than I thought they were.

WISHART: [03:14:39] So I'm going to ask a similar line of questioning that I asked of-- of Doug

Koebnick around the maximum-security facility. So how many people currently do we have within our corrections system who would be labeled this maximum-security population?

SCOTT FRAKES: [03:15:05] Just by strict classification, it's probably 25 percent.

WISHART: [03:15:10] Twenty-five percent.

SCOTT FRAKES: [03:15:11] But then we have a variety of variables that we look at and in many cases we're able to justify overrides to less-restrictive settings, so.

WISHART: [03:15:22] So if we-- putting aside-- so, I mean, our issues are compounded by the overcrowding that we have in our corrections system and so do we currently have the-- we currently have three max-- two maximum-security facilities?

SCOTT FRAKES: [03:15:44] We have three locations where we house maximum-security adult males, none of which were designed in a way that I consider to be maximum-security construction.

WISHART: [03:15:55] OK. So what-- can you tell me what that-- what does that mean? What is the-- the difference that you're look-- that you're envisioning with this new facility as opposed to, say, the penitentiary?

SCOTT FRAKES: [03:16:04] So all of our existing spaces are built at what would meet a medium custody classification, from my view of the world, my understanding of-- of how to safely house inmates. One of the biggest issues is just the simple physical plant control or, in this case, lack thereof. When doors are operated by pushing a button and they pop, the lock releases and then they

swing open or swing closed or they're pulled open and closed, then whoever has the door in their hand has control of the door. And that's how almost all of our construction is, with the exception of the secure management unit at Tecumseh, the restrictive housing unit, which actually has sliders. In a maximum custody general population physical plant, the doors to the cells, the doors in and out of the galleries or the general living areas, basically just about all the doors within the living unit should be controlled with sliding doors. So then the staff that control the opening and closing ensure that they can, in fact, open and close the door. Lacking that, what we see often at Tecumseh, what we've seen at NSP on many occasions is, as soon as a door is open, then the inmate has control of and they're able to exit spaces en masse or go into spaces en masse and do things that cause harm to staff, to other inmates, ultimately, ultimately to themselves as well. So there's other features as well that are specific to this modern-- this would be a good example of a modern design of a maximum-security housing unit, unlike something that would have been built even 15 or 20 years ago. And then it will also include programming space, adequate office space for the staff that are housed there, the potential to feed on the living unit if that is the design desire, the operational desire. But we're replacing these units. There will be the capacity, both in the kitchen and the dining hall space, because that's in the phase one project, so there would be the capacity to feed them off the unit. And operationally, that would be my preference. But if it's a population that is so dangerous that anytime they mix with others it leads to violence, then we'll have the option to feed on the unit. So we can create, in effect, something that's sort of like a mini prison. Can't meet all of their needs. You know, still need to take them to health services for health services needs. There may be specific programming needs that they need to be escorted to. But a good part of-- and there will be yard space, recreation space for them that's connected to the unit that's of adequate size, not like the little mini yards, as they call them at Tecumseh, but these would be actually big enough to have basketball, have some weight equipment, and some other things. And--

WISHART: [03:19:15] Have you looked into-- have you looked into whether you could replace some of the safety aspects that you've talked about, like with the doors, in some of our current facilities?

SCOTT FRAKES: [03:19:27] I have. And I have a test project that's underway at Tecumseh. It's going to give me a piece of that.

WISHART: [03:19:37] OK.

SCOTT FRAKES: [03:19:37] So we will be able to control the doors in and out of the cells and the door in and off the gallery. But we don't have the programming space and we don't have the other things that support it, so they'll still need to be escorted off the living unit to meet all of their needs. Then that becomes challenging and burdensome on the rest of the population. We already struggle there with the protective management unit because the protective management unit is relatively self-contained. It has its own yard. It has some programming space. It's an excellent living unit. It's a medium custody physical plant but it works. But when we need to give those people some opportunities for access to other things, like religious services would be a good example, then we pretty much have to stuff-- shut down movement for the rest of the population so that we can allow that one-third of the population to go access things.

WISHART: [03:20:29] If we were-- if we were here today at 125 percent prison population or 100 percent, we weren't experiencing the overcrowding issue, would this-- would this 345-bed facility still be your top priority?

SCOTT FRAKES: [03:20:48] If I had the same issues with the security threat groups, which are

primarily the force, we're talking about, you know, roughly 10 percent of the population, then I'd say it's, you know, this 384 would house about 8 percent of the population as it sits today. So there's about 10 percent of the population that's driving the majority of the violence, the extortion, directing the violence, carrying out the violence, and all that. So if I had-- if those issues still existed, and they very well-- I think they would, then we'd still be having the same conversation. But--

WISHART: [03:21:24] Would there be a-- would there be a cheaper solution to then-- than \$49 million to be able to better house that 10 percent of problem-makers?

SCOTT FRAKES: [03:21:38] I could leave them in restrictive housing.

WISHART: [03:21:40] That's the only other option we have without the--

SCOTT FRAKES: [03:21:45] Yeah.

WISHART: [03:21:45] --the 345 bed?

SCOTT FRAKES: [03:21:47] Three eighty-four.

WISHART: [03:21:47] Three eighty-four.

SCOTT FRAKES: [03:21:47] Yes.

WISHART: [03:21:47] Three eighty-four.

SCOTT FRAKES: [03:21:50] We had a lot of numbers today. So, no, and that's not across the board. We are working with the population in restrictive housing and many of them are deciding to try and engage in some of the things and we're bringing them back. We're seeing what kind of-- getting them back out to general population and seeing, you know, where we can be successful. So we've made some headway, but, no. I mean given the reality we have today, first of all, we're at 5,500 inmates, we-- 5,515 this morning, so that is the new high for this agency. And while I don't yet have a really clear understanding or a clear sense of what's driving it, since September our number-- well, really, it's since last April our numbers have shot up about 250 inmates, so big increase, big increase. You know, I continue to hope that's an anomaly like it was a year and a half, two years ago. But nothing tells me that it's going to have any significant drop. So we have the capacity component, which is important, but the fact is, given all of these pieces as they fit together, the security threat group-driven violence, the fact that we are packed in tight, the need to build the right kind of beds, these are the right kind of beds at this time. We invested heavily in low-security beds. And maybe "heavily" is a strong word, but considering we didn't build anything for about 13 years, the fact that we've added 260 community custody beds and have 100 minimum custody beds that are in design, I-- I can't-- I don't have the right population to build more beds. Those would sit empty at this point in time. So, and then on the other end of the scale, I have a pretty large population still in restrictive housing. This morning it was 329, many of which I believe, in the right living unit, properly operated with the right security components, could exist outside of restrictive housing. And the goal, of course, would be that you go to those units. If you come in with the length of sentence, the type of crimes, prior criminal-- criminal history and you score max, that probably is where you would initially go. Then you demonstrate the behavior, the level of engagement that we're looking for, some prosocial activities, and then we would be able to transfer you to a less-restrictive setting. We would be able to move towards bringing Tecumseh to a true medium custody, light-- actually long-term minimum, light-medium custody. That would help

Tecumseh both in terms of slightly less staffing. It's not much but slightly less staffing. But also it would definitely greatly reduce the violence issues that they've suffered with. And you can look at unit three at Tecumseh which we converted to medium custody in 2017, I believe it was, so that population within that unit, living unit three, is all medium custody. Their number of incidents, their number of problems, etcetera, significantly less. Unit two remains a max custody general population unit. It had some-- actually been doing a little better than they were a year ago, but it's always a potential problem area because of the people that we house there. That's a long-winded answer but it's--

WISHART: [03:25:33] Can I keep [INAUDIBLE]?

SCOTT FRAKES: [03:25:33] --really important.

WISHART: [03:25:37] OK. So if-- because here's-- here's what I'm-- what-- what I'm kind of weighing in my head, is I'm assuming, and I'd like you to enlighten me if I'm wrong here, that it costs-- the square-footage cost of a more highly secured facility is more than the cost of a more minimum-security facility.

SCOTT FRAKES: [03:25:54] Yes.

WISHART: [03:25:54] So I'm just wondering whether, if we're talking about 10 percent of the population that are some of those that are causing the most problems for not only your staff but also for the other population, and everybody's packed in together, whether it would make more sense that we spend-- even if we spent the same amount, that we help to build more minimum-security facility beds and maybe repurposed the penitentiary for-- for being the more maximum-security

facility. But you could get then more beds out of the situation. So walk me through--

SCOTT FRAKES: [03:26:49] Uh-huh.

WISHART: [03:26:49] --your process in-- in determining that more maximum was-- was the right path.

SCOTT FRAKES: [03:26:55] OK. So when I got here I felt that we were over classified. We had too many people classified at maximum custody and that we had room, both in terms of looking at our classification tools but also looking at our processes, that we had room for more people at community custody. Changes we've may have supported that and now about 15 percent of the population scores community custody, and that's about the bed space that we have. We have 820 community custody beds with the new beds that come on-line April 1. For a system our size to have that many work release, prerelease beds is really pretty amazing, significantly higher ratio than what I left behind in Washington State. So that's a good thing. We have a huge number of minimum custody beds really when we look at it. Now the problem is, is 600 of those are at the penitentiary. And while they're in their own space, they share a lot of other activity space and work space, etcetera, with the higher security populations. So it becomes challenging for that population to feel like there in a true minimum custody setting. We also house a lot of minimum custody inmates at Omaha, the Omaha Corrections Center, and then we have the Work Ethic Camp way out west. So those are-- and we have an additional hundred beds, and it isn't the hundred beds that are coming on-line at the-- well, not coming on-line but are in design right now to be built at the penitentiary, there the intent was not to add another hundred inmates to NSP. It was to help with that design capacity and spread out that existing population. So based on our population numbers, our classification numbers, we have the right number of beds at lower security. If I build additional beds

I'll either have to override people to put in those beds that shouldn't go there-- that's a bad practice, or they'll sit empty and we will not have made any headway-- that's a bad practice. Now the flip side is I've got a part of the population that flavors the entire system by their violence, by their actions. They keep people from engaging. They keep people from being able to get the programming. They lead to facility restricted movements, in some cases lockdowns. They-- these are the same people that are the driving force between-- behind the May 10, 2015, and the March 2, 2017, incidents at Tecumseh. That population is making it difficult for the other 90 percent to achieve what they could achieve, not the only problem but they are certainly part of the problem. Having the right place to house them with the right tools and the right resources and the right physical plant will not only take stress off the other 90 percent, because, again, with few exceptions, DEC, everybody's got a place to sleep, a place to store their stuff. It isn't the space that they live in. It's the external issues, both, you know, programming space and some of the other factors. When a-- when a facility is not faced with high levels of violence, with high levels of extortion and other activities, those things become less of a problem as well.

WISHART: [03:30:15] Thank you, Director. You know I came in with-- I have to say you've opened my mind to this idea more than I-- than I came into committee with,--

SCOTT FRAKES: [03:30:24] Thank you.

WISHART: [03:30:24] --so I really appreciate the explanation.

SCOTT FRAKES: [03:30:28] I appreciate it.

STINNER: [03:30:30] Additional questions? Senator Hilkemann.

HILKEMANN: [03:30:33] I want to-- so the new facility we've got 384 general population high-security beds.

SCOTT FRAKES: [03:30:42] Yes.

HILKEMANN: [03:30:44] Is that correct? I want to-- I visited the Tecumseh prison right after the riot five years ago. And I cannot-- I remember when we went through the death row and then I was talking with the warden after that. We had ten persons, I think, on death row at that time. Is that-- is that whole portion of that unit, is that-- now I know it's not general population because they're death row. But that could be a general population high-security portion. Is that correct?

SCOTT FRAKES: [03:31:23] So I had the same exact idea until several years ago. We moved the-- we now refer-- refer to them as inmates sentenced to death penalty, so the ISDP population. We've moved those to the secure management unit. They have their own tier. There's 16 cells. Currently, the 12 men that are in those cells, well, 11 right at this moment. So we did that three years ago, roughly.

HILKEMANN: [03:31:51] OK.

SCOTT FRAKES: [03:31:51] Yes. And then we turned that into a-- it's general population but it's protective management. But we were able to-- to make some significant changes to how we manage protective custody inmates. And now they get the out-of-cell time, access to programming, and other things. So it's a safe-- becomes a safe harbor for that part of the population.

HILKEMANN: [03:32:12] OK.

SCOTT FRAKES: [03:32:12] That unit in total houses 384 people, coincidentally.

HILKEMANN: [03:32:16] OK. Because I know it seemed to me when I visited--

SCOTT FRAKES: [03:32:18] It's a good memory.

HILKEMANN: [03:32:19] --when I-- when I visited with the warden that there was-- there was potential for, if we'd had them. OK.

SCOTT FRAKES: [03:32:25] Yes.

HILKEMANN: [03:32:25] So you-- so now you've got the death row inmates are-- are limited to an area of 16.

SCOTT FRAKES: [03:32:32] Right.

HILKEMANN: [03:32:32] And are they still at Tecumseh?

SCOTT FRAKES: [03:32:34] Yes. Yes.

HILKEMANN: [03:32:35] OK. And that is, that unit, because he said this is the most expensive unit we got here because it's so inefficiently run because of the numbers. So that being-- so-- so even with that fully servicing, we still need 384 more beds.

SCOTT FRAKES: [03:32:51] We do. We do.

HILKEMANN: [03:32:53] Are you--

SCOTT FRAKES: [03:32:53] And again, the physical plant even of that living unit is not adequate for this, the high-end, most dangerous part of my population, because they, again, have the same pop doors. So when you pop-- when you push the button, the door releases. And until someone secures it, normally, the inmate, then the inmate's in control of the door.

HILKEMANN: [03:33:13] And are these going to-- and-- and I need help. Are these going to be at Tecumseh or are these going to be in Lincoln?

SCOTT FRAKES: [03:33:15] These are in Lincoln,--

HILKEMANN: [03:33:21] OK.

SCOTT FRAKES: [03:33:21] --on the grounds of the Lincoln Corrections Center. But ultimately, this, the project that's currently underway, the Reception and Treatment Center project, RTC as it's known, will integrate LCC and D&E, the Diagnostic Center, into a single prison. And then this phase two project would just be an expansion of that new prison that at this point is referred to as RTC. I hope somebody comes up with a better name when we get down the road.

HILKEMANN: [03:33:48] Thank you, Director.

STINNER: [03:33:49] Additional questions? Senator Erdman.

ERDMAN: [03:33:53] Thank you, Senator Stinner. Thank you, Director Frakes, for coming. A month or two ago you and I and Senator Stinner had a meeting about the beds at Scottsbluff. Any future development on what hap-- what we talked about there?

SCOTT FRAKES: [03:34:05] Somehow I knew you'd ask. Yes, I've got a contract signed and I think we have identified, I believe we've identified five or six people that they're working on headed that way. So we're gonna get a handful of people out there that are connected to that general area, probably primarily Scottsbluff, you know, close area. And we're going to look and see who else might be best, you know, serviced out there and-- because it's not the right location for this transitory population that we use some of our beds for. Really, it is people that would be better served because maybe they are nearing release, they're going back to Scottsbluff, or they could be doing a long sentence and this would give them access to family for visiting and things like that. Then once we get that piece working then we're going to have some conversations about the potential maybe for some kind of a work release element. So we're on the road.

ERDMAN: [03:34:59] Thank you. Appreciate it.

STINNER: [03:35:02] Questions? Senator Dorn.

DORN: [03:35:04] Thank you, Chairman Stinner. Thank you for coming today. We-- we quite often hear about staffing issues and not an ability to get that to where we want. For this, for this committee, Appropriations Committee, what's the number one thing we can do for you to get that up to where you need it?

SCOTT FRAKES: [03:35:29] Well, fund my budget request and believe this time that I do have a plan to fill the positions. Last time around I did ask for 96, and if I'd have gotten the 96, honestly, I probably would have filled 60, 60 to 70 of those. So there was some truth in the fact that given all the dynamics I couldn't have got to the 96. This request, there's, you know, we bring them on six at a time to the custody staffing, six a quarter I should say. So 24 in the first year, additional 24 in the second year. I know I can get to the-- the 30 number without any challenges. Those are the facilities where we don't struggle to hire staff: our low-security facilities, the Omaha facilities, the women's facility, Work Ethic Camp. Actually, Work Ethic Camp we're already there. We've got it fully staffed. So the last 18 definitely still would be a challenge. Those would be Lincoln positions. And on top of that we have expansion, so I recognize that. We got-- we're gonna continue to work on figuring out how we can come to, ideally, agreement with the union on some of the compensation issues. And right now I've-- I've got the money within this request and within existing budget to do what I believe we need to do. So I haven't lost hope that we're gonna be able to come to some agreement with the one union that doesn't yet have a contract. And then it's just an ongoing effort to try and figure out how, in this incredible labor market, and how we employ people. It's 2, 2.8, what is-- what was Lincoln's last month? Two-- was it 2.8 or 2.6, you know, unemployment, which is just incredible. I don't think any of us can fix that. I mean that's a great problem to have, right, except if you're an employer.

DORN: [03:37:32] One--

STINNER: [03:37:33] I--

DORN: [03:37:34] --one more question yet.

STINNER: [03:37:34] OK.

DORN: [03:37:35] Yeah. The 384-bed unit you mentioned that's the-- the minimum part or you needed a more certainty type of design. Where, is that a national design or where-- talk about a design, the reason for a certain design, I guess.

SCOTT FRAKES: [03:37:55] Yeah. So I think it was, it was Senator Wishart that hit exactly on the issue of the higher the security, the more expensive the beds. We were able to build those, that hundred-bed community custody dormitory for less than \$2 million. It wasn't inside of a security perimeter. It had very few security features. It's built to house people that are on work release and are already, you know, getting on a bus and going to work every day. So it's community-based housing. That same basic living unit, a little bit bigger but now built for minimum custody and being constructed inside a secure perimeter at NSP, will be five, probably a little over \$5 million, whereas if I built the same exact unit, and it's about a third bigger than the one at community custody so maybe would be \$3 million in community. When you then go to medium custody, I've talked about some of the features. You have more security features, more cameras, electronic controls, and then when you get to maximum, general population but maximum security, now you've got high-end door controls, high end-- just it's all steel and concrete, so the cost goes up. And then, unfortunate-- well, in this case actually the good news on this project, I do believe that we-- I think we can come in under the 49. But until we get design done and then go out for bids and see what the market is, but the fact is we're gonna be able to build these living units outside the secured perimeter and that will definitely help with construction cost, because what we'll do is we'll shrink the perimeter, build the living units, and then build the new fence around it, so. But I don't want to-- the last thing I like to do is ask for not enough money and then come back because then I feel like

I've, you know, bait and switch.

DORN: [03:39:55] Thank you.

STINNER: [03:39:55] Senator Bolz.

BOLZ: [03:39:59] A couple questions for you: one is, in-- in preparation for this hearing I was reviewing some of the information and it might be helpful for this committee to hear discussion a little bit about the Dewberry report and the forecast for the needs into the future. So I pulled it up and-- and the projections, so for the committee's reference, just like we do fiscal forecasting they do inmate forecasting. The forecast, I was a little surprised to see that according to the Dewberry report the forecast for the male total by 2024 was at 5,544 which we are within 25 of today. Is that what you said, 24?

SCOTT FRAKES: [03:40:53] Yeah. Yes.

BOLZ: [03:40:55] So-- so we are nearing the projected number for 2024 in 2019.

SCOTT FRAKES: [03:41:01] That's true.

BOLZ: [03:41:03] I-- I guess what I'm trying to talk about or get at is, our current overcrowding challenges aside, these numbers would indicate that we're going to need-- we're going to need this additional facility anyway. Is that a fair way to understand the Dewberry report or is there more [INAUDIBLE].

SCOTT FRAKES: [03:41:26] That's a-- yes, that is a fair way to look at the Dewberry numbers.

What we are doing right now is working on trying to see where-- where does the truth fall today, because Dewberry very was done before LB605. So LB605 should have led to some overall population reductions. What LB605 has done, and we should be really happy about, is it increased the number of people on supervision by about 30 percent, and I think that number is going to climb even more so that's a really good thing. It decreased jam outs, mandatory discharges, by about 38 percent since 2016, so that's huge. It has shifted many people that would have been eligible for parole and those have been like the-- the easy side of the parole house, now end up with postrelease supervision. So in some ways, it could look like Parole's numbers are down but, really, with postrelease supervision up so much, again, 30 percent more people are getting some form of supervision. But other than the-- the dip that we saw that hit its lowest point in the spring of 2018 and got us down to 5,250, we just didn't see the overall population numbers. We're analyzing and trying to figure out, in the last six months in particular, if we continue on the trend we're on, we'll see about 2,900 people come into the system this year, as opposed to usually about 2,400 hundred. That would be fiscal year '19. And our numbers going out the door at this point are closer to about 2,700, if I'm-- off the top my head, something like that. So there's-- there's a gap and that gap is growing. For quite a while the numbers were pretty consistent. We were bringing in about 2,200 and sending about 2,200 people back out each year, which some people-- I found a number of people were surprised that there is that kind of churn, but that's the level of movement that happens through our system. So we know that there's a stacking effect. It's driven by length of sentence. We're trying to get a, you know, more definitive answer to that, but we can look back from 2011 through 2018 and we can see a growing part of our population that's coming to us and staying with us. Right now we have, I think it's about, 900 people that will still be with us in '30, 2030, as an example. And some of those will be with us, of course, forever. They have life without. But that's not a big part of our population. So as length of sentences grow, as the range of sentences in

particular, as I see that as one of the challenges when we have relatively flat sentences, the, you know, the 40 to 50 kind of sentences that we sometimes see, then that doesn't provide as much opportunity for access to parole, so.

BOLZ: [03:44:32] So a related question-- so that's the more global number. The related question is that the Dewberry report says that in 2024 they would expect 1,640 in at the maximum-security level. Do you know how many you have in maximum security today?

SCOTT FRAKES: [03:44:54] Again, I think-- I think our classification numbers are consistent with that. I use 25 percent. It's between 20 and 25 percent. But again, then there's-- we, you know, we use processes to make sure. If someone's doing a lot of time and came in on a very serious crime but they've been with us for a while, they've engaged in programming, they're doing the right things, they're behaving, they may still score as max but then we have an override process that allows us to deem them as-- as medium. So I think Dewberry's numbers aren't bad.

BOLZ: [03:45:36] OK. We can-- we can maybe talk about this further. It may be helpful for us to get our heads around, because your overall capacity is one thing. Your maximum-security capacity is a different question. And there's your maximum-security capacity now as it compares to your current demand and your maximum security as it compares to the forecasted demand. And I think I could probably understand that better with some more information.

SCOTT FRAKES: [03:46:04] OK. We can do that.

BOLZ: [03:46:07] Relate-- two more questions related: I wanted to ask you some of the materials that you've provided reference an operational stress index. So I think we've gotten to-- we've gotten

used to the term "operational capacity" and "design capacity." Can you describe for me what goes into an operational stress index?

SCOTT FRAKES: [03:46:26] As far as I know, that's Dewberry's tool and it's described in the master plan, the 2014 master plan. I thought it was really a pretty interesting way to explain operational capacity. So it takes into account all of the factors, the number of people housed within a giving-- given space, the space immediately outside of the cell, the day room or other access places, showers, you know, or whatever other amenities that if it's dry cells it would be toilets and showers. Which again we have-- or not again, but we're ACA accredited so we do have some numbers that we have to meet there in terms of ratios of showers and toilets to inmates. It's then, once you come off of the living unit, it's is the dining hall big enough to service the population in a reasonable amount of time, which for me you should be able to feed a meal in about 90 to 100 minutes. And unfortunately, NSP being a good example, it's not unusual for us to take two hours because the dining hall was built to feed about 500 meals, 450 meals at a time and there's 700 and some inmates that go through the high-security dining hall for each meal. And then it's the recreation space, it's the programming space, it is the custody level. Staffing can fit in there as well. You know, if you're fully staffed and staffed at the appropriate levels for your security then that's less of a stressor. If you've got vacancies which are then filling by either reducing programming activities or access to things or by overtime, then that becomes a stressor. So it's all of those pieces. And in a perfect world you would have-- in a brand new prison, let's go with that because the whole design versus operational can be a long argument. But in a brand new prison, design and operation-- operational capacity are the same. Just the 384 beds that I'm asking to build, that's a design capacity and that's my expectation of how many inmates will be housed in there. But now then, so at-- at that base level, the operational stress should be one, you know, a score of one. But then if we find ourselves with staffing problems or if there was more significant budget cuts across the state and we

lost programming funding or whatever it might be, you would see that stressing index climb. Then if at some point, because of other bed space challenges five years from now, there is a decision to put more inmates in the space, then that could also become another part of the stressor. And that's the evolution of prison space. That's why I don't-- I don't get too hung up on design capacity. It is a - it's a number but if you're talking about something that was built 30 or 40 years ago it starts to really lose its relevance. It's all of those pieces put together and deciding really how many people can you safely, effectively, when I say effectively, you know, meet their needs, get them ready for release, how many can you house in a space or in a prison.

BOLZ: [03:49:49] That's-- that's helpful. I mean dumbing it down a little bit for myself, my takeaway is an older facility like NSP is going to have a higher operational stress index, and other pressures are going to relate to the operational stress index, which in some ways, in some ways is a more meaningful number in terms of the day-to-day than the operational capacity or the design capacity. And so how do you-- how do you get the operational stress index number down is part of the question we're trying to answer.

SCOTT FRAKES: [03:50:20] Right. And interestingly enough, if you would look at our system, Tecumseh in general, the staffing would be the one thing that's contributing, but in terms of capacity it-- it has and continues to operate very close to its original design capacity. It has the amenities. It's got a piece of its population that's pretty challenging but that's now a relatively-- that's the minority of the population. So if we could figure out the staffing component of it or remove that last part of the population that would be better suited in a different design, the 384 beds, that-- that could be a very healthy facility.

BOLZ: [03:50:58] OK. A couple more things: one is the \$250,000 that you've asked for, for

programming costs. I-- I don't want to-- I don't want to be flip about it, but I think you're the only person who's come in to testify who said that that's sufficient. We've had lots of other people saying that that's not sufficient and that there's more need for-- for programming investments. When you and I talked about this previously, we talked about the roughly thousand folks who have a parole-- who are-- have a parole eligibility-- who are parole eligible and how many of those folks are getting programming. And you talked about how you saw that breakdown. Will you talk about that for the committee as well and help us think about that issue?

SCOTT FRAKES: [03:51:44] I will. So this, real quick, this piece is very specific to increasing our cognitive behavioral work. This isn't the work that's necessarily keeping people from getting parole, but this is work that will help people be better paired-- prepared for parole. So it's I think very important, especially Thinking for a Change, which really works on addressing the criminal thinking errors. We see Moral Reconciliation Therapy as almost like a-- an engagement course and we're looking now at actually seeing how we can offer it on the front end. So that is one piece that maybe goes a little bit against the science but we have a-- a study that UNL-- that UNO did for us that said they felt like it was a good engagement tool. So we're going to try that. All right. And then we also have tablets. The inmates have tablets that are tied to the phone system and we want to turn those into educational tools as well. So we're out there shopping for program content that we can purchase to get put on the tablets. The big issue of course is what keeps people from getting parole in terms of what is often referred to as programming but really it's treatment, it's clinical treatment, and specifically it is the deep end of the clinical treatment. It's things that in the case of substance abuse and sex offender treatment, it's residential. The violence program we no longer label it residential but we still have the violence reduction program that is deep in clinical treatment for violence. So it's not that we don't have the money. Have the money. We can figure-- we've figured out the space components. We have a pretty robust commitment to residential substance abuse, in

particular, and now we're trying to figure out whether or not we need to make some changes in our residential sex offender treatment to make sure that we can get access to the biggest part of the population that needs that. But we do continue to struggle in terms of attracting, retaining our licensed therapists and the clinical people and that is the challenge there. You can't-- they have to be licensed professionals to-- to do the clinical work. And so I've got 159 behavioral health positions and I think last time I checked we still had about 35 vacancies which is-- just seems to have been consistent. As Mr. Koebernick mentioned, we've had really good success with our psychologists component and have attracted and maintained those staffing levels well for the last couple years and have attracted some really great talent. So that's really helpful. But substance abuse counselors continues to be challenging and it isn't just, from what I understand it's, you know, there's a issue of just not enough people in the field as well. And then of course it does come down somewhat to compensation, competitive market. Our sex offender program really did get off track from about 2016 into 2017, but we have the right people in place and I think we've got that back on track as well. So the last piece I'm going to add to this, we took a look at the January and February numbers. There were a little over 200 parole hearings. Those are hearings for people that are eligible or just very, very close to eligible for parole. One hundred and ten of those were either deferred or denied. Often the deferrals are because they may already be in programming and they've got a completion date. And so basically they're saying, you're just about done; as soon as you get that completed will come back around again with you and then odds are good you'll be granted parole. If they're denied it's usually for a variety of reasons. Programming may be part of that. So over 200 hearings, a little over 200 hearings, 110 either deferred or denied, 47 of those had a primary issue that was listed as programming. So we started peeling that apart and looking at that and we went through about 20 of the people and it was very consistent. It was a combination of-- of offered, refused till they got close to parole and then suddenly realized, oh, I need to do this so that I can get parole; offered, took it, failed or kicked out often for either lack of engagement or behavior, so rescheduled to take it again.

And then often other behaviors as well: misconduct issues. And in some cases we have challenges with-- this is really a small part of the population but either because of their criminal history, their crimes, their engagement with others, they end up in protective custody, they have facilities they can't be at because their victim is there or someone that has an issue with them is there. So we're always trying to figure out how can we get the right person in the right place at the right time, and that does weigh in. So we're talking about, of the-- of the 200, roughly, hearings in January and February, about 25 percent had a connection to programming. But from what we could see, the majority, there was a lot of factors that contributed to that and it wasn't simply that it wasn't available. It was mentioned, and rightfully so, that our policy used to say that we were going to deliver clinical treatment at the beginning of the sentence and then other activities in the middle and then ideally, you know, send people out the door. That was carryover language from pre-evidence-based correctional approaches that should have caught it sooner. But finally one day we went, wait a minute, why does it still say that? The research is pretty good that says you should deliver clinical treatment as close to parole as possible. So we set a goal of getting people into clinical treatment within two years of PED. We're not there yet. We've made some pretty good headway, though. Actually the residential treatment program for substance abuse at Tecumseh is there right now. So it's one piece of it that's performing at the level we're looking for. The goal will be we get people in for their clinical treatment in about two years out from parole. They should then, when they successfully complete it, they should hopefully qualify for community custody. They move then to the community custody, get them some prerelease work release opportunity, and then final transition out. But it's been our stated goal now for about three and a half years to have people ready for parole at the time of their first parole eligibility. But of course, that does-- certainly depends on them as well, being engaged and willing to do it. Our efforts to now start reentry work at intake has really started to come to life. We've got a major initiative around that, the whole intake begins at reception concept or intake begins at, I'm sorry, reentry begins at intake.

BOLZ: [03:59:16] So-- so my takeaway is there are-- your requests for the cognitive behavioral interventions are an upstream response to what you're seeing on the downstream of people having a parole eligibility date but not being able to complete the program-- programming because of refusal or their personal in preparation for-- I don't mean to oversimplify but that's an upstream response [INAUDIBLE].

SCOTT FRAKES: [03:59:40] There is a connection. I think there's a connection. But there's a-- especially as we look at how can we get people to engage. So if MRT is a good engagement-- is as good of an engagement tool as we're starting to believe it is, then that's definitely a place to invest funds and get people in.

BOLZ: [03:59:55] Thank you.

SCOTT FRAKES: [03:59:56] Now down the road-- in fact, we're already having conversations about as we get caught up with the VRP backlog that we had, it took us way too long to put-- you know, we got great funding in 2015 and it took us too long to get it off the ground but we did get there. Our numbers are good in terms of people enrolled, people actually graduating. We're real close now to having-- we have wait lists because everyone that gets assessed goes on a wait list. Our goal is that everyone gets their initial clinical assessment 90-- no more than 90 days in the system, and they're trying to bring that to 60 days in the system. So it would make it seem like we have, you know, 1,500 people that are on a backlog, but if you go with the model that the goal is to get people into clinical treatment two years before PED, then really that's the true waiting list. So we're working on trying to do some better-- a better job of explaining, you know, who we're talking about. But we think that we'd like to try putting some of the people that are demonstrating violence

early in their systems--

BOLZ: [04:01:02] Uh-huh.

SCOTT FRAKES: [04:01:02] --early in their sentence through VRP on the front end, now that we believe we have the resources. We want to continue to make sure everybody that's approaching PED gets access, but if we can try that.

BOLZ: [04:01:13] OK.

SCOTT FRAKES: [04:01:13] And we're going to see.

BOLZ: [04:01:14] The-- the Chairman's going to start kicking me under the table. One, one very quick question for you and then I'll be done is part of what you're-- you're presenting to us is that the gang activity is a problem within your system. Those, you know, security threat groups are a problem within your system. Do you think it would be better if we prevented young people from getting into gangs in the first place?

SCOTT FRAKES: [04:01:38] Oh, yes.

BOLZ: [04:01:39] Good answer. Thank you.

SCOTT FRAKES: [04:01:41] There's so much we can still do in our community.

STINNER: [04:01:42] She has a bill that talks about that. That's why [INAUDIBLE].

BOLZ: [04:01:44] That's all I needed. Thank you.

STINNER: [04:01:47] I'm going to ask a couple budget questions. One of the budget questions, one of the things that we just looked at was the carryover amount. I only have a June 2017 and I apologize for that, but it was \$16 million in carryover at that time on Program 200. It's not-- I think our appropriations, we actually overappropriated on Program 200. So my guess is that that number has grown. I think we asked you about Program 200 or somebody program said you're going to use it all up by the-- by the end of this--

SCOTT FRAKES: [04:02:28] Yeah, but, boy, \$16 million?

STINNER: [04:02:30] Sixteen million, 2017. That was the number that my analyst just gave me. I knew it was a fairly substantial number. But do you--

SCOTT FRAKES: [04:02:41] It was.

STINNER: [04:02:41] --anticipate carrying over--

SCOTT FRAKES: [04:02:43] At this point it looks like I think that we, this is off the top of my head, two to three million.

STINNER: [04:02:48] OK.

SCOTT FRAKES: [04:02:51] Yeah. So I'm not sure. Sixteen million number doesn't ring a bell.

STINNER: [04:02:55] Well, appropriations dollars are pretty valuable right now as you're--

SCOTT FRAKES: [04:02:58] I understand.

STINNER: [04:02:59] --well aware of.

SCOTT FRAKES: [04:02:59] I fully understand. Yes. And so we're-- and we have some things that are identified that we need to address, so. But I have competition--

STINNER: [04:03:09] The facility staffing positions you're asking, four, and I looked at vacancy report. It looked like there were six vacancies already in the staff, in this case, this--

SCOTT FRAKES: [04:03:19] Case managers?

STINNER: [04:03:19] --case manager.

SCOTT FRAKES: [04:03:19] Yes. Which out of currently 76 positions across state, across the 10 facilities. So--

STINNER: [04:03:26] OK.

SCOTT FRAKES: [04:03:26] --that's really pretty good numbers for us. Often vacancies from those positions are driven by promotions to higher level.

STINNER: [04:03:35] Now vacancies, when we looked at it last, the last biennium, and we kind of stairstepped your appropriations in three years instead of two, we had a vacancy of 148 people. And I just checked it, I think it was March something, it was over 180. Where-- where are we at with vacancies right now?

SCOTT FRAKES: [04:03:57] That's probably about the right number still.

STINNER: [04:03:59] And it's harder and harder to find a work force for-- for corrections.

SCOTT FRAKES: [04:04:03] At our-- our most challenging facilities, Tecumseh, NSP, and then LCC D&E, which whose-- their numbers have popped up again the last three months, while we brought turnover down slightly, we saw a corresponding decrease in the number of applicants and the people that we were able to hire. So we're still able to hire successfully in Omaha, much bigger labor force. Right now the number's up a little bit at NCCW, the women's prison in York, but usually that's not a problem. McCook is not a problem. So it's these three high security, the two in Lincoln and Tecumseh, that remain our biggest challenge and represent the majority of the vacancies.

STINNER: [04:04:51] Do you feel, given where you're at with the negotiations on wages, that you may have more and more folks just walk out? And then what-- what is our plan?

SCOTT FRAKES: [04:05:03] Well, I hope not. And so far, not seeing any trends to suggest that people are leaving. But we're still in process. So if we're not able to reach agreement with the union, then we're going to look at what other options that I might be able to implement, you know. I have done some things using the merit approach that I'm allowed to under DAS rules so, you know, we're

going to keep that as kind of the next strategy if we're not able to get a contract signed.

STINNER: [04:05:42] OK. And then I'd heard from another committee that to get to 140 by 2020, July 2020, that was not possible. Is that correct or not correct?

SCOTT FRAKES: [04:05:56] Absent the population numbers shifting again and we drop back down to, you know, 5,200, and we have-- so, as we heard, there's 927 people parole eligible today.

STINNER: [04:06:13] Right.

SCOTT FRAKES: [04:06:13] I think that's a good accurate number. If we do everything to the best of our ability and every one of those people engages and says, OK, we get it, we want it and we're ready to sign up, we might get to four or five hundred people. We might. I think that's ambitious, but let's say that we get there. The other part of that population are people that are doing extensive amounts of time for very serious crimes, have demonstrated not only the behavior that brought them to prison but more bad behavior once they were in prison. They're people that it's not likely will get an opportunity for parole at their first PED. And so--

STINNER: [04:06:56] So do you have a plan to get to the 140 then at that point in time? It might-- this kicks in to 125.

SCOTT FRAKES: [04:07:04] It is us continuing to do everything we can to get people parole eligible, because that's the only piece that we really control. Reduce the number of people that jam out. Get more people parole eligible. And these requests for funding for beds helps move us in the right direction but not-- it won't get there July 1 of 2020.

STINNER: [04:07:26] It won't get there by 2020.

SCOTT FRAKES: [04:07:26] No.

STINNER: [04:07:26] All right.

SCOTT FRAKES: [04:07:28] It won't get there, but it does at least push us in the right direction. With those 384 beds and the other beds that are either coming on-line or in design or in construction right now, we would be able to house 5,710 at 140 percent. But you can see how close we are just based on what's happened this last six months.

STINNER: [04:07:50] And the trends are not favorable right at the moment.

SCOTT FRAKES: [04:07:53] Not at the moment. I hope it's an anomaly.

STINNER: [04:07:56] Senator Wishart.

WISHART: [04:07:57] I wanted to-- to build off of that. So do you get an opportunity to-- to travel around the country or the-- or the world to look at what is going on in terms of other correctional facilities?

SCOTT FRAKES: [04:08:12] With travel, a little. I haven't gone to any facilities outside of America. Talked to other directors that have, though, and that's probably the best access I have is the directors' meetings that I attend on a regular basis.

WISHART: [04:08:22] So when you attend those meetings are there places in this country or places that you've heard about and done your research on where you look to and say they have-- they have figured out what it seems like a lot of correctional facilities are struggling with in terms of staffing, in terms of overcrowding, in terms of recidivism rates? Are there-- where is it that's really-- has an excellent model?

SCOTT FRAKES: [04:08:49] Well, I don't know anybody that's nailed all those pieces. You know, Colorado, Oregon, Washington, pretty good systems. They, in terms of their recidivism rates, though, to my knowledge, they're sitting in the same area as we are. And in fact, we had a great year in 2015 and for some reason the people that were released that year came back at a rate of 27.4 percent, which is pretty good numbers. Under 30 percent is, you know, is pretty good. We want to drive it down farther but-- still. So in the case of-- I can speak directly about Washington and to some degree about Colorado, they had the right economic climate and the right opportunities and the right people and they did not get behind the curve in terms of building. So that's a huge piece of it. We went a long time here in Nebraska and didn't invest in the corrections system. So we're paying a price for that. There's no doubt about that.

WISHART: [04:09:58] And then the last--

SCOTT FRAKES: [04:09:59] That's a piece of it. And then it's-- so if you have the space and then you have an economic climate, you have, you know, a different labor market, you know, some of those factors contribute as well. North Dakota is an excellent example of a system that's really running very well, very progressive leader. And-- but it's 1,800 inmates I think, roughly, and has the, you know, the right size, the right beds, etcetera.

WISHART: [04:10:30] And then one last question is, in terms of overtime, what do you expect our costs are, our budgetary responsibilities will be for overtime for staff?

SCOTT FRAKES: [04:10:41] Right now we're averaging about \$1.1 million a month I think so-- which--

WISHART: [04:10:51] Do you think if we addressed the overtime issue that it would help alleviate some of the issues you're having with staff?

SCOTT FRAKES: [04:11:03] Well, yes. If we filled vacancies, it definitely would improve morale. It would reduce overtime. It would, you know, lead to a healthier system overall.

WISHART: [04:11:15] OK.

SCOTT FRAKES: [04:11:15] So no question about that. It won't lead to the level of savings that people imagine because, of course, the reason we're able to spend that is because most of that comes from the vacant position funding, so.

WISHART: [04:11:31] OK. Thank you.

SCOTT FRAKES: [04:11:31] Yes.

STINNER: [04:11:32] OK. I don't see anybody's hand up and I'm not asking for any more questions. You've been sitting here for-- patiently for an hour or so, so.

SCOTT FRAKES: [04:11:38] I want to leave you with one more thought because it is important. We often hear the numbers thrown out, you know. Right now actually I think we're closer to \$38,000 per inmate here in Nebraska. But the fact is, is that the true cost day to day-- housing, food, general medical care-- is about \$8,000. If you could remove a thousand inmates from the system and close a prison, then we could save \$20,000 an inmate. The only way we get to the \$36,000 or \$38,000 number would be we don't have corrections anymore. And I've said for a long time if I could work myself out of a job, I'd be proud to do that. But it-- but it often gets thrown around and makes-- kind of inflates the numbers in ways that aren't realistic. Still, every one that we don't have here is one bed less, and that's \$8,000, and that's real money. Thank you.

STINNER: [04:12:32] Thank you for your time. Proponents.

BRENDA BEADLE: [04:12:48] Good evening,--

STINNER: [04:12:49] Good evening.

BRENDA BEADLE: [04:12:54] --Chairman Stinner and members of the Appropriations Committee. My name is Brenda Beadle, B-r-e-n-d-a B-e-a-d-l-e, and I'm the chief deputy of the Douglas County Attorney's Office in Omaha, and I am here to offer testimony on behalf of our office, the Douglas County Attorney's Office, as well as the Nebraska County Attorneys Association, in support of the Department of Correctional Services' funding. Specifically, the Governor proposed, and this committee included in its preliminary budget, funding for a new \$49 million capital construction project providing two new high-security housing units with design capacity for up to 384 new beds at the Lincoln Correctional Center. At the end of 2016, Nebraska

had the ninth fewest prison beds per capita in the nation. Nebraska had 42 percent fewer prison beds per capita than the national average. Nebraska had 215 prison beds per 100,000 state residents. The national average: 368 prison beds per 100,000 residents. While Nebraska is facing what many have been calling a prison overcrowding crisis, it's important to understand that Nebraska does not overincarcerate. In fact, you know, I've heard previous testimony even today that we are continuing to put people away, throwing away the key, doing everything to hammer people. In the past, myself and Don Kleine, the county attorney, my boss, has come down and-- and spoken with senators to be told, you're killing us by putting so many people-- sending so many people to prison from Omaha. And the fact of the matter is, Nebraska has the 13th lowest incarceration rate per capita in the nation and incarcerates 31 percent fewer residents than the national average, and that's according to data from the U.S. Department of Justice, Bureau of Justice Statistics. Nebraska incarcerates 274 persons per 100,000 state residents, which, by the way, is lower than each of our six surrounding states. The national average is 397 per 100,000 residents, again, opposed to the 274 from Nebraska. As you know, this body has imposed a July 1, 2020, deadline to lower Nebraska's prison total to a 140 percent of capacity. If the department doesn't reach that goal, an overcrowding emergency will be declared and officials will have to consider paroling all eligible inmates. As prosecutors, we are following the law that this body has created and we're pursuing cases that keep our communities safe. And keeping in mind that many opportunities are given, especially, I can only speak to Douglas County, but you know we tell people, if you get to prison from Douglas County, from Omaha, you have earned it, because we offer more programs, more opportunities for people that commit crimes than-- than anywhere. We offer young adult court for young individuals between the ages of about 17 to 24 and we'll even go higher. There it's at the capacity. It's the most that probation will let us put in right now. They've kind of told us to stop because we have about 30 in that. Diversion, we have anywhere from 100 to 125 anytime, any given time, and that takes about a-- it's about a six-month program. We offer mental health diversion. We offered drug court, which--

120 to 150 people at any given time. We offer board of-- we do have board of mental health. We don't have a-- a mental health court but we certainly have board of mental health. And there's been occasions that the jail will have an inmate who his mental-- his or her mental illness is such that they call us and want to do a petition themselves. And we look to the severity of the crime and we do the balancing test and-- and perhaps even take those individuals from the system. And we also have a newly incorporated Veteran's Court, which right now is at the max of 30 individuals, and we filled that up very quickly. We have probation, which sometimes individuals get more than one crack at. And so we-- we do offer a lot of opportunities to individuals who break the law. It's in the responsibility of our state to provide an appropriate amount of prison space and staffing. We respectfully request that this committee fully fund the capital construction request for corrections and provide for appropriate prison system capacity for our state. I just want to add, just again, based on-- I have a little bit time-- based on some previous testimony, despite all of those programs that I mentioned in Douglas County, our filings from 2015 at 3,475; 2018, 4,600. So despite the fact that we have all the programs and-- and opportunities and we've full-- fully capacitated them, we-- our-- our filings have still gone up. We have a lot of crime in Douglas County. And I would invite, I know, Senator Wishart, you've-- you've asked about the goods and the bads with LB605, and that's for another day. But I would invite and welcome and-- and-- and encourage any or all of you to come down. We would relish the opportunity to sit down with some of you and-- and just-- just tell you, you know what, we see it every day and we would love to tell you what's good about that and what's bad about that, because there are a lot of both. And I think that could be very helpful and we, you know, sometimes I think people overlook the-- the people who are down in the-- in the trenches doing this day in and day out. We know what we're talking about. And I think we can give you the perspective fairly from both the judges, the defense attorneys, and the prosecutors, and kind of what we're seeing at least in Douglas County. And I see my time is up so I'll welcome any questions.

STINNER: [04:19:03] Questions? Seeing none, thank you. All right. Thank you for your time.

_____ : [04:19:09] Thank you.

STINNER: [04:19:21] Good evening.

DOUG KOEBERNICK: [04:19:21] Good evening. My name is Doug Koebernick, spelled K-o-e-b-e-r-n-i-c-k. I work as the Inspector General of Corrections for the Legislature. And Senator Stinner asked if I would come up here and ask-- answer any questions that you might have. Before that, I thought I'd hit a few highlights here. One thing I do want acknowledge is Director Franks has implemented a lot of positive changes in the system. You know he's provided a lot of excellent details today and-- about the things that are going on in the system, and-- and I want to thank him for that. They still have a lot of-- of barriers and challenges, including the overcrowding issues and the understaffing issues and things like that. The 384 beds is really just one piece of the puzzle, in my opinion. Even with those beds, if you add those beds, at the way the-- the rate of growth is going, we'd be probably further behind than we are today, even with adding 100 beds at the State Penitentiary and the 160 beds at the Community Corrections Center in Lincoln. I think it's really important that we get a better handle on what's causing that growth. In December I recommended to the Judiciary Committee that they reach out to, like, the Crime Commission, the courts, Corrections, Parole, and ask them to start looking at the data and trying to figure out what's going on. It sounds like Director Frakes has been doing that to some extent and I would ask that he-- and hope that he'd share that with the Legislature and my office when that's completed, because I think that's a very important thing to understand. Other parts of the-- of the other-- other pieces of the puzzle really are there's a need for more job skills and vocational education programs, more cognitive behavioral programs. And the space issue, like we talked about before, there's a lot of living space issues that

Director Frakes mentioned where you have facilities that are just so overcrowded and stretched so thin. We have a reentry grant program that's doing some really positive things that the Legislature funded in 2014, and that definitely could be enhanced as well and have some additional funding directed toward that to-- to provide more opportunities on the outside. They also do some things on the inside, too, but that would provide more of an incentive for the Parole Board to parole more people and we'd have more successful outcomes, I think, too. There's some, like I said, there's really good things going on there. I think expanding the peer support program where individuals inside are-- are working with their fellow inmates and trained appropriately to do that, that can help them maybe get into that programming earlier instead of saying, no, and doing things like that, helping with behavior. I like what Director Frakes said about providing some of that violence program up-front. That's something we've talked about for a long time where maybe that can head off some problems before those guys really get into the system and-- and create a lot of problems down the road and everything. If you can do some more things up-front, that behavior goes down in the future, that helps the whole system. So those are some really good things I wanted to point out. And I really think there's a couple of key things, two key things in my mind. One is there is-- he talked about the need or the lack of-- of community beds, the need for community beds. The Dewberry report, that master plan from 2014 that Senator Bolz talked about, actually said there's a need for, I think, about 1,100 community beds. So I'm a little-- have to look into that a little bit more. But the thing right now is that we have people piled into our community corrections centers and so those things are operating at a higher level than they're supposed to. So you have like, you know, six, eight people in a room and they're not designed for that. And if you have-- if you start rightsizing those facilities, if you added more minimum community beds and get those facilities to function like they should, then you're going to probably end up having better outcomes. Omaha Correctional Center, that minimum custody facility, is operating at two times the capacity, and that's just not a good way to run a prison and have better outcomes. I should say when you talk about what prisons

are operating at, the Diagnostic and Evaluation Center right now is operating at over 300 percent of its design capacity, so that's something that needs to be looked at too. And finally, I would say the-- the other issue, and I put it in my annual report, is we need to figure out what the goal is for the capacity of the system. Like where-- where do we want this to end up? Where do you want this prison system to be operating at in the future? Are we comfortable with it being at 140 percent of design capacity or-- or is it 125 percent? Right now we're the second most overcrowded system in the country. And I think that the Legislature and the Governor and other folks need to decide, where-- where-- what's our goal? Where do we want to go? And so I think those are some of my quick thoughts here and I'm open to answering any question. Oh, one last thing: the psychologists. I had a guy e-mail me who used to work in the-- in the prison system as a licensed mental health therapist. And he wanted to remind me that the psychologists, you know, we're able to attract those right now because we can kind of-- we're very flexible in the pay. But the LMHPs and the substance abuse counselors we're not, and we're not competitive with other agencies or with other businesses on that. And so that's a big reason why we really can attract those psychologists, but we have a difficult time attracting those LMHPs and those substance abuse counselors. I wanted to get that in, in case he is watching.

STINNER: [04:24:28] Thank you. Questions? Seeing none, thank you. Any additional proponents? Seeing none, anybody in opposition? Seeing none, anybody in the neutral capacity? Seeing none, that concludes our hearing on Agency, what agency is this?

BOLZ: [04:25:02] Forty-six.

STINNER: [04:25:02] Agency 46, Department of Corrections. We'll now open on Agency 11, Attorney General. [4706.0]

