

Judiciary Committee October 17, 2019

LATHROP: Good afternoon. Good afternoon. My name is Steve Lathrop. I'm the Chair of the Judiciary Committee. We're here today for an interim study on issues related to juvenile justice. And for those of you who have not been through one of these hearings or attended one of these hearings before, we have a table up here; we take testimony at these. It's not just me going on and on and on about juvenile justice issues. We will have testimony today. I'll have maybe a couple of people come up at the front end and then we'll essentially open up the mike. And our thought in coming here today, we had a-- we had a roundtable of juvenile justice folks. And somebody suggested that we come to Omaha, which I thought was a good idea, and hear from some people that have been-- some of the folks that have been involved in the system, some of the people that are working in this area. And we don't have a specific topic, so today isn't about restrictive housing, but it could be if that's what you-- if that's what you feel like you want to talk about when you get to the mike. The one thing I will ask, when you come up, if you're going to testify, it will be necessary for you to fill out one of the yellow sheets. And when you come up, you can hand the yellow sheet to Samantha, the nice lady down there who's waving her hand right now, hopefully. And that's-- that's so we can keep a record of who was here. And when you testify, we'll have you take a seat, give us your name, and spell your name for us so that we have it

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in the record, and then you can testify. Normally, when we're down in Lincoln in the Capitol, we will have a light system, and the light system will have a green light and that'll be on for a couple of minutes. Then we'll have a yellow light to tell you you only have a minute left, and then we'll have a red light. We have so many people that testify down in Lincoln, we put them on a three-minute timer. Today, I don't know if that timer is necessary, so I'm going to just ask how many people here today are going to testify on the first resolution? OK. We will not put a timer on it, but I'll just say keep it in the neighborhood of five minutes, if you would. All right? Then the senators can ask you questions about your testimony, your experience, whatever you-- whatever you've testified to, and that doesn't count towards the five minutes, and that's kind of how we proceed. I think that's all the preliminary stuff. Laurie? Yes?

LAURIE VOLLERTSEN: Yes.

LATHROP: OK. That's all the preliminary stuff. We'll have the senators or the panel introduce themselves, and then we're going to start with the former Chair of Judiciary Committee, and my good friend, Brad Ashford, who's been involved in some of these issues with the university. And then we'll just kind of open it up to those of you that want to be heard today. We'll start with Senator Brandt.

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BRANDT: Good afternoon. I'm Tom Brandt. I represent Legislative District 32, Fillmore, Thayer, Jefferson Saline, and southwestern Lancaster County.

LATHROP: To my left is Josh Henningsen, who's one of our legal counsel. I'm Steve Lathrop, Chair and state senator from District 12. That includes Ralston and parts of southwest Omaha.

WAYNE: Justin Wayne, District 13, which is northeast Omaha, northeast Douglas County. I represent them and I'm also Chair of Urban Affairs.

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer and I represent District 10, which is northwest Omaha and the entirety of the city of Bennington.

LATHROP: And at the end of the table is Laurie Vollertsen, who's our committee clerk, does a great job of keeping a record of everything we do. And down on the floor is Samantha Chavez, my administrative assistant, and she's the one you will hand that yellow sheet to. OK. And with that, I think we'll start. I should introduce the resolution. So when we-- when we are in session, we oftentimes have people that will approach us and say, you know, can you do a study in between sessions on various issues? Well, we have one today, LR236. It's a general, broad study on issues related to juvenile justice. That is an interim study resolution I put in. That's as much of an introduction as I think it needs because I've already made it clear that this is

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sort of come up and share your thoughts on the topic. And I hope we get to hear from some folks today who have been through the system and can tell us their experience and things that they think we as policymakers ought to be taking a look at. And with that-- good afternoon.

BRAD ASHFORD: Good afternoon. Mr. Chairman and members of the committee, I will be brief because you have people here who deal with the system every day. And it's-- those are the ones that you need to hear from, clearly. Brad Ashford-- sorry-- 7926 Shirley, Omaha. I am here just to really emphasize and thank you for the good work that this committee has done and is doing. There is no more challenging issue or issue-- set of issues than those that the juvenile justice system faces. My last year, I get-- forget when it was, 2014, we passed-- I guess prior to that, 2013, with the support of-- your support, Mr. Chairman, and the committee's support and the entire Legislature, legislation that was designed to do a couple of things. One was to address violence and in all of its aspects to reduce the detention numbers, both at the youth centers across the state, but also at Kearney and Geneva, to address a disproportionate minority impact on the system, basically to get-- and get kids back into school. I mean, we were faced, as you recall, Mr. Chairman, with dramatic numbers of students in our K-12 system that were not going to school on a regular basis and thinking about truancy or-- I don't like

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that word, but chronic absenteeism as a trigger for further help and assistance by the system. I just wanted to share what I'm-- a little bit about what I'm doing, and I'll be very quick. The last couple of years, I've been-- one of the things we didn't get done, I guess that's maybe a pejorative way to say it, but one of the things that I would like to have gotten done in LB561 was to bring the university system more directly involved in the juvenile justice system and in the violence issue. I know-- I know that Public Health, UNMC Public Health did some good work on violence. In those days, we were faced with actual violence in the emergency rooms, if you remember, Mr. Chairman, and we-- the hospitals were concerned about-- about that issue. And we did some study-- studies in that area and developed some initiative, the Office of Violence Prevention and some other things that were direct-- directed at violence. But I felt at the time, and I feel today after looking at this for the last couple of years, is that there are states around the country that have institutionalized departments of colleges and universities to address these issues. And that's really what I'm trying to encourage, UNMC UNO Public Health, UNL, others to institutionalize a university response to issues within juvenile justice and violence. And I don't think you can really-- you can really separate them. And even to the extent that I think we should, what I'm working on is I'd love to have a chair somewhere in the university system that would be designed primarily to educate students in the various areas that-- of discipline that are needed to

address the issues in juvenile justice. So that's-- that's part of it. The other thing that I think, or at least I saw when I was there, is making sure we have evidence-based programming. And that, we all say that. I mean, we need to have evidence-based programming. We don't want to just, you know, shoot, shoot bullets at the-- you know, in the air. So-- so the-- the idea of institutionalizing evidence-based practice by creating an evidence-based programming at the university, I think that's-- that's clearly needed. We can-- when a program or project or set of data comes in, that we can refer that, that data, those data points to the university, to this institute that-- to evaluate. So-- so I think when we started this in 2007, this effort, we had a lack of data; we had a lack of coordination; we had too many kids, obviously, incarcerated or in-- well, incarcerated and outside the home. Those problems still persist but it's improving, thanks to a great extent to the work the Legislature has done and is doing.

LATHROP: Terrific. Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Senator Ashford, for testifying today. You have a great wealth of experience that we can draw on. You started off mentioning the YRTC's. You've had a-- probably an opportunity to read about some of the things going on in the state. What's your opinion on how this is functioning? You feel this is how

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it should function or do you feel maybe some more management needs to be brought to bear on this situation?

BRAD ASHFORD: You know, we had very, very similar issues, Senator, when I was in the Legislature, and we have seen a significant reduction in individuals who are at the YRTC's. That-- that's a good thing. If it-- we had many visits, Steve-- or Mr. Chairman Lathrop and I, many visits to those institutions. Clearly, lack of psychiatric care on a consistent basis, you know, how those in-- how those facilities are laid out was problematic then and it sounds like it's problematic now. Let-- let me just say this. There is a great deal we can do with those facilities. I had the-- when I was Chair of the committee, we spent time out in Washington, and not every state had-- we didn't-- it's not our role to replicate every state. But essentially what they did there was they placed those, their YRTC's under a consortium or a collaborative, including the university, so that, you know, the kinds of programming, the-- the-- the need for mental health treatment and psychiatric care, could be always available through-- in this case, through UNMC. You just can't-- and how-- how the individuals are treated on a day-to-day basis, I see nothing wrong with Kearney and Geneva. Kearney and Geneva are very fine places to have these facilities, but they have to be consistently managed with the overall-- juvenile justice, YRTC's, violence, and all those issues cannot really, in-- in many sense-- in some sense, be

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separated at all. We have to think of all the different aspects that go into that. So I-- I-- I-- you know, I think I'd like to see, if I were waving a magic wand, I'd like to see a separate entity or agency that would-- we didn't get that done, but I'd like to see a separate agency that would be in charge. I mean, I've always thought HHS is too big, you know, and-- and essentially it's hard for them to respond to some of these things. So if-- if-- if we were to have a separate agency for juvenile services, juvenile-related services, including Kearney and Geneva, to bifurcate that is not a, in my view, good idea.

BRANDT: OK. Thank you.

LATHROP: Senator DeBoer.

DeBOER: So I-- thank you for testifying. I'm trying to understand exactly sort of the parameters of what you're suggesting here. Are you suggesting an endowed chair at one of the Universities--

BRAD ASHFORD: Yeah.

DeBOER: --in Juvenile Justice?

BRAD ASHFORD: Um-hum.

DeBOER: What role do you see the state playing or some sort of legislation playing in establishing that endowed chair? That's not

typically how endowed chairs get created, so can you elaborate more on that?

BRAD ASHFORD: How I-- how we get it done?

DeBOER: Sure.

BRAD ASHFORD: Just trust me. That's an old joke, Senator DeBoer.

LATHROP: Yes, it is.

BRAD ASHFORD: You know, I think an endowed chair would sustain the educational opportunities in this field or-- it's critical, and how, whether it's through the Board of Regents or the Legislature, the-- in Washington State, the Legislature created-- I think it was in 2007-- University of Washington's involvement with the Legislature and juvenile justice. Yeah, I think-- I think we should have a chair that-- and a-- and programing and educational opportunities within the university system-- system to deal with this, both from a research perspective but also a hands-on perspective, so that we're training people that will go out and-- and do the work.

DeBOER: Have you talked to the university about some sort of institute on juvenile justice that might be housed within the university because that's sounds [INAUDIBLE]

BRAD ASHFORD: Well, that's what-- I have talked to them about it, and they seem overjoyed with the idea of having another chair. [LAUGH]

DeBOER: Well, sure.

BRAD ASHFORD: No, I-- yes, and I have met with, well, Gaylene Armstrong and meeting with Ali Khan and meeting with-- with Jeff Gold and others about-- about this, and I think they're interested or they're-- we're exploring the alternatives, how it would be funded. Obviously, private donor dollars would be required.

DeBOER: Right.

BRAD ASHFORD: I think we can get there. I think we need it, clearly need it. And it would have a coordinating function and would have a clinical function and an educational function.

DeBOER: Well, and it could sort of be the repository for the data you suggested. But I'm just not sure what role we would play here.

BRAD ASHFORD: Well, I think the Legislature has a major role. So, for example, one of the main-- well, first of all, what-- what do we need to make juvenile justice work more effectively here? One of them is the data-sharing issue. I think that the Legislature always has a role there and will have a role there to make sure that we have sufficient data and know what we're doing. That was a problem when-- when I was in your chair and it's still a problem. So in order to get-- provide

evidence-based opinions, we need data to do that. And I think it's very difficult to do, but I-- I think the whole violence reduction issue obviously involved the disproportionate minority impact on the system, our legislative prerogatives. I would foresee that the institute would-- let-- let's say you wanted-- the Legislature wants to do a new program or wants to create a new youth center kind of facility. It would-- I would see that the institute-- the Legislature would come to the institute and say, here's what we'd like to do, you know, how do you-- how is this working across the country and how would you see it working here?

DeBOER: Thank you.

LATHROP: I don't see any other questions.

BRAD ASHFORD: Thanks.

LATHROP: Good to have you here. Thanks for coming down. We appreciate your testimony.

BRAD ASHFORD: Thanks, Mr. Chairman. Keep up the good work. You're doing great work.

LATHROP: Thanks.

BRAD ASHFORD: Yeah.

LATHROP: Appreciate that. Commissioner Rodgers, did you want to testify?

CHRIS RODGERS: [INAUDIBLE]

LATHROP: I do if you have something to tell us. Come on down. While he's testifying, maybe what we can do is make this the stand-by table, so this one that has no one at it right now, if you're going to testify, if you want to come down and sit at the table, then we'll-- we'll just start taking you in order, if that's all right.

CHRIS RODGERS: Good afternoon, Mr. Chair.

LATHROP: Good afternoon.

CHRIS RODGERS: Members of the committee, my name is Chris Rodgers, C-h-r-i-s R-o-d-g-e-r-s. I hadn't planned on testifying, but I'll reiterate some of the conversation that we had at the roundtable discussion. And before I get that, though, I want to just bring to your attention a couple stories that I heard this morning from a meeting that we had at the county, and we have every other month. We call it Operation Youth Success. They bring some people together to talk about issues in the system. The complete story is-- is long, but the elements of it is there is a kid that Project Harmony has been dealing with through the 1184 statute. The kid, basically seems like the kid had to go deep into the system to get some services. But the iffy ground with this is somewhere between HHS and probation. What it

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seems like out of this situation and-- is that the kid got into some issues. The-- one of the issues was that services are voluntary to the family and the family chose not to take them, the services, so they tried to serve the kid. The kid had another issue, and a lot of the circumstances that built up to this sound like that there should have been some intervention up-front with the kid taken from the family or put into the system because that kid couldn't get services. Now I know there's a hesitancy to do that. You know, the editorial this morning talks about some progress and some things that need to be improved. But, you know, I think there's probably some exploration between the point or some revision with what happened with the law change a while back with probation and HHS, because I do know there's a couple of situations that we've heard consistently where this-- this person falls through the cracks. Secondly, I want to bring to your attention the situation we talked about at the roundtable, and it's the situation that we have with data access. For a while now, we've been trying to get to a point where we've been trying to accumulate and put together data to a point to be able to try to really have some analytics with the data and look at the-- look at the numbers and see where things are going. The roadblock is happening, though; it's somewhere in the law where, you know, the sealed records law. And every time we get to a point of trying to share the data, there's-- there's hindrance-- hindrances. And all the lawyers are saying we can't give this data because of the sealed record speaks. Well, the

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topic that always comes up is you could do it under research. Well, if you do it under research, you're looking at three, four, five months down the line; it can't give you any real-time data to operate. I want to stress that I agree with the concerns of the data with research, but most of this data that we're asking for has no identifiers; and when it is talked about can we do it under a confidentiality agreement, nobody is comfortable with that. So, you know, one of the issues to-- to being able to really get there and to have it data driven is to be able to have a lot of data talk. Probation has a lot of the data; we're still hindered from going there. The police have some data, and there's some laws that happens there. And so I think if there is some way to revisit that and see where that can be tightened up or allowed, that would help us a whole lot in trying to really increase the data-driven process that we're trying to get at. Other than that, you know, the other time, the other situation that I always bring up, and I'll bring it up now to you all, is that in a lot of the other counties across the country, most of the counties that are of bigger size in the state, those counties operate under a term called "home rule" counties. Basically, for us here, some of the juvenile situations that Douglas County deals with are nowhere close to what the 92 other counties deal with. And when we come to you all to try to move certain things, you know, our goal is not to put a burden on everybody else, but the home rule county designation gives the counties independence in certain areas, you know, juvenile justice,

health, things of that sort. And it would give us a whole lot of freedom and put-- take the burden off the rest of the state that's not dealing with problem, really create some solutions in partnership with you all to try to solve the issues that we have pertinent to juvenile justice. So those are three things that I'd put on record, and thank you all for coming down.

LATHROP: Can I ask you a few questions about your testimony?

CHRIS RODGERS: Sure.

LATHROP: When you talked about the kids falling through the cracks, Commissioner, I'm not sure I understood that. So are these kids that aren't involved in the court system?

CHRIS RODGERS: Now this-- let me reiterate I just heard this story two-- two hours ago, so, and it was--

LATHROP: OK, and I appreciate that--

CHRIS RODGERS: Yeah.

LATHROP: --you're being careful not try to-- to identify youth.

CHRIS RODGERS: The best that I can tell you, because they were given the story to not identify them by information. There is a kid; kid is troubled. They have an encounter with that kid.

LATHROP: Who's they?

CHRIS RODGERS: The person who explained it to me is a police officer for OPD that works with Project Harmony--

LATHROP: OK.

CHRIS RODGERS: --on their 1184 team when they have an issue. She knows. I mean, she's there for preventative purposes. This kid really doesn't need to be in the system. They need some help and services. A lot of the situation there was the squad made it seem like there was some family neglect issues at home, but also when services were offered to the family, because it is voluntary at that point. Family didn't take it. Tried to work with the kid, let the kid off. The kid got in more trouble, an escalated amount of trouble. And to some point, the kid got involved in the court system. The kids didn't need to be in detention; kid was around 13 or 14, but the kid just needed some services and there was some gaps. You know, part of, a year ago, LB11-- LB1112, now 42-251 [SIC] the law in place that says a kid can sit in detention for just placement, this situation seems like it's before that, but it's at the heart of that. That kid should be in detention. But there is a gap somewhere in that placement because from the discussion that happened at that table it sounded like there was an argument somewhere or some disagreement between HHS and probation about who the kid should be working with.

LATHROP: Before he ever got system involved?

CHRIS RODGERS: Well, he was system involved at the point because-- he got system involved because he was on probation.

LATHROP: OK.

CHRIS RODGERS: But there's-- you know, all the symptoms pointed to the fact, like the kids should have probably been in-- in custody to get some of the other service. I mean, there was-- there was services being provided; there was some that weren't there. So, you know, everything that I can give you from it, to some degree, you know, kind of points to some of the comments in the editorial this morning. I mean, there's-- there's a gap there somewhere. I just don't know where it is. You know, I've asked if I could sit down and try to help, you know, see where that is and bring it-- bring it to light a little bit. But just knowing this two hours ago, that's one situation. There was another situation that was brought up similar, and both of them had felt like there was some gap somewhere at the beginning.

LATHROP: So before they become involved in juvenile court, the county attorney hasn't filed anything on them or their parents, they are-- they are simply-- law enforcement runs across them and they need-- they need some help or they need some services.

CHRIS RODGERS: Yeah. They-- they-- they have issues.

LATHROP: Is it always voluntary at that point?

CHRIS RODGERS: [INAUDIBLE] yeah, because they haven't committed offense.

LATHROP: OK. And if-- if the family doesn't take advantage of it, then--

CHRIS RODGERS: It's voluntary. [INAUDIBLE] compulsory [INAUDIBLE]

LATHROP: So from a policy point of view, is the concern that that's voluntary or that nobody from either HHS or probation, or whoever you think should have stepped up, didn't.

CHRIS RODGERS: Pro-- probation had-- had the kid, so they would-- they would go in a-- a role with-- they had a role with the kid already; that's how the kid was in the system. But the two things you noted is there was some discussion about, do other states have compulsory-- compulsory mechanisms? Discussion was that, yeah, some states pass certain types of punitive damages, the parents that don't do certain things. The discussion really didn't happen there about if you should get there, but the question was, how, you know, how do you get the service piece in? Probation was with the kid, but everything sounded like it was an HHS issue of-- it basically sounded like, if you want a state like Florida, there would be a chance, a

child-in-need-of-service-type deal that would take that kid on in services. But it just seemed like there was a gap.

LATHROP: OK.

CHRIS RODGERS: The kid had to get in the system to get the service.

LATHROP: OK.

CHRIS RODGERS: So the best thing I could do, and I'm thinking of-- this is a similar story. There was, probably about a year ago, there was some leadership from PromiseShip that came and visited. And we-- there were a certain amount of kids in the DCYC system that were on probation, but they were also under child welfare. And my understanding in talking to probation was that HHS-- well, not HHS-- PromiseShip should take the lead in those kids. And the leadership at PromiseShip owned up to some of that. But the question that was asked to me, and it's-- it's null and void now because the contracts change, is that, you know, they were asking the county to help with support for some services. And my question was, well, the state's paying, you know, for the services that you're getting, right? And they-- the question was like there wasn't enough in the pipeline for the service. They were bringing up examples like, you know, being denied the Medicaid from the-- the providers that were there. And so this today is like the third time I've heard something similar, and I don't know exactly where it is because I haven't sat in a room with them to kind

of tie it together. But every time I hear, there's a gap somewhere, and I don't know how you-- you close that gap. And I don't-- I don't think anybody wants to get into a moral argument of, no, it's your kid, you pay for it, you do this. I mean, the question is, how do you close the gap with the kid? And I don't know what that is.

LATHROP: OK. On that data, the second point that you brought up, Commissioner, is there some statutory process that needs to be changed in order to accommodate this so that--

CHRIS RODGERS: That would help.

LATHROP: --so that we can get the data all in one place and we can find out--

CHRIS RODGERS: Yeah, that--

LATHROP: --what works and who's doing a good job and who isn't?

CHRIS RODGERS: Yeah, that-- that will help. I mean, it-- the-- the-- I don't deal with it long enough to really know the statutory number by-- by change. But, you know, I remember the example of being in a room specifically with lawyers from the city, lawyers from the county, police department, probation, and trying to work this thing out where we could just draw the data up to be able to compare, to track kid, if this kid [INAUDIBLE] in the system. Everybody was saying we can do this, we can't give that, more, more reasons, one, because the person

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had to be in law enforcement, was one of the reasons; sealed records law was another one of the reasons. And how this data is being drawn is that when we started developing a process, everybody in that system, everybody in the system is assigned like a base number. And when you pull up the data for the person, you're drawing from a number, you're not drawing from a name.

LATHROP: Right.

CHRIS RODGERS: When you draw from a number, you can ward off names, addresses, all the identifiers, but you still could be able to see-- like, for instance, we were trying to evaluate the civil citation law that was put into place by Legislature years ago. The question was how many of those kids, if they would have been given a civil citation, would have been at the same place they were when they made their way through the system, and we had-- we had a good amount of numbers for that. Come to find out, you know, people are saying we shouldn't have had that data to that degree because we weren't eligible to have it; no identifiers, but it was just this big rift in the system. So to be able to just do that and analyze and try to look at resources, that-- that seemed like it wasn't a good spot then, so.

LATHROP: OK. I think that's something we can take a look at and something--

CHRIS RODGERS: Can I-- can I give you one more that I forgot?

LATHROP: Yes. Yes.

CHRIS RODGERS: There was-- this is another example I can bring you all's attention. It was a-- there was a group of us from Douglas County that went to a Georgetown training for disproportionate minority contact, or what's now called racial and ethnic disparities in the system, to try to work on the problem we have with DMC. A number that was astonishing to us was they put on the number screen that Nebraska was number two in the country in regards to kids with status offenses and on probation, which we were kind of shocked. I don't know who number-- who was number one. But we did some calling back home because we're kind of digging into this for a project that we have for that, and back in the county, that was a good mom of kids. I guess I just raise it to you all because I know in some other places across the country that's not-- that's not allowed. And that number is I think a big enough number where, you know, the first time in the court system, for probation to be dealing with a kid on a status offense, that really is not that level. And I think, you know, as you all continue to make tweaks and reforms, I think that's a worthy reform to look at to try to not have that kid that's a status offender taking up space and time on probation that could be used on really somebody of an offense that needs that. So that's the last piece I'll bring to the committee.

LATHROP: Is there a policy approach to that question? I-- I-- we talked about this at the roundtable a month ago.

CHRIS RODGERS: Um-hum.

LATHROP: Other people brought it up as well. Is there a policy approach to this or is this something that involves training at the law enforcement or-- or at the--

CHRIS RODGERS: I mean, you could--

LATHROP: --worker level?

CHRIS RODGERS: Yeah, I think, you know, some places that I've seen across the country is going to understand--standing in an area that, you know, they just don't do that to kids they may not have long. They don't put the status offense kids on there. Some places, it is statutory, so, you know, it just depends. But, you know, I think it's an issue we probably should get in and deal with because it-- it's kind of in the same realm of, you know, when you all passed the law that, you know, nobody with status offenses can be in detention center, and that moved the process along to really get at the heart of some things, and I think this is kind of the same realm.

LATHROP: OK. Any other questions?

WAYNE: I have a couple.

LATHROP: Senator Wayne.

WAYNE: So I'm curious about the home-- the home county rule. How would you guys pay for it? If you're going to accept all the responsibility and do pretty much like a home-- home charter for the city of Omaha, how would you pay for it?

CHRIS RODGERS: Depends on the-- some of the states that-- some other states that have it. You know, the other states that had it, they had sales tax authority, so they make up the difference with that.

WAYNE: So they--

CHRIS RODGERS: And then they-- and they also get support from the state for those services.

WAYNE: So then when looking at Omaha versus Valley or Waterloo or Bennington, how do you-- if you had a rule-- home rule county, how would you distinguish services between them if Omaha is should be treated differently than the rest of the country?

CHRIS RODGERS: Well, I'll-- let me-- I wouldn't say Omaha, and I would-- and I would correct then to say that the other places pay for it, but I think each state has the-- you know, of course, has the way to shape theirs like it is. How-- how I would propose it is the areas right now that the county primarily deals in-- public health, juvenile justice, and some of the criminal aspects-- those specifically, that

would get to anything the city is dealing with or any other-- or any other city in the is county dealing with to some degree.

WAYNE: But one of the problems we run into as a state body is we have counties who charge completely different, particularly in juvenile. Wouldn't that just make that issue bigger that that arbitrary line between here and a mile from here, Sarpy County, a juvenile would be treated differently? And doesn't that imprint-- infringe upon their fundamental rights?

CHRIS RODGERS: I don't think you change the fundamental rights. I think what it does is change, for instance, when we have an issue to some degree with the kids, certain amount of programming-- for instance, I think it's the relevant thing right now. You all have had trouble passing the-- I forgot the-- Senator Pansing Brooks's law for represent-- public representation, you know. The-- Sarpy, Lancaster, and Douglas already do it. But the battle is the other small counties out there that are saying, how we going to pay for this? There's other similar items that are the same way that we have some circumstances here in Douglas that the other 92 don't. So whenever we go there and present it, understanding the politics that you need to get there, you have all of the 92 counties coming in on-- having issues the same gravity as Douglas County and you end up, you know, compromising to make it get there. If you had the home rule set up, that would give the counties some authority to set certain standards in that to meet

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that need. Now how that looks, I think, is a-- is a dialog to happen because, to your question about the revenue, some of them have sales tax. But, you know, the fact is some of the money that you all may be spending is that a spending/sharing agreement, some type of sharing agreement with counties, like you-- like, for instance, the state has with the federal government for a block grant. Now the question would be then-- there would be a question every year about funding levels and what's needed to some degree. But I think one of the ways to get there is money that's already in system use. You'd have it down to local level to get there and make its way through.

WAYNE: So let's--

CHRIS RODGERS: It's accountable and it comes back up to you all.

WAYNE: Let's talk a little bit about tracking and data. Do you guys track the number of kids who are being charged as adults?

CHRIS RODGERS: I'm sure we've got that because, like right now, today, there's 77 kids. I would say we definitely have exact number, but on any given day there's 20 to 30 percent of kids that are in there on adult charges.

WAYNE: And then you have the data-- and I'd like to see that data. Do you have the data around tracking the number of kids who enter in

diversion? And then the subpart of that is who completed it successfully and who didn't.

CHRIS RODGERS: Yeah, we do have that.

WAYNE: And then I want to talk about two initiatives that are going on in Douglas County. JDAI, I think, is the name, and OYS. Why are there two separate initiatives and how do they cooperate or work together?

CHRIS RODGERS: So JDAI started-- if you have a set point in the system right here, what we-- well [INAUDIBLE] JDAI started first in '09. When we started becoming JDAI [INAUDIBLE] JDAI was no longer letting counties in. And I guess for the record, JDAI is the Juvenile Detention Alternatives Initiative with the Annie Casey Foundation initiative. They were not letting counties in individually. So what we had to do was come to an agreement with the state because they were letting states in. I think Senator Lathrop was there at the time, Senator-- Senator Ashford was chair. We met with members of the Legislature, probation, and everybody agreed that Nebraska would come in as a state and it would start with Douglas, then it went to Sarpy, Otoe. And now I think Lancaster is coming in. JDAI is specifically to deal-- dealing with detention alternatives. So if you've got a pointed system here in the middle, from here to here is detention. JDAI is meant from everything at this point to prevent a kid from sitting in detention who does not need to be there. JDAI is based on eight

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principles. The heart of it is data collection, a risk instrument, trying to speed up case processing, but also trying to have alternatives so the kid doesn't get there. We were missing the point up far-- up-front for prevention. So from this point up is where OYS tries to operate, at the prevention level. OYS has probably been in existence five years. There are some things that cross with OYS and JDAI. The data piece crosses, the-- think now the family crossover probably crosses, all families. That changed. Then the racial and ethnic disparities crosses over. What OYS is working on is trying to work on those preventative things that are leading the kid to enter the system, so the-- the work groups that are trying to get-- lining up at the OYS level are a specific youth committee with youth with lived experience. We're trying to hone that, one with families, and then another one with prevention. So what the goal is, is to work a kid to prevent that kid from going into the pipeline. That's not what JDAI is, so we're trying to connect the dots.

WAYNE: So then how can we structure community-based aid formula to make sure that more money is going directly to programs versus salary, particularly with YOS [SIC]?

CHRIS RODGERS: It already is. OYS doesn't get-- right now in Douglas County we get one point-- about \$1.8 million; \$1.3 million of it is

out in the community. So for the last four years, and this-- this is my of this money at Douglas County.

WAYNE: So you have \$500,000 stacked?

CHRIS RODGERS: When we first started with CBA, we were at \$400,000, and then over time the Legislature jumped it up to 1.5. At the \$400,000, when CBA first started, counties were using that to start diversion programs internally, and we started it-- we got community-based aid. It was used to support our Juvenile Assessment Center. So when the aid went up to \$1.7 million, everything that was already there with the Juvenile Assessment Center and the H.O.M.E. program, transferred. When the Crime Commission made the-- their policy change and prescribed a committee that needed to govern it, that's what OYS became. So over the years, the committees made some recommendation to put more money in the community. So at one time, there was probably about 60 percent of the money that was going out, 40 percent of the state over the last two years, county boards agreed to take more of that on. So this year will be the last year that the JAC, the Juvenile Assessment Center, and the H.O.M.E. program will be on community-based aid. So basically right now, OYS will be one of the entities that probably right now we're-- we're going to fund, and we have funded a staff person to handle CBA because the demands for it have went up to have to manage it. They just sent something down the other day where you no longer can report quarterly; you now have to

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report monthly, and we need to dedicate a full-time person just to handle that. So as of this year, the only part will be going-- that won't be going to the community is the OYS piece and that-- and the OYS piece is tied to the fact that that money originally was at about a hundred and-- probably \$115,000 that went there. This year, it went down to \$95,000, but that \$95,000 leverages another couple of hundred thousand from the Sherwood Foundation; it leverages another couple hundred from the John Scott Foundation; it leverages another couple of hundred for the-- from the Peter Kiewit Foundation. So when we began, that was the agreement. We went with that money to leverage another \$600,000. So that's-- that's where all that money goes in that respect.

WAYNE: So you roughly spend \$500,000 on staffing? If you have 1.8 and you spend 1.3 three in the community, then \$500,000 leftover for staff?

CHRIS RODGERS: Pretty much because it-- that's my-- my number is 1.2, 1.3, and the rest of it goes there. That portion of it is one-third of the JAC, JAC's cost for a diversion of some staff. That will come off this year, and then the H.O.M.E. program. So the only thing that should be remaining is the staff person for the county that just manages the requirements for the Crime Commission money and the 93 that goes to OYS to leverage the other one.

WAYNE: OK. So then let's talk about funding and how does the funding influence the programs, the prosecution, and everything else?

CHRIS RODGERS: CBA funding?

WAYNE: No-- well, any funding, whether it's federal funding, or is there certain programs that have to be recommended, such as batterer's intervention. And that's DV cases, but also, in juvenile, there are specific programmings that it tends to be prosecutors always recommend. And my question is, is how does that tie into funding? I know the WCA is heavily involved in juvenile, particularly around DV cases. But if all this funding is tied together, are courts-- is the-- are the prosecution making things happen to meet the funding requirement? What strings are attached to funding?

CHRIS RODGERS: There are pretty much right now only about two sources of funding that we use to fund it. They-- that kid goes through the court system and they're assigned to probation, there's a pot of money that probation has from the state where they use for services. The other money that's there right now is community-based aid, and community-based aid can only be used for those emergent services up-front. The prosecution, to some degree, I think, they're not involved in-- in that, to some degree. I mean, basically, it's-- when we put together the three-year comprehensive plan to submit to the Crime Commission, we fund based what's all on that plan and what that

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community says is that need. So basically what that-- what the need is, we try to fund services based on the need of that plan, and then once that happens, pretty much the county sets our fees out. Well, let me back you up. Like I said, the-- the amount of money there is, once you get into the system, there is the state money, then you have the CBA money. The county has a committee that goes through this, makes recommendations to OYS, and OYS funds that based on what the need is. People submit to us applications and then their application has to fit what that need is in the community plan. Once those decisions have been made and the Crime Commission signs off and okays everything, then it becomes a process of saying you were awarded this much money; you come in under contractual agreement with the county, and you have the money for that need. You if you get awarded \$100,000 for your service, people in the system, no less services available, the money follows the kid. You may get awarded \$100,000, but if a kid comes through and through a series of kids you only are needed for \$50,000 worth of service, that's how it goes. Every quarter we assess that and then we try to reallocate the money, and if there's other money left over that we need to process through, we do a rebid to the services that are out there to kind of feel the need of what's there. So that's a lot of process, but the heart of the question is-- I don't know. Prosecution is not controlling any of that; it's either services there through community. And if the Juvenile Justice Assessment Center gets a kid on diversion, they're referenced to those services. If the kid

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gets into the courtroom for probation, then probation handles that piece of it. Right now, if you look at the makeup of that's there in a detention facility, and that's where all of it goes, you got about 30 kids that are in there on adult charges; you got probably three or four kids that are in there on custody from other states and other things. You have probably 10 to 15 to 20 kids that are in there on preadjudication, and that's now what we're trying to dig into to provide services to those kids, because the remainder of the kids are on probation and-- and they're waiting there to find placement for them. So that is the-- the make makeup of the kids. Those are the only two sources I know that fund them. And probation's only role in it is if they refer a kid to diversion and the JAC places them in those services that we have paid for, agreed to with community-based aid.

WAYNE: Well, I just-- I guess my experience in juvenile is a little different where I-- I-- I-- there seems to be special programs and special classes that are always funded by outside sources, and I'm trying to figure out how those have an impact on our juvenile services. Is it-- is it always just the prosecution having the last say, or how much influence does funding have regarding that? But to say that it's only the two sources, I think, is not factually correct.

CHRIS RODGERS: It's only the two that I know and we control.

WAYNE: Oh.

CHRIS RODGERS: There could be some in the court system that we don't know of, and it-- it could be, but the-- of the ones that I know that flow through the county and that we have some say will go, that those are the only two I know. I-- I don't want to give you the inclusion that may be some others; those are the only ones that I know of. So why-- why-- OYS has been around for five years. What specific data point can you point to where you see outcomes that have reduced racial or ethnic disparity that-- YR-- Y-- OYS has directly been the-- the reason why?

CHRIS RODGERS: Well, I think OYS's sole responsibility is not the racial and ethnic disparity. I mean, the racial and ethnic disparity piece, I became a county commissioner in 2004; the racial and ethnic disparities piece was before me even [INAUDIBLE] Thompson took it up, OYS is a joint-- it was joint jurisdiction there to some degree, so if you want to say with-- with-- with JDAI, so if you want to say to some degree what [INAUDIBLE] has happened, I mean, what it-- what the-- what OYS and JDAI and the DMC RED committee has been able to do is pretty much change the political will within the county, and that is most of the battle of putting us on track. Once the data was sent there and people saw DMC stand out like a sore thumb, then we were able to change the political will on it. And when the state decided not to take Title II money, we applied for it. We've got coordinator on point, on-- on board. We're trying to wait for approval to do a

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really in-depth DMC study of certain points, and then we'll begin to move. I mean, right now you have to coordinator. But the big win in respects to getting a coordinator, having things moving in a direction, is that the whole board is on-- on-- the whole board is on board now to move this. Now all of that is not the county boards, in some respects. There's five different points in that piece. And what we're trying to do now is educate everybody to the system of that. I mean, judges have a role; prosecution has a role; the police have a role. And what we've been trying to do is educate them, so it is a victory, the fact that we've got a four-time coordinator on board to address the issue. The political will in the whole county is there because it's an underpinning issue on everything.

WAYNE: Well, let me ask the question differently. Has DMC changed in the last five years?

CHRIS RODGERS: It's changed; it's fluctuated. It's been-- there has-- there is points where that number has been as high as 80. Now that number may be 50, 50 percent. But know, too, that, you know, this is not particularly a Douglas County issue, and it's not a particularly an urban issue. There is a county in South Dakota that we went and visited. County's population was only about 5,000. We went to juvenile court there with a fellow JDAI site, and we went into the courtroom. We asked them, you know, so you all have a DMC issue here in a-- in a majority white state like South Dakota? And they're like, yeah, we do.

They got 55 percent of the kids that are Native American, and so it's an issue that's kind of across the country in everybody's system and everybody is trying to find that solution forward.

WAYNE: Thank you.

LATHROP: Commissioner, I see no other questions. Thank you for the information you've shared.

CHRIS RODGERS: Thank you.

LATHROP: Can I have Alesia come up here? I talked to her and she told me she wanted to testify today, so we're-- we'll let Alisha come up and share her experience, then we'll get back to everybody else at the table.

LATHROP: Good afternoon.

ALESIA SIZEMORE: Good afternoon. Hello. My name is Alesia, A-l-e-s-i-a, and my last name is Sizemore, S-i-z-e-m-o-r-e. I am a former foster child of Nebraska. I ended up in foster care after my single parent died and nobody around fit enough to raise a traumatized 15-year-old. I bounced from home to home, only getting worse. I had prediagnosed mental illnesses, such as ADD and depression, and it seemed no one understood or cared. After so long, I had been placed in mental health facilities in detention centers that implemented the use of solitary confinement. In the long year of 2015 is when I faced a

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month in solitary confinement, and that is when I lost my mind. The human is-- the human brain is so complex and fascinating and destructive. We humans are social creatures and I can tell you what happens when that is taken away from us. You start to think and that is all you will do until the door opens. I've thought myself into oblivion and created my own terror. I've seen shadows that aren't there, and I've heard whispers coming from the walls. I could be heard by all the other beings in the building singing to myself at night, because at least I knew my voice was the real one. Loneliness is an understatement. My character was fragmented, like a glass mirror punched by solitary confinement. It has taken me three years to recover from my debilitating mental health and become a productive member of society. To quote Greta Thunberg, I am one of the lucky ones. Not everybody is able to recover like I have, and only now am I realizing how much this single month has affected my entire life. It's no secret that solitary confinement is atrocious. So many different studies have said so many different and horrendous truths about what solitary confinement can do to the human brain. We are social creatures and there's no way around that. Some people will refuse the fact that these people haven't experienced solitary confinement. These people are unex-- are extremely unaware of how fragile we all really are. This disgusting form of torture has the ability to strip away someone's mind. And to think it happens to children is even worse because children are even more susceptible of developing mental

illnesses and traumas. In the state of Nebraska, solitary confinement defined as a status of confinement of an inmate in an individual cell having solid, soundproof doors, and which deprives the inmate of all visual and auditory contact with other persons, is prohibited per 83-4,114. But there are still cases of facilities using solitary confinement on children. In the 2017 and 2018 annual report on juvenile room confinement in Nebraska, shows that 50 percent of NCYF's solitary incidences were a result of behavior infractions and rule violations. In Kearney's YRTC, rule violations counted for 24 percent of all solitary confinement incidences and 12 percent for administrative reasons. In Geneva's YRTC, administrative reasons accounted for 49 percent of solitary incidences. Keep in mind, in--administrative reasons are vague and most likely due to staffing issues outside of the child's control. Can you imagine what it's like to be subjected to mental torture for something that is no fault of your own? Is it even ethical to send a child to solitary confinement for breaking rules? This is a question you must answer for yourself. But if by chance, you have decided that you cannot and will not allow these children to suffer like I have, I propose to reintroduce LB870, an amendment to law 83-4,134.01. LB870 puts further restrictions on the use of solitary confinement on children within Nebraska. Introduced by Senator Pansy Brooks, LB870's intent is to ban the use of solitary confinement, except when necessary to almost eliminate substantial and immediate risk of harm to self or others. The bill

also stipulates that a juvenile shall be released from room confinement as soon as this substantial and immediate to-- of harm to self and others is resolved. LB870 further specifies conditions of a room used for confinement, what necessities should be available to any juvenile held in confinement, who must be notified of placement in room confinement, and procedures that shall take place following confinement. In conclusion, solitary confinement is torture and we can't ethically continue doing it. To experience solitary confinement is to lose your mind. Passing LB870 would surely reduce the amount of traumatized young adults entering the workforce and end unnecessary torture. Thank you.

LATHROP: Thank you. Senator Brandt has a question for you.

ALESIA SIZEMORE: Yes, sir.

BRANDT: Thank you, Senator Lathrop. Thank you for your testimony, Ms. Sizemore.

ALESIA SIZEMORE: Thank you.

BRANDT: Did your confinement happen at the YRTC in Geneva?

ALESIA SIZEMORE: My confinement happened at Madison County Detention Center in 2015, the summer of. I also faced a short temporary confinement within Boys Town psychiatric residential treatment facilities.

BRANDT: OK, thank you.

ALESIA SIZEMORE: Thank you.

LATHROP: I see no other questions for you. Thank you for your testimony today. We appreciate it.

ALESIA SIZEMORE: Thank you, Senators.

LATHROP: OK, we'll take the next testifier. Good afternoon and welcome.

CHRISTINE HENNINGSSEN: Good afternoon, Senator. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e H-e-n-n-i-n-g-s-e-n. First of all, I want to thank you for coming to Omaha today for this hearing and also for the work that you've done on juvenile justice reform in Nebraska. On my testifier sheet I noted I was a proponent for all juvenile justice reform. [LAUGH] I think we've come a long way, but we have a long way to go. For purposes of today's hearing, I wanted to focus in on the issue of status offenses in our system. And Commissioner Rodgers provided a good segue into what I'm presenting to you today. A bit of background. I direct a project called Nebraska Youth Advocates, which is at UNL's Center on Children, Families, and the Law. That project is focused on training juvenile defense attorneys and also working on brief policy research to assist with policy changes. Prior to going to CCFL, I practiced in the public defender's office here in Douglas County, primarily in juvenile court, representing parents and

youth on delinquency and status charges. So I'm a lawyer; I'm not an evaluator. But prompted by the work that the Georgetown, Douglas County, DMC RED certification team is-- was doing and finding that Douglas County had the second-highest number of status offenders on juvenile probation and that youth of color were highly over-- overrepresented in that population, I just took a day last week to look into what were the case outcomes for those cases that were filed in Douglas County, looking to see: Is our court intervention efficient? Is our court intervention effective? From the annual statistical report put out by the Office of Courts and Probation, they reported that there were 116 status cases filed in calendar year 2018. When I first did a query on JUSTICE, the on-line court database, I was able to access all 116 cases in August, meaning that all cases that were filed in 2018 were still open in August of 2019. Last week, on October 9, I just took a-- took a day and I looked up each of the case numbers that I had found originally in August. Two of the cases I found were not truant-from-school cases. There was a minor in possession of alcohol and one of a youth who is uncontrollable. So I took those two out of that equation, leaving 114 truant-from-school cases filed in Douglas County. Only 13 of the 114 cases were no longer accessible on JUSTICE, meaning that they had been sealed. If that case was sealed, it means either that the petition was found not to be true, or that the youth was placed on probation and successfully completed that probation. Given the case law surrounding our efforts

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to increase the school-based interventions and diversion interventions prior to filing, most likely, those children were adjudicated and placed on probation. And in essence, the case law has limited those precourt interventions to sending a letter to the parents with numbers that they can call for help, not really any hands-on, individualized work to address those barriers to attendance. I first looked at the case outcomes for all the cases that were filed in calendar year 2018. And then I just focused on a subset of cases that were open for at least one year or filed between January 1 and October 1, 2018. For the cases that were filed throughout the calendar year, 29 percent of them, or 33, resulted in unsatisfactory release from probation. The average amount of time a status offender spends on probation is over a year. So this means that this case was open for over a year and then closed unsuccessfully, meaning that are our-- our money, our interventions were not effective and not-- didn't solve the problem that was presented to the court of the child getting to school. Sixty-one, 54 percent, were still open when I checked last week, meaning that it's been over a year or almost a year since all these cases were filed and we still haven't figured out how to get this child to school, not meaning that probation isn't working hard or that the legal parties aren't working hard, but rather that our services are not tailored to meet the question that was presented, the problem that was presented to the court. And as policymakers, we need to look at reinvesting our dollars earlier in the system to the schools for

diversion efforts so that we actually accomplish the goal of getting children to school. Eleven-- only 11 percent were sealed or successfully completed, and then 6 percent were dismissed but for whatever reason were not-- were still accessible in JUSTICE and not sealed. For the cases that were filed between January and October of 2018, 38 percent were unsatisfactory release, so we failed 38 percent of the time. If this was just an instance of a handful of children not successfully completing, then perhaps the quest-- the issue could be with the child. But when we as a system are 38 percent of the time closing cases after a year unsuccessfully, then we have to look at ourselves and what we're doing and whether or not we can do better for our children. And 50 percent of those cases that were over a year old are still open today. We do have research. The 2011 study from the Washington State Center for Court Research compared high school students who-- who were truant in court-involved against similarly based students who were not court-involved and actually found that the court involvement resulted in worse outcomes for those youth. Those youth, when they followed them, missed more days of school, had lower graduation rates. So I think the-- as Commissioner Rodgers brought up, these are our classic cases that-- that clog up the court system. And also, we're not getting the results that we're paying for. I did a cost of juvenile justice analysis with Voices for Children, in cooperation with probation, where we looked at three kind of case scenarios. Given-- what we found is a child, an average child is on

probation for 16 months. In-home-- with in-home services, costs about nearly \$7,000 per child. That money could be much better used if we actually address the issue of chronic absenteeism when it's identified. I think this demonstrates that we need to really take a deeper dive into how we're addressing this problem and whether the juvenile court system is the appropriate forum for addressing these cases.

LATHROP: I got a question for you.

CHRISTINE HENNINGSEN: Sure.

LATHROP: So I think I was around for a lot of the work that the Judiciary Committee did on truancy back in my first tour. And one of the things that we saw that prompted all of that legislation was the correlation between truancy and problems later on in life.

CHRISTINE HENNINGSEN: Right.

LATHROP: So this was intended to be an early intervention. And you don't have any argument with that proposition?

CHRISTINE HENNINGSEN: No, not at all.

LATHROP: OK. So getting the kids to school is important.

CHRISTINE HENNINGSEN: Definitely.

LATHROP: Do you have a suggestion for a different approach? So if your-- if your concern, Christine, is that we're-- we're putting money into cases that remain open for longer than a year and a significant percentage are dismissed with unsuccessfully completing probation, in other words, we couldn't get the kid to go to school--

CHRISTINE HENNINGSEN: Right.

LATHROP: --what's the--- where's the-- where-- where should the money go or what should we be doing different in your judgment?

CHRISTINE HENNINGSEN: Well, I think the intent of the statutory changes surrounding earlier intervention in-- to address chronic absenteeism, I think that's the right approach. I think the failure was in the implementation of that theory of change. I think more money towards the schools so they have better resources to reach out to the families or address the absenteeism within the school would be better spent. Also, programs like the GOALS program here in Douglas County have provided some positive results. However, it's not implemented across OPS. I mean, I think a simple intervention or like truancy officers Transportation was an issue that came up time and time again in my truancy cases. The kid didn't have a way to get to school. Right? And when-- and we adjudicate on that, but probation also can provide the transportation. So I think there's a lot of really practical things that we could do, providing those families additional

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support, nudges to them, helping them, you know, get their child up, helping meet their basic needs, rather than-- because what happens essentially in the court system, a case is filed, so we know the kid has missed at least 20 days of school. And the case is filed. It's about another month until the adjudication; it's another month to the disposition, all the time this child is missing more school. So by the time we actually get the services in place, they miss a large amount of school. And the risk/needs responsibility model that probation has is well equipped for reducing risk levels. Right? But usually the youth who come to us on truancies have low risk levels, and the interventions that they have of high monitoring, you know, different approaches they have, aren't well suited to meet the needs of these low-risk youth who may be children in need of services. Perhaps, you know, HHS would be a better system to-- to deal with it. But what we do know is that probation is a-- having a hard time managing this population of children.

LATHROP: OK. I see no other questions. Thanks for your testimony.

CHRISTINE HENNINGSSEN: Thank you.

JULIET SUMMERS: Good afternoon, Chairman Lathrop, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children. I apologize for the staple situation. We have a new copier that won this morning, so I'm speaking

to you-- I jumped-- I jumped the line a little bit because there are some young people who I hope will come after me who have to be gone by 3:00 p.m. today. So we all benefit when our juvenile justice system is structured to ensure that youth receive meaningful rehabilitative interventions so that they can grow into healthy adults. And every decision the state makes regarding our juvenile justice system is an opportunity to set youth up for success rather than failure, to improve lives and heal families, to keep communities safe, and to disrupt cycles of recidivism and incarceration that drive the overcrowding of our adult correctional system. Nebraska has come a long way, even in a few years, in right-sizing our system through reform efforts to reduce the numbers of youth impacted by or incarcerated in both our juvenile and criminal systems. So we've cut the incarceration of youth in half since 2011 without an increase in juvenile arrests. We've gone from prosecuting nearly 2,000 youth in adult court to less than 300 in 2017, and most of those were from traffic offenses or misdemeanor tickets. And commitments to the Youth Rehabilitation and Treatment Centers are a third of what they once were. And these numbers overall, these are statewide numbers I've given you. They represent great progress. However, when we talk to youth currently or recently involved in our systems, we know that those numbers don't paint the full picture and that we have to continue to strive for improvement. So specifically, you've already heard today young people are crying out about the conditions of

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confinement, both at the YRTC's and our detention facilities. We have publicly run facilities that continue to engage in the abusive practice of extended solitary confinement, and it is just absolutely past time we stop allowing our tax dollars to flow into programs that authorize mistreatment of our state's children in this manner. In Douglas County-- maybe she-- she already shared this data with you, but in 2017-18 in Douglas County, there were 392 incidents of room confinement as defined by the statute with a median length, so that's the median, of 57.5 hours and the longest incident was 262.5 hours. So in the past fiscal year, somebody's child, right here in this county, spent 11 days alone in a cell in DCYC, and I think that should be acceptable-- unacceptable to all of us, both for moral reasons and for pragmatic. I also-- when we talk about these positive statewide data trends, it's really important to highlight, as Senator Wayne has already noted, that that doesn't apply for youth of color, so youth of color continue to be overrepresented, and in some instances that overrepresentation, the disproportionality is growing in juvenile court petitions, probation, incarceration and commitments to YRTC. That's true in every county, but it looks different on where you are in the state. However, two years ago, Nebraska abdicated an intensive focus on us at the statewide level when we chose to become nonparticipating with the federal Juvenile Justice/Delinquency Prevention Act. So Douglas County took the opportunity, and admirably took that opportunity, to go after the federal funding that was

available in order to focus on DMC here locally, and that's wonderful.

But it is an issue that we need to prioritize statewide so that no matter where a child lives or what he or she looks like, they continue to receive equitable access to justice services and second chances.

Finally, I-- I always have to raise that youth in rural Nebraska continue to face court proceedings without assistance of legal counsel. Court is complicated and the outcomes of juvenile proceedings are serious, they can be significant, and they can last a lifetime.

Adults don't always fully understand the process, even lawyers, or dispositions that are possible in a juvenile court case, much less the complicated fabric of case law governing rights and expectations and responsibilities. So we just cannot expect kids, youth, teens to face court without competent counsel to advise and to advocate for them, and the injustice persisting in our statute regarding appointment of counsel in juvenile proceedings needs to change. There are

opportunities on the horizon at the Capitol to address these through bills this committee has already advanced, and I thank you for that, as well as others that might be in the works. And as we move forward, I hope that we can be a resource when it comes to the data and the best practices, but even more importantly, as a link between you and young people who have experienced the best and the worst of our systems. I just cannot emphasize enough how crucial it is that we listen to them as we continue to evolve our juvenile justice system.

And there are young people here today, as I said, who-- some of whom

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want to formally testify. Whether they decide to do that or not, I hope that you can take some time and speak to them about their experiences and what they know works or doesn't work in juvenile justice. And they're just-- they're very full of wisdom and they're our future. So thank you again to Senator Lathrop for providing this forum to discuss these issues and your-- the committee's commitment to improving our justice system for all. I'd be happy to answer any questions.

LATHROP: I do not see any questions, but thank you for your testimony, as always. We will take the next testifier. Good afternoon.

NIKOLE SHELL: Good afternoon. My name is Nikole, N-i-k-o-l-e, Shell, S-h-e-l-l, and I am a Boys Town youth. I am a senior class of graduation this year, and I've been in the court system since I was five. I was originally in the court system due to parental lack of ability to be decent parents and then follow the laws of being a parent. And then I got into the court system by my own accord of not doing the things that I should be doing as a youth here in Nebraska. I am very opinionated when it comes to what we should be working on just because Boys Town is such a great place and it does a lot of things that other places do not offer on the psychological aspect of things. I think one of the biggest things about being a youth in the juvenile system is how it affects our brain and our emotions and what we come out as adults. And we are the future. We are what you guys see when we

leave, when we become adults, and one of the biggest aspects is how we can represent the U.S. in the best way possible. And one of the biggest things is that the emotional aspect of things, how there are services on campus, on Boys Town campus, that are not offered in other places about touching on therapy and aspects of those things, because behaviors are tied through emotions and through reactions, typically what behaviors are shown, and there's a lot of people who do not fully understand that in our society here. And I think it needs to be [INAUDIBLE] that we need to be doing more based on the psychological aspects so that the kids coming out of the system can have a better success rate and can be the citizens that we need to be as an adult, so, yeah.

LATHROP: Let's see if there's any questions for you. I don't see any, but thanks for being here. We appreciate hearing from you.

NIKOLE SHELL: Thank you for letting me talk.

JASMINE JONES: Hello.

LATHROP: Hi. Good afternoon.

JASMINE JONES: Good afternoon. I'm Jasmine, J-a-s-m-i-n-e, Jones, J-o-n-e-s. And--

LATHROP: Can you move a little closer to the mike so everybody can hear you, Jasmine?

JASMINE JONES: Sorry.

LATHROP: No, you're fine.

JASMINE JONES: I would just like to talk a little bit about confinement again. I know like we've had a few people touch on that. But I wanted to also incorporate how our relationships are affected during that time, because when you're in solitary confinement or, you know, whatever they want to call it, label it, you're not able to make phone calls unless it's to your attorney and it's limited to five to ten minutes and things like that. And it really does affect the nature of our relationships with our family being apart for so long. I know when I entered into the system, I was 12, 13 years old. And, you know, they didn't really have anybody advocating for us about confinement at that time, so they would put you on lockdown for extended periods of time and, you know, it was deemed as a punishment and you're going to learn, you know, not to do these behaviors, whatever it was. Sometimes it would be staff just taking their power, you know, a little too far in that-- in the sense of, oh, well, they can do it, so, you know, why not? And our relationships are, I think, hindered a lot during that time. And I think if, you know, if we do have those type of things, I think we need to enforce contact with our family through any type of punishment, just because it's so vital to us, especially like going through, you know, things and being over-- being away from our families and also just being in those emotional times. I think

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connecting with our family can also be a big factor in helping de-escalate situations and not having them continue to escalate. The next thing I wanted to talk about is finding a way that we can kind of expose the resources that we have for our youth, like outside of the system. You know, I'm talking more like with schools and things like that. I know everybody is on social media these days, so if we could find some way to, you know, kind of get those things out there so that we can kind of alleviate the trips, you know, into the court system, so we're not dealing with these things, that would be great. And then the next thing is I think that we need to be more aware and be more cautious of our psychiatric help with youth. I know that psychiatric help is a great thing and I'm not bashing anybody for that. But I do think that there are a lot of kids prescribed medications that I don't think are necessary. And again, I'm not a doctor, but I myself have went through that where I've been on a ton of medications because I have ADHD, because I have a little bit more energy than the next person, or I have OCD, which I am not a fan of. I think that's just not really doing-- doing what you're supposed to do. So I think that we also need to be cautious about that with our youth just because I know that there's a lot of medications prescribed for no reason. And I think that we need to use the youth center as it's intended. You know, I think that's more for the criminal aspect of things, opposed to kids who just have ran away from home because they have a bad situation or kids who just are lost and really just need some guidance because they

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don't have that at home or a good support system. So I think we need to be mindful about the children that we are receiving in those situations and finding the best outlet for them and the best placement, because I don't think there's any positive outcome for any youth sitting there, just not getting the help that they need, when it could be such a small issue of somebody just needing to listen to them and hear their issues. So, yeah, that's all I have. Any questions?

LATHROP: Very good. I don't see any questions. I may have one for you though. You talked about your experience with room confinement. Do you mind telling me where that took place?

JASMINE JONES: Yes. So mine took place in DCYC, and it was just kind of like the normal situation. I didn't really have too much mental issues afterwards. It was more of I just got, you know, like really angry and like it was just building up and, you know, seeing the same four walls every day and knowing that I can't go out. You know, like having to eat my meals in there and not having any type of interaction with anybody was very hard for me because I'm a very social person, so, you know, it just became very difficult. Yeah. I just-- I was in there I think-- this is a long time ago. I think I did almost two months in solitary-- solitary.

LATHROP: Straight?

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JASMINE JONES: Yeah. And that was only, you know, being able to get out for medical and things like that.

LATHROP: So you did that when you were 12? How long--

JASMINE JONES: Yeah, I was like 12, 13.

LATHROP: How long ago was that?

JASMINE JONES: Like five years ago.

LATHROP: OK.

JASMINE JONES: Yeah, so it was some time. That's why I'm here advocating for our youth.

LATHROP: We're glad you did.

JASMINE JONES: Thank you.

LATHROP: Yeah. Thanks for your testimony. We appreciate it.

JASMINE JONES: All right. Thank you.

LATHROP: Next testifier. Samantha. Commissioner, welcome to the Judiciary Committee.

MIKE BOYLE: Thank you, I appreciate it. My name is Mike Boyle, M-i-k-e B-o-y-l-e. My home address is 1027 Marcy Plaza, number 201. Is there a young adult to testify? OK. I'm going to yield, if you might, Mr.

Chairman. I believe these children have to be somewhere at 3:00. Is it-- or do you want me to stay here?

LATHROP: That's fine. That's fine if you want to come back in a little bit and we'll let--

MIKE BOYLE: I'd just as soon let the young adults speak first.

LATHROP: --some of the people that need to be out of here by 3:00.

MIKE BOYLE: Thank you.

LATHROP: OK. Hopefully, you weren't intending to take 25 minutes, but [LAUGHTER] we never know when you get started. Yeah.

JOSH REED: Good afternoon.

LATHROP: Welcome.

JOSH REED: My name is Josh Reed, J-o-s-h R-e-e-d, and I just want to tell you my story. I was born in December of 2001 and I had a mom and a dad. My father was a very abusive father, both towards me and my mom. I lived with him until I was about eight years old. After that, my mom had gotten a divorce and from then on I struggled mightily with, you know, just accepting things from authority figures in any aspect. I struggled emotionally, constant outbursts. CPS was involved a lot. I was in and out of therapy from the age of two. I'm still in therapy. Up until, I want to say, 2012, I've been in and out of

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psychiatric facilities, and it was a rough time. I was not really sure that I really wanted to live. The law started getting involved, I want to say, about 2013. Again, I was out of control. Nothing could really work. Therapy wasn't working. I'd been in a couple of PRTFs. Those didn't work. Nothing really seemed to be helping. And in 2015, I was detained over the summer. From there, I went to detention. I sat in detention on a misdemeanor of criminal mischief, property destruction for three months and three days. It was probably the worst experience in my life. I was two hours away from home. I was not allowed any contact with my family for the first two weeks I was there. It was a new environment. I was 13 years old. I didn't know what to expect. I didn't even know where I was at. Eventually, the judge had to order court-approved visits just because my mom couldn't get up there and they were not allowing me to call her. I'd been on solitary confinement. They called it room restriction, but I'd been on that multiple times. The longest time I was in was, I believe, 11 days straight, no contact with my family. I ate in my room. I slept in my room. I woke up. They took my bed. They took everything in the room that I had. So I would stare at four walls all day. And I had court three times I was there, and every time I'd ask to come home, they told me no. They said that we're looking for a placement and just kept getting moved. Eventually, I got an appointment to go to the Boys Town PRTF, and that was the best day of my life. I got out, I went there, and immediately I started therapy; I started seeing my mom; I started

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going home more. And I think Boys Town is what kids need sometimes. I know that there are a lot of people that are against out-of-home placements, but sometimes your parents can only do so much. I've been at Boys Town since I was in eighth grade. I've been very successful. I'm an athlete. Academically, I'm doing very well. I'm actually the mayor of Boys Town, so I am the voice for all students. And with that, I try and advocate for the things that I couldn't get. When I was in-- at court, I was denied an attorney based off my parents' pay, and they had to waiver my right because the courts refused to give me one. So I-- I would say that what works for kids is having legal counsel, regardless if your parents can pay for it or not. You're not your parents. That's-- you're your own person. Everybody deserves counsel. I'll also say that solitary confinement is a-- has a very traumatic effect on kids at such a young age. I'm almost 18 years old and I still am not fully grown. Our brains just don't work like that. And I think when you throw a kid who needs to be social and needs to learn and grow and is being cut off from society, that can be very detrimental, I mean, very traumatic for them, and can set them back rather than push them forward, because we're-- we're not able to understand how our consequences can affect us when we're at such a young age being isolated from everybody and everything we know. Boys Town is my home; Boys Town is my family, and I don't know what I would do without them. And I think the-- the resources they provide need to be more equipped and more available for other families that may not

have necessarily opportunity to have their kids go. So I would like to thank you guys. What you're doing is amazing, and I just hope that you continue to do that.

LATHROP: Very good. Senator DeBoer's got a question for you, Mr. Mayor.

DeBOER: Thank you very much for testifying, Mr. Mayor. I did want to ask you. You said that when you got to Boys Town, things changed. Can you give us a little more specific? What is the difference between-- you said that there were programs that you were involved with before, and maybe it was just specific to you. But what-- what sort of was the difference? And could we replicate that difference between what you were offered at Boys Town and what was offered to you before?

JOSH REED: Yes, I would say that a big thing is Boys Town is focused on positive reinforcement. Growing up, if I did something wrong, I was screamed at; I was degraded; I was told that I wasn't good enough, that-- why are you doing this? At Boys Town, it's, OK, you messed up, how can we fix it, how can we make it better? A kid will not respond well when he is constantly being told he's not good enough, that he's dumb, that he just can't do things and that he won't amount to anything. But when you tell them, you show them what they did wrong and you give them opportunities on how to fix it and you-- you take them by your side and you-- you kind of guide them, that's going to

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work. It's going to skyrocket their level of change and their level of motivation and their overall affect. I was very depressed growing up before I went to Boys Town because that's all I had. It was constantly degrading me, constantly putting me down for things I did wrong when I just needed a little help and a little guidance.

DeBOER: Thank you.

LATHROP: I see no other questions. Thanks for being here. We appreciate hearing from you.

JOSH REED: Thank you.

LATHROP: Yeah. Good afternoon.

EMMANUEL KUOT: Good afternoon. My name is Emmanuel Kuot, E-m-m-a-n-u-e-l K-u-o-t. I just wanted to talk a little bit about my experience in the system and everything. I got in the system probably around the age of 12. It probably just started out with just a little bit of truancy. I wasn't going to school as much, just wasn't listening to my mother. I mean, it was kind of hard for me growing up, like just trying to make it to school; like, I mean, with the background that we had and everything like that, we didn't really have much resources to look towards and everything. So I was just-- like I was just more in the streets, just trying to help my mother out, because we never had food and everything like that. So that kind of led me towards getting on probation and then just facing more serious

charges. I'd probably started entering the-- I started-- I probably started entering jail more when I was 13 and facing more serious charges, and then I was placed on probation. And, I mean, when I was just sitting in there, it was just more of like longer periods of time sitting in there. I would see kids like getting in and out, and I was just still there and they would always just see me. My probation officer tried to send me to more placements that they thought that would help me out, just because I had a background of like failing drug tests and everything like that, so they thought it is more substance abuse that was going on. But I was clean and sober for a long period time, like probably over a year. I-- they placed me at the Hastings Regional Center, and that didn't really help much. I was there for about four or five months. And the longest time period that a kid supposed to be there is roughly three months. And I felt that I didn't really get much help from being there and nobody was really listening to what I had in mind, like just what I thought was really going on. And I just didn't feel like I was getting the best experience that the kids should be getting. And they wouldn't really listen towards what I was saying. They just kept putting me more and more placements, and I felt that that wasn't helping. I think that once I got to Boys Town, that's what helped a lot. They started reaching towards what was like really going on, asking me more questions and just focusing on me more than anything. And I feel that in the system, like, we should be focusing more on the youth, not just

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why they're in the system or what led towards the-- them being into the system or what brought them into the system. It's more of what's going on with you and what may be more the bigger picture. And just for me, it started out with truancy, so if we look towards the youth and just see what may be going on with them and just trying to actually figure out the bigger scale and the things that may be going on in their life and their intentions and everything. Boys Town has helped me succeed more than anything. I feel that just with all the support that I have there, I'm able to talk to somebody, even on the days that I don't-- I do feel like giving up or it may feel that not everything is satisfying me. I'm closer with my family. I'm making better decisions. I'm trying to be more mature and "adulthood" so that when I do go back into the community, I'm able to just actually try to have a better future for myself and for my family.

LATHROP: OK. That's great. Senator DeBoer is going to ask you a question.

DeBOER: Thank you very much for testifying. Can you tell me, is there anything that we could have done or someone could have done or the school could have done when you were 12 to get you into school more? What-- what would have induced you to go to school more?

EMMANUEL KUOT: I feel that a mental, or just somebody like that, would be more in place of trying to, I don't know, just talk to me and try

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to see like what was really going on, why couldn't I go to school, or anything like that, because when I was in school at my normal school, administrators wouldn't really talk to me of why I-- why I wasn't attending or anything like that. They would just more assume, like, OK, well, he's not going to attend, so there's really nothing much that we could do at this point. I feel that there should be somebody that is able to like come to the home and like reach out to the kid and the parents actually try to nail the head on it and try to see what's really going on. So if like I would have had a mentor or somebody like that, that probably would have help me out more, like if they created like a motivational system for me to actually go to school or something along those lines, I think that would help, especially like the kids now that aren't going to school. If they have a mentor in place or something like that, or somebody that they could look towards, I think that would help a lot.

DeBOER: I think that answers it. Thank you very much. Yeah.

LATHROP: Yeah. Thanks for being here. Appreciate your testimony.

EMMANUEL KUOT: Thank you.

LATHROP: Good afternoon.

LOLITA BECERRA: Good afternoon. My name is Lolita Becerra, L-o-l-i-t-a B-e-c-e-r-r-a. My family is from Mexico and I was born in Omaha. I started off as a really good student going into high school. I had all

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honors classes and I was doing fine. Towards the end of my freshman year, I started to struggle with like mental health issues. Coming from Mexico, my parents didn't really know what mental health-- that mental health was like a thing. They didn't really understand it. They didn't know how to help me. And so I just got very depressed and I stopped going to school, so I started in the system with truancy. I was truant a lot. I kept getting truancy charges and I was put on open-ended probation. And for a while, like, I didn't really know what the plan for me was. And probation tried to offer services to me and my family, like medications, but my family, they were new to all that, too, so they didn't really know what was going on with me because the medications weren't working. They didn't know how to help me and everything kept snowballing from there. I started like with only minor charges, like truancy, and they turned into like felonies. And so I've been on probation for about two years now, and I have also been like in and out of like secret psychiatric facilities. They weren't very helpful. It wasn't until I got to Boys Town that I was able to kind of turn my life around a little bit. I'm still working on it, but Boys Town has been overall the most helpful service I received since I've been on probation.

LATHROP: OK. That's good. I don't see any questions for you, but thanks for coming up here today.

LOLITA BECERRA: OK, yeah, um-hum.

LATHROP: Any other young people that have to be out of here that need to testify before the bus leaves? OK, I think we can go on to the-- yes? No? Commissioner.

MIKE BOYLE: Time for the old people?

LATHROP: You know, you're sitting next to Senator Conrad and she may not agree with you about that.

MIKE BOYLE: I don't think she will. Thank you, Mr. Chair. My name is Mike Boyle, M-i-k-e B-o-y-l-e. My home address is 1027 Marcy Plaza, number 201, in Omaha, 68108. First of all, I want to-- I really appreciate you for coming here. This is really a real opportunity and I appreciate it very much. I'm going to talk about some things that are a little bit off of focus, naturally, but I was sitting here listening to these young people, and you are an inspiration, absolutely. Listening to what you've done and the struggles you've had are just eyeopening and make me proud. I guess I'm proud because I have 18 grandchildren that I keep my eyes on, take them to breakfast. I sing "Happy Birthday" to them on their birthday and end it up with "cha-cha-cha." They like it. Anne and I did that for years. I'm here to tell you that I'm kind of the-- I think-- I don't if I'm a typical American, member of the American family. But as I listened to these young people, I thought of some of the problems that occurred within

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my family. And Anne was the eldest of 12. And one of her sisters was married to a man who was struggling terribly with psych-- psychiatric problems. And he took it out on his family. On a Christmas Eve in Missouri-- I won't get into details because of the young people here. But the children were taken to Missouri and the first thing he did, he slammed the door in her face. But he finally got in the house on Christmas Eve. And while they were sitting around near the Christmas tree, he walked out into the kitchen and came back and killed himself in front of the family. The children had been terribly traumatized before that, but that was just about-- about the worst. That was the worst. One of those young persons later took her life and and Anne's sister walked in and found her. The trauma, it's been horrible.

Another young man, and I say- I'm really thinking we are an American family. We have all the way from Irish to Persians to Germans to Czechs, African Americans, Spanish, you name it. When the family reunion hits, it's really a blast here. But one of the young men was a student here in school from a mixed-- a racially mixed family, and one of my-grand nieces and a loving family, I mean, really embracing him. And he was a great kid, but he had some things going on that we couldn't quite get under control. And he would go in the front door of school and go out the side door with some guys. And he did that fairly repeatedly and-- and he was-- I was informed of it and I tried to help, do some things, so forth. And the last time he did that, they were going to rob a liquor store. And when they walked in, the other

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people, one of the guys handed my grand-nephew a gun. And so he's now in McCook and he's been subjected to all sorts of-- the confinement and so forth that these young people speak of. It's so damaging, absolutely horrible. It's just the wrong thing. And I'm so glad to hear the young people talking about how effective Boys Town is, because it makes me feel good there is something good going on. So my focus is this, and it's why it's a little bit off the wall a little bit. There's a terrific effort, Chris Rodgers and Mary Ann Borgeson are our experts on juvenile justice on the Douglas County Board, and we trust them, most of us do, trust them and listen to their guidance and the things they recommend. And there are some really new ways and positive ways to try to treat people suffering from mental illness, which is really a terrible plague on this country. It is-- it permeates everything that we try to do. In the adult system, we-- we try with-- we now have a fellow who has a master's in social-- social justice running our correction facility. It's really an interesting focus. And we've tried to change things, but it's really interesting because I was talking to him and he said that the state laws that deal with the criminal justice system are penalized. I mean, they're-- they're penalties. These are adults, so they penalize. And so he has over the years-- and the-- and Mark Foxall, the previous director, introduced treatment to try to stop the behavior, try to help them. They created a veterans unit. There's men and women who create-- who cause problems and they're ended up in our facility. They go to a

separate facility for veterans. And it is-- it's incredible to see. I went there at 6:00 in the morning and they started their exercise program and there was a guy bigger and older than me that was doing a pretty good job. I was pretty embarrassed. But anyway, around the walls, they have the Marines, the Navy, all the whole thing, Army and everything. We bring in the Veterans Administration. One veteran that was in there thought he had had a dishonorable discharge. Turns out he didn't, and that was life changing for him. I mean, that means suddenly he has some housing benefits; he has medical care and so forth. And so we try to-- try to change those lives. And we work closely with Sienna Francis House because many of our-- our guests are their guests as well. And so we try to coordinate that and figure out how to help. But what we need is, is more money to get the kind of psychiatric help that we need. Boys Town is a terrific facility. I was out there at a dedication recently. They have seven child psychiatrists, I believe, on staff. Douglas County has one part-time. It's not enough. The last time I checked, we had 100 and-- what did we have-- 150 children in our facility, something close to that, maybe a little less. Chris will know the exact figure. But in any event, we need-- we need help with funding that. And what I suggest is funding, frankly, is changing the method of returning the property tax dollars that you give back to individual taxpayers and to corporations in town, you know, on their-- on their buildings. I know Tom-- Tom White tried to stop this when he was-- change it when he was a state

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senator, so you didn't give these big corporations \$80,000 back for their property taxes. It means nothing to them, really, I think. Instead, what I would suggest is that you work through the Nebraska Association of County Officials and find out what counties need. When I testified-- I was on the board of NACO and when I testified on behalf of counties, sometimes I surprised senators because I didn't speak about Douglas County. I spoke about, you know, Boyd County and other counties around the state that had particular problems that I found out about. They had to choose between putting gravel on the road and taking care of people who needed food, you know, because of their mill levy. They're at their top of their mill levy. We're not. We could-- if we had to, we could go through the roof with our mill levy. We have the ability. We're trying not to. And I think taking that property tax money and asking counties, you know, what is it that you need to-- what do you need to cover, you know, and-- and somehow appropriate it on a fair basis and put strings on it. Put strings on it, go ahead, and say we're giving you money for feeding the poor in your county and here's how much you get, and you have to prove how much you spend on food. I mean, don't just throw the money at it. Make it accountable. I have no problem with that. What Douglas County needs is to come to grips with the rising cost of criminal justice. It is approaching annually-- for Douglas County and the city of Omaha, it is approaching \$300 million a year in Douglas County. We operate a criminal correctional facility. The city of Omaha has closed theirs,

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so it's merged with ours. We have an average of around 1,300 people any day there and come in and go out about the same numbers. It's a short-term kind of thing. And it's-- the payroll is-- it's very difficult to hire people. But in any event, they're working hard. But that's a big expense. Another one that I want to point out to you that's kind of a quirky thing is that when Mr. Kleine files a lawsuit against a person who's accused of a felony, he has to pay a filing fee. And this last year, the last time I looked, it exceeded \$300,000 a year in property tax dollars paying for the filing fees. Well, naturally, we went down to the Legislature, tried to change that, and we found out the hard way that that money goes to Judges Retirement Fund, so that's not going to change, so we're still paying-- paying the filing fees, you know. And I'm not saying we object to that, but it's-- and we understand certainly-- I think I certainly do-- that we're children of the state and we do what you tell us to do. And we go beyond that, too, and I'm going to be-- try-- try to be quick about this. As I mentioned, the state law tells us what the penalties are for things, so we can look that up pretty easily. What we try to do is figure out a way to make these folks stop, try to help them pull back from the cliff where they are. We real-- really try to get them treatment and get them housing and a place to go and we have people right-- social people right inside the facility looking to help and helping them find homes, and if they're veterans, veterans housing, all those things. We work diligently to do that. The other day, a

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couple of weeks ago at the Douglas County Health Center, we-- I was there, and I'm a trustee, as all the other commissioners are. And one of the-- the person who-- we have a community mental health facility there as well. And the director told us that they had-- they have a really great peer-to-peer program, people who have suffered from mental illness who come back to help other people and give them coaching and help, so forth. The state got the funds. And so we were told we lost \$198,000 dollars. And so I went to the county board and made a motion. P.J. Morgan and I are on the school budget chairs, and I made a motion with P.J.'s agreement before the county board to put in \$198,000 that the state took away from us to help these people continue the peer program. And it passed unanimously, three Republicans, four Democrats. We're on the same page. We agree on so many things is pretty scary, so. But we believe-- we believe our function is to help people and public service. So I'll close by saying that I hope that you'll consider changing the way that property tax is diverted. And as I said, put strings on it. You know, it should be that way and we should be accountable. We don't mind. And we hope that we are, but we could be more accountable if we-- if we receive that money per capita or somehow, and then we could use it, directed it, if you wish, for mental healthcare, because we really, desperately need that. As you heard, all of these young people suffering from whatever it was that was done to them, and they may have contributed to as well, but we need help and that would be fantastic. And I know that

you're not the finance committee, the Revenue Committee, but you could certainly help us in that direction. Thank you.

LATHROP: Senator Brandt.

BRANDT: Thank you, Chairman Lathrop. Thank you, Mr. Boyle, for testifying. In regard to this property tax, are you-- are you looking at like the TIF funds, which are public record? Are you looking at the Nebraska Advantage Act, which is a big secret, which we don't know what these corporations get in regards to reimbursement for property tax that probably could be used for a better use? Are you talking about general property tax that everybody pays on their house?

MIKE BOYLE: I-- I would like to see all those things happen, but I don't know if they will or not. But I'm talking about the property tax that we pay on our homes that the Legislature appropriates at some time of the year, at the Governor's direction how much money is in that pot, and then it sends it back to us individually. So some people get a check for \$18 and somebody else, you know, Mutual of Omaha, gets a check for \$145,000 or something. What I'm saying is send that to the counties. If we say we-- we'll spend that on mental health, send that, all that money, to us from Douglas County and we will-- then the property tax should come down. Hold us to it.

BRANDT: So you're talking about the Property Tax Credit Relief Fund?

MIKE BOYLE: Yes, I am.

BRANDT: OK.

MIKE BOYLE: But, you know, and TIF is really an interesting proposition. I-- you know, first of all, it's got "blighted" in there, which freaks out everybody. But so many of those companies, frankly, their-- their buildings, I don't really see personally. I-- I'm-- I doubt that they actually need that money to proceed with the development. It's a-- it's a handout, frankly, I think, and it helps create some jobs. But I-- I-- I'm not a big fan of TIF. And of course, LB775 is a monster in my eye, my mind. I remember when the head of ConAgra, on a fluke, I think, ask that jets be exempt from-- his jet fleet be exempt from property taxes. And so, you know, my 1978 Ford was paying more taxes than the jet for his company.

BRANDT: Thank you.

MIKE BOYLE: Thank you. We're on the same side.

LATHROP: I-- you know what? I want to bring something up--

MIKE BOYLE: OK.

LATHROP: --as long as we're talking about money and Douglas County. We had-- this committee met with the Appropriations Committee to talk about problem-solving courts and--

MIKE BOYLE: Yes, yes.

LATHROP: --by the way, this group up here and-- and the Legislature has bought into problem-solving courts--

MIKE BOYLE: Yes.

LATHROP: --like these things work.

MIKE BOYLE: Yes.

LATHROP: We can't argue with the statistics and the cost savings. And when we looked in Douglas County, we couldn't do it. We couldn't add more problem-solving courts because we need four district court judges.

MIKE BOYLE: Yeah.

LATHROP: And Douglas County said: We don't have room for them; don't send them down here. And I got to tell you, that's a frustration for me when we look at the opportunity to have problem-solving courts that might at some point alleviate some of our overcrowding and we're told that they don't have enough judges, enough judicial resources to do the problem-solving courts. We need more room in that courthouse and--

MIKE BOYLE: Well--

LATHROP: --we need more judges inside that courthouse--

MIKE BOYLE: Yes.

LATHROP: --doing what they do. By the way, as a litigator, you-- you can file something in Douglas County and wait a lot longer than you would--

MIKE BOYLE: Yeah.

LATHROP: --if it's filed in--

WAYNE: Anywhere. [LAUGH]

LATHROP: Yeah, anywhere.

MIKE BOYLE: Yeah.

LATHROP: Yeah. I mean, it's a problem and it's a basic function of government. And from-- from our point of view, the Judiciary Committee, the Legislature, we could be putting problem-solving courts in Douglas County, having more people addressed in a more efficient, better outcomes, and for less money, more humane at the end of the day.

MIKE BOYLE: Yes.

LATHROP: And we need judges.

MIKE BOYLE: I couldn't agree more. I-- I'm glad Mr. Kleine is here. He'll be probably pretty [INAUDIBLE]

LATHROP: He was nodding his head, yes, while I was talking.

MIKE BOYLE: Yeah. Right. Well, I agree. But he doesn't know this, I don't think, but you'll recall the Woodmen of the World asked for and received a tax exemption on their-- the part of their building that they use that-- not Baird Holm law firm and so forth, but any part that's used by them is tax exempt. And so on a fluke, I went over there and-- with our building people from the Building Commission and I looked at vacant space for moving the county attorney over there and creating more court space, you know, in the courthouse. But-- and it's-- you know, because they don't pay taxes.

LATHROP: Right.

MIKE BOYLE: And so when we lease space, we pay taxes. I couldn't agree with you more, and maybe we'll have to do that, particularly with this-- without getting involved in this. But the lawsuit that's pending should be-- hopefully, it will-- it's going to be heard in late November. But it's, you know, we've lost a construction season, there's no question. I-- I was trying to get on the Building Commission for 15 years and I couldn't. Clare Duda, bless his heart, has been on from the beginning, and other people rotated through, and finally I got a seat. And the first thing I did was I went to Mary Ann Borgeson. I said, we have to have built a courthouse; we've got to build one. And then the juvenile court became a part of it. And I

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said, let's try MUD. We offered MUD some money. They said, no, we want about three times that much. So we said, OK, well, then we-- no deal. So we moved across the street to the United Way building, bought that, and then moved the people out to the library down the street. And then we-- MUD came back and said, yeah, OK, we'll take it. So we bought it for the \$6 million they wanted. And now I'm frankly-- am fighting with other commissioners, arguing with them that we should not have the juvenile court there; we should move it over to the west side of, I guess, 18th Street because we'll need that space for expansion of the courthouse in 20 years.

LATHROP: Well, you don't want the Legislature intervening in how you or when you-- that's outside the scope of this place.

MIKE BOYLE: Well, I know that.

LATHROP: But we do need the judges in place because--

MIKE BOYLE: We-- yeah.

LATHROP: --we've got to move cases there.

MIKE BOYLE: Yeah.

LATHROP: They got-- their caseloads, by comparison to other--

MIKE BOYLE: Yeah.

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LATHROP: --judges in the state, are much higher and it'll give us some capacity for additional problem-solving courts.

MIKE BOYLE: And on behalf of Mary Ann Borgeson, I'll mention something that I agree with her. We need a night-- we need a night court judge. Do you remember Rosemary Skrupa was appointed temporarily to come in? And I think during the Thone administration, and I think there's probably, what, 3,000 or 4,000 lawyers in Douglas County and we could take one of them. I think they would be excited to become a night court judge. That would help immensely.

WAYNE: [LAUGH] You looking at me for?

MIKE BOYLE: And maybe even juvenile, huh? [LAUGH]

LATHROP: OK.

MIKE BOYLE: What do you think?

WAYNE: I don't know about the judge but, yeah, I agree.

MIKE BOYLE: Yeah. OK. Good. All right. Well, listen, I really appreciate the courtesy--

LATHROP: OK.

MIKE BOYLE: --and I appreciate the opportunity. And again, I'm so proud of these young people. I-- I just think it's terrific. Thank you very much for coming.

LATHROP: Yeah.

MIKE BOYLE: [INAUDIBLE]

WAYNE: I got a quick question-- or not a question. Do you get reports regarding how much-- and this would be Tom Riley's office-- how much it costs to defend pos-- felonies versus misdemeanors?

MIKE BOYLE: You know, I-- I really don't. Tom is very effective and very cheap. I'll put it that way. He really runs a tight office, as does Mr. Kleine. But I don't have any figures on that. I'm sorry.

WAYNE: Well, the reason I bring that up is I think one immediate money source for Douglas County could be the city of Omaha should have to either pay Don-- Tom Riley's office for defending misdemeanors, or they can come up with their own public defender to defend. They have 12 prosecutors in the city of Omaha who are all prosecuting anywhere a month of 50 misdemeanors that Mr. Riley's office has to defend and which you guys pay for.

MIKE BOYLE: Right.

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WAYNE: But I don't-- there's no benefits, I think that's an immediate revenue source that at least I'm looking at this-- this year legislatively that needs to happen.

MIKE BOYLE: I appreciate that very much. I do want to mention that there's a very odd law that was passed some years ago-- well, it didn't start out as being odd, but now it's odd. There was a law passed by public defenders for other parts of the state and it was passed to help counties that don't have the resources. And the law was passed, and now it is almost totally used by the Lancaster-- by an independent Lancaster County office and, you know, and we don't necessarily want them in here. I don't think Tom wants them in here. But--

LATHROP: We're familiar with that issue. [LAUGHTER]

MIKE BOYLE: OK, so it's kind of an oddball deal, you know, and I-- I talked-- i did-- maybe the director is here and I should be careful, but anyway, you know about it.

LATHROP: We know about it.

MIKE BOYLE: OK.

LATHROP: OK.

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MIKE BOYLE: Well, thank you again. I appreciate it very much. Thank you.

LATHROP: Thanks, Mike. Good to see you again.

MIKE BOYLE: And keep up the good work.

WAYNE: That's funny.

MIKE BOYLE: No applause? I don't know what to say.

DANIELLE CONRAD: We knew your self-esteem could handle it. Hi. Hi. Good afternoon. My name is Danielle Conrad; it's D-a-n-i-e-l-l-e; it's Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. Just wanted to really put another plug in for additional work in terms of reform to juvenile solitary confinement. The Legislature and individual facilities have made great strides over the past few years in elevating the issue. And thanks to robust data reporting and collection, legislation authored by Senator Patty Pansing Brooks has brought a lot of much-needed sunlight and transparency into those systems and has helped to voluntarily push down use to a more appropriate usage in a lot of our juvenile facilities. But you know, from your work over the past many months, juvenile solitary has gotten a lot of additional attention and headlines in the wake of what's happening at the YRTC's and otherwise. This Judiciary Committee has rightly advanced LB7-- LB870, which sits on General File, and we urge you to continue your work and your leadership in that regard. Juvenile

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solitary reform should not be a political issue. This is a commonsense human rights/civil rights issue that impacts us all and we'd really urge the Legislature and this Judiciary Committee to continue to prioritize that measure, either through individual committee priorities, individual priorities, and to educate and push your colleagues to ensure that reform can happen on day one or as a priority measure in the 2020 Legislative Session. The Inspector General of Child Welfare's most recent annual report came out just about a month ago. It didn't gain enough attention, but there was a synopsis for additional data collection in juvenile solitary over the last year. And what it told us was that we still have a lot of work to do. Kids as young as 11 were still being held in solitary confinement in Nebraska last year. And as the Inspector General noted, there were over 2,686 instances of juvenile solitary confinement in Nebraska last year, and most likely that number is underreported. Additionally, experts are clear that if juvenile solitary is used at all, because of the develop-- the developing brains of young people, it should never be used for four-- more than four hours at a time. NYCF reported use down, but there was still an instance where there were two-- where there was a youth held in juvenile solitary for 298 days. YRTC-Kearney had a youth held in juvenile solitary for 5.2; YRTC-Geneva had a youth held in solitary confinement for 4.95 days. And DYC had youth held in solitary confinement for 10.9 days. So I remember when we were first putting together some groundbreaking research on juvenile solitary in

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Nebraska shortly after I transitioned away from the Legislature to the ACLU. One thing that really stuck in my head and continues to haunt me about this issue today as a parent of very young children, if I as a parent were to lock my child in a very small space, like our bathroom, for punitive reasons or any other reasons, for days and hours and weeks on end, I would be in the criminal justice system for that kind of abhorrent behavior. But when we allow the state, acting as parent, to do the same to children in their care and custody, that's on all of us and is still permissible under the law in Nebraska today. And it goes without saying that at each and every juncture of the juvenile justice system and the criminal justice system, not only are there too many individuals, too many of our Nebraska neighbors involved, but the racial disparities are significant. When you look at the fact that about 4 out of 20 Nebraskans are people of color, the last statistics that we have available show that 14 out of 20 of the kids in juvenile solitary are kids of color, so let that sink in as well. We pledge continuing collaboration and support with this committee and your colleagues in the broader Legislature to bring an end to this human rights abuse and practice in the great state of Nebraska. Thank you.

Questions?

LATHROP: I don't see any. Thanks.

DANIELLE CONRAD: Must have covered it.

LATHROP: You covered it.

ELAINE MENZEL: Good afternoon--

LATHROP: Good afternoon.

ELAINE MENZEL: --Senator Lathrop and members of the Judiciary Committee. For the record, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l. I'm here today on behalf of the Nebraska Association of County Officials and I will be really brief. I won't take the half-hour that Commissioner Boyle had considered. But at the same time, I will express appreciation to Commissioner Boyle for asking for our involvement with issues that you face. And I know that that will occur as you have done in the past. I just am presenting some information to you that I pulled together related to an aid program that was in part enhanced in large part by LB561 in 2013 that Senator Ashford and you were involved in, as well, as well as other members of the Legislature. And certainly the Governor has been committed to that aid program. And so I just wanted to express appreciation to the Legislature, the Governor, and the courts for having their involvement and their focus on juveniles. So if you have any questions, I'd be glad to try to answer any.

LATHROP: I don't see any.

ELAINE MENZEL: OK.

LATHROP: But thanks for coming today. We appreciate your input--

ELAINE MENZEL: Thank you.

LATHROP: --always.

DON KLEINE: Good afternoon.

LATHROP: Good afternoon and welcome.

DON KLEINE: Don Kleine, K-l-e-i-n-e, Douglas County Attorney. I just want to make a few brief comments. And thanks. Thanks for being here today. And just about-- about juvenile justice, I mean, from our standpoint in Douglas County, we have 60, 62 lawyers in the Douglas County Attorney's Office; 16 of them practice in the juvenile court. So I really believe in the juvenile court system and the importance of a juvenile court system. I've practiced-- I've been a lawyer for 42 years and have practiced in the juvenile court representing individuals and I've also been a prosecutor in juvenile court, so I have that experience and background. I believe in the juvenile court system. We even assigned one lawyer from our office to specifically just deal with status offenses, with truancy. That's Cara Stirts. I meet with the superintendents of Douglas County in the fall and the spring, Omaha Public Schools, Douglas County West, Bennington, Ralston, Millard. We have a big roundtable discussion in the fall just about things that we can do in the system to help them because, Senator Lathrop, you're absolutely right: If somebody is not in

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school, then we may see them with other issues, so-- and we've worked with Senator Ashford in the past with regard to truancy and-- and trying to figure out what's the best way to make sure that we-- we can help children stay in school, because the mantra of juvenile court, as you know, is-- is not to punish, not to-- people be in trouble. It's what's in the best interest of the child, so how do we-- how do we help? That's really the purpose. And those numbers that you heard earlier, I think there were 114 cases that you-- that were referred to that were filed. But what you didn't hear was that there was-- there was-- I think-- I just checked. There's one-- there were 1,481 referrals for truancy that actually got to us. Usually what we do now, because we've kind of gone through the system and-- and made a lot of changes, we want the schools to handle it as much as they can. They're going to have three or four, maybe even five meetings with the parents and student to try and get them back in the program. And then we're kind of a last resort, you know, and many times it's a-- it's a simple fix. But when they throw up their hands and say we just-- we just can't get it done, then they're going to refer the case to us. And then we're only going to file probably 8 percent of all the referrals that we get. I think that's-- that's what the number comes out to be. So we're working very hard because we believe-- you know, one of the organizations I'm involved in is a law enforcement organization called Fight Crime: Invest in Kids. And the best way to solve some of our criminal justice problems or issues is to-- is to have kids in

education, early education, preschool on up, because once we-- we find out once we lose a child in middle school or, you know, they can't read and-- and they've kind of given up and maybe the schools have given up on them to some extent, we-- we've lost them. So we need to have early education. We need to do whatever we can from a resource perspective on preschool, early education, all those kinds of things. But the biggest thing I've seen since I've been practicing law as a deputy county attorney for "Pinky" Knowles back in, like I said, 1980 to now is-- is young people being involved in-- in very violent crime, and it's very sad. It's very difficult to go into a courtroom and see a young person charged with-- with a murder case. You know, you have two victims, in fact, I always feel there. We have the victim who's lost their life and this other person on the other side of the courtroom who is going to go away for a long period of time that's still a young person. And it's a very difficult process, situation to deal with. And anecdotally, we-- we have a murder case that just happened two weekends ago. It's about six blocks away from here, 32nd and "L" Street; 17-year-old is charged with walking in and shooting a law clerk in-- not a law clerk, a clerk of a store in the chest and killing him, then getting involved in another shooting right after that. That same weekend, we had two 16-year-olds who shot a young man who was a basketball player here in the metro, and he lost a leg because of that and is pretty-- had serious, serious injuries. So it's very sad to see. I want to do whatever we can to prevent those kinds

of cases from happening because the other perspective I think the-- the committee needs to look at, we hear a lot of about disproportionate minority contact, which is something that we very much need to address. But I think the disproportionate minority contact should also be looked at from the victim's perspective. You know, if you look at our victims of shootings and our homicide victims, there's a-- there's a tremendous disproportionate minority proportion there, and obviously we need to look at all aspects of the criminal justice system and figure out whatever we can do to-- to solve-- solve those particular problems. Something that we've looked, we've worked very hard on the adult side and we've worked very hard on the juvenile side, is less detention. I think there's been-- since I've been in office, we've cut the numbers at the juvenile detention center in half at least. So there's been progress, but there needs to be more progress, and there's a lot of people that are working very hard to do that. So those are just some of-- some of the perspectives. I just wanted to add those numbers, the-- the-- also, if you look at our-- our-- again, our proportion of victims who are-- are-- are minorities are extremely high. So that's another perspective to look at, just to show that, yeah, there's-- there's issues here. I'll be happy to answer any questions. I could go on about a lot of different things here, but-- but I'll be happy to-- I think we have-- you know, for example, Alabama versus-- Miller v. Alabama came out a couple of years ago, which was a case that talked about juveniles not being able

to be sentenced for life in prison. And so just as-- as the numbers, there were 17 juveniles in Douglas County that had been convicted of first-degree murder and sentenced to life. And that-- those were resentenced. That gives you a perspective of-- of there are a number of juveniles that are involved in very serious, violent crimes.

LATHROP: Yeah, it's dis-- it's discouraging.

DON KLEINE: Certainly-- certainly is disheartening, yeah, discouraging, whichever way you want to put it.

LATHROP: I want to ask you a question--

DON KLEINE: Sure.

LATHROP: --about the-- the truancy. So it sounds like about 90 percent of these things get resolved--

DON KLEINE: Yes.

LATHROP: --at the school level or--

DON KLEINE: --other level, whatever-- whatever service we could figure out that--

LATHROP: --some-- some process short of filing on them.

DON KLEINE: Right.

LATHROP: So we heard a number of these kids that get filed on-- you said 8 percent-- a number of that 8 percent are discharged unsatisfactorily. Is there a better process for those 8 percent?

DON KLEINE: Well, I think there's-- I-- I wish--

LATHROP: Do we put more money into the schools and get it out of the courthouse or that ain't going to matter, you need the courthouse?

DON KLEINE: I think the schools-- the schools deal with it as effectively as they can, and then we put more of the onus on the schools. But at some point, sometimes, they say, OK, we-- we aren't getting it done. Maybe it's going to take more-- some-- some more authority to say you need to be in school, almost that little bit of a threat of being in the juvenile justice system. But even that sometimes isn't-- doesn't get anything done. You know, the-- the easy ones are the-- where we find out, well, the bus doesn't go to that area to pick the child up, and so they're missing school, so we figure out something with the bus route; or mom and dad are both working and one of the-- one of the siblings has to stay at home and watch the other kids. What services do we need to provide to that family, then, so that that child can get to school and not have to watch brothers and sisters of little ones? Whatever it might be, if there's domestic violence in the family that may be causing problems, mental health

issues, those are all-- all significant issues that we deal with on a daily basis. But I don't know-- have an answer.

LATHROP: From a policy point of view, though, you don't see the need to tweak something.

DON KLEINE: Well, I-- I think the mental health aspect is always something that we could use more resources on. We're working towards that with the Med Center and trying to develop more resources so that we can make sure we adequately treat young people. You know, that's-- that's all we can do.

LATHROP: OK.

DON KLEINE: OK.

LATHROP: I don't see any other questions.

DON KLEINE: I'm good.

LATHROP: Thanks.

DON KLEINE: Thank you.

LATHROP: Appreciate you being here today. Anyone else here to testify on LR236? Seeing none, I just want to express my appreciation to everyone that came here today, the young people that testified in particular, the elected officials that showed up to share what--

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what's happening in Douglas County. And with that, we'll close LR236.

Don't leave. There's an exciting hearing yet to go.

WAYNE: I don't know about that.

LATHROP: No, seriously, Senator Wayne has a resolution, LR146. I don't anticipate this will take as long as the last one, but Senator Wayne will introduce that next. Oh, you know what? Before we do that, I need to give my staff a five-minute break.

WAYNE: OK.

[BREAK]

LATHROP: We'll give our committee members just a second to get back to their chairs-- or chair. OK. We, of course, had two hearings set for today. The second one is Senator Wayne's legislative resolution, LR146. And with that, we'll turn the mike over to Senator Wayne to introduce LR146.

WAYNE: Thank you, Senator Lathrop, Chairman Lathrop. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Today, this is a hearing or a-- a hearing or a study on a very, I think, important topic regarding prosecution: transparency. Oftentimes, we try to solve the prison population by looking at sentencing, by looking at reforms on the back end. But the number one, I think, factor is how that

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person is initially charged. That initial charge determines how much or which way you can go, whether you can go to diversion, whether you can't. And the biggest problem we have, I think, throughout the state is the inconsistency of county by county and even city, city by county, that causes a lack of transparency to go forward. So I just want this committee to understand that once a person gets in the system, it's damn near impossible to get them out. So the key is to make sure that we don't allow people to get into the system. But the Legislature has given all county attorneys and local municipalities the authority to do diversion programs and to actually prosecute laws. But we actually have city codes that are creeping up that circumvent what I think the state role is when we start talking about what should be charged and what shouldn't be charged, and I'll give you some concrete examples. The other thing is it concerns me about funding. A lot of our prosecutors are getting funding from outside of the judicial system. And how does that funding impact what are-- what's prosecuted and even what sentence recommendations are imposed? For example, if there is a federal grant around domestic violence, they will require you to ask for batterer's intervention. From a defense attorney, it's almost impossible for your client to pass, so they always end, unsuccessfully, probation when there's other things that are available in the county that sometimes don't get asked or-- or is fought against due to funding. So I think it's critical that we have transparency around how funding and reports influence cases and case

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determinations. And what I also found researching this topic is we have a presumption of a Class IV felony that you should not go to jail. There's a presumption, but for every crime under that, there isn't a presumption. So for every misdemeanor, including city codes which circumvent state statute in some points, you can go to jail without the right of a jury trial, and you can even lose your Second Amendment right, in some particular cases, without a right of a jury trial if it's charged underneath the city code. And there's no presumption against no jail time. That's something that we have to fix. So I want to highlight two cases that I deleted their names and the attorneys representing them, but it's from the JUSTICE system. And both of these are city of Omaha charges, and I think it's important to talk about it. So at the state level, the first one I'm looking at is the one that has negligent of a minor. The reason why this is important is oftentimes this is-- there's also a state statute. But this was actually prosecuted under city code. And the background of this case is an individual, a grandmother who was actually watching her kid-- or grandkids because her son was arrested. She went down to Douglas County Corrections and had a nine-year-old and a one-year-old and a three-year-old in the car and ran in real quick to drop off cash on his books so he could call home to talk to the kids. Police and sheriff confirmed that it-- she was only in there for less than five minutes, but at the time she was there, somebody was getting out and hopped in the car and drove away with the kids in it. They charged--

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charged her with three counts of negligent of a minor care. Diversion was not offered. Why this is important is she made the last 40 years as a childcare provider; she lost her license because they would not offer diversion. And the facts are, underneath the law, underneath the city code, the city could do that. What I want you to do is flip over to the back side and you'll see two years later, 12/22/2018, it was set aside. So there really wasn't a bad enough crime that she went to jail because she did probation, but she ended up losing her whole livelihood because diversion wasn't offered, because of prosecution in Nebraska determines whether you're eligible for diversion or not, not the-- necessarily the crime that you may have committed. And that discretion in this case disrupted a family forever. The other case is a DUI offense. And the reason why this is important for a DUI offense is I printed off the order on the back side and you'll see that this person had a 0.15. Not only was he not charged with reckless-- willful reckless-- or, I mean, a will-- aggravated DUI, which is anything over a 0.15, he was only charged with a first-offense DUI, then it was pled down to a reckless. I can tell you that that doesn't happen to 99 percent of people who walk into Douglas County. There was prosecution discretion here. And often, at times, if you're not elected or connected, you don't get that discretion. So this person had 90 days' probation, which is not the standard for-- for DUIs. But if we were to have that same individual get arrested less than a mile from here going south and blow a 0.25, blow a 0.3, they would still be offered

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diversion. So arbitrary line of Douglas to Sarpy County eliminates the ability for somebody to have diversion. We have no reason or rhyme why that occurs. For some reason, Sarpy County was grandfathered in when we changed this as a body to remove DUI from diversion, but still it goes from county to county. What you have in your handout here, and it's multiple count-- I mean, you have the city of Omaha diversion program; you have Lancaster County diversion program. You have the Douglas County health-- mental health diversion flowchart and you have the adult diversion of Douglas County. And I won't get into the statute. I'll get into that at the end of this. But what you have is different diversion programs every single time, and no matter what county you're in, you could be charged differently. Now why is that important in Douglas County? Well, if you have a domestic violence, third-degree assault, that means there's no actual harm or physical harm; it's more of a threat. You have a right to a jury trial. Why is I'm using this example? Because this affects your ability to own and purchase a firearm. If I as an attorney, defense attorney, say we're going to go to a jury trial, at the pretrial conference, the county attorney will amend it down to a city code violation, which is assault and battery with a DV. From the federal standpoint, there is no difference. It is a domestic violence charge. You lose your Second Amendment right. But the practicality for a criminal defense attorney is, depending on which judge I go in front of, I lose the ability to talk to six people to one judge. And that same judge gets reelected

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four years. And what we've seen in Douglas County is everybody getting tougher on domestic violence because of issues that have happened that have been in the paper. But from a practical perspective, on a third-degree where there is no injury, you can lose your gun right without ever going to a jury trial. And there's more than just that code. So underneath the city code of Omaha, you can get a \$500 fine or imprisonment up to six months. Anything over that is typically a misdemeanor done by the state. Failure to appear, which is 20-5, is up to six months. That's city code. But the state has already spoken on that issue and failure to appear is only a three-month-- up to three months and a \$500 fine. So for the exact same charge, I can be charged or get additional three months in jail and I have no control over that but through the prosecutor choosing not to go with the city code. Assault has in a jury trial; it's a Class I misdemeanor at the state level. No jury trial at the city code. Indecent exposure, caretaker neglect, and even trespass is different at the city code level, and you'll see tons of these city code being prosecuted, violations being prosecuted. So let's talk a little bit about diversion. Does Nebraska have a diversion program? Break it down by county, do counties have one? If you were to look at this list that was provided to you, it seems Douglas County does and it seems Lancaster County does. Now flip to the last statute in the handout that I gave you. The Legislature has said, if you have a diversion program, you have to formally give it, the option, to everybody who qualifies. That does not happen, at

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all, at the prosecutor's discretion. They will intentionally up-charge and then plead down so diversion is not available. Now I will give Don Kleine's office credit. Ninety-nine percent of their attorneys that I've worked with and my colleagues have worked with, they don't have the-- they have-- they don't have the capacity to play all these nickel-and-dime games, but at the city level, they do. Don Kleine's office does a very good job of going through felonies and trying to work with people and get them diversion and do those kind of things. But at the misdemeanor city level, and what I'm seeing in other counties such as Lancaster, there isn't this conversation about diversion, although they have one. And in the statute it says not only do you offer it, you have to provide them with written rejection letter if they don't get it. And it gives them an appeal process. I've never heard in Douglas County an appeal of diversion being denied, and I've asked pretty much everybody I could think of who is down at the courthouse. There is no appeal. So this isn't about just transparency of charging things, but it's also transparency about who and who's accountable for the charges. For example, we elect Don Kleine. I vote for him. I don't elect the city prosecutor, but yet Don Kleine's office has delegated powers and prosecutorial powers to the city of Omaha. How does-- how does-- how does Douglas County hold them accountable? How do we make sure those cities are being prosecuted? How does the public do that? I don't know. It may be just simpler that we merge the two and call it good. Douglas County contracts with the

Safety Council, but I've had clients, and other people had clients, where the prosecution has offered diversion and the council rejects it. Who has the final say over who has diversion and who doesn't have diversion? Lastly, in transparency, there is the idea of cost of prosecution. Most city ordinances require jail time or have up to jail time, but yet the city of Omaha does not pay for any defense. That falls on the burden of taxpayers in Senator DeBoer's district, who is paying Douglas County property taxes. Even though it's a city of Omaha code violation, Tom Riley's office defends it. Why? Makes no sense to me. They should be defending what their jurisdiction is, which is Douglas County. So I think as we move forward and I move forward into this session, I will be looking at ways to make sure that diversion is eligible for first-time offenses on any city prosecution. There isn't a city crime that I feel jail time is necessary. And how does that affect Senator Hansen's bill? Well, if you're automatically not eligible for jail time or you're automatically eligible for diversion, then there's no need for a bond. We can eliminate a lot of bonds by making sure that there is actual diversion eligibility and making sure it's automatic and we can do that within our authority. The issue is every county is sometimes different. And I dealt with this my first year in a bill that dealt with guns. I'm not going that far, but there are certain things, like a jury trial, you should get no matter where you're at if you commit an assault and battery. That is a fundamental right and that's not currently happening because there is discretion

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in the prosecuting in-- at least in Omaha. Again, this is more about just opening the eyes of what's going on in Florida, Colorado, where they're starting to have these conversations around, if we want to stop the prison population, we have to keep people from getting into the prison system. And to do that, the first line of defense is our prosecutors when it comes to charges. And how do they make charges? How do they decide what is a charge for this person or what is charged for that person? That kind of discretion should have some kind of matrix, should have some kind of formula in and of itself where there is a catch-all and where-- and you need to go outside of that context. But we need to have consistency, whether you're in Omaha or whether you're in Lincoln. And I just found this out. [INAUDIBLE] constituent call me. And I'll end with this. State statute says, if you don't register your car and get it replated, you have ten days to take your new plate down there with your registration and it's automatically dismissed. The city of Lincoln charges you under their city ordinance and it's \$100 fine. They are circumventing state statute and we have to put an end to that. Thank you.

LATHROP: Thanks, Senator Wayne. I don't see any questions for you, at this point, anyway. Anyone here to testify?

DANIELLE CONRAD: Hi again. Good afternoon. My name is Danielle Conrad; it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. And initially, I want to thank Senator Wayne for

his leadership in introducing this important interim study and want to thank the committee for entertaining a public hearing on this important matter and-- and for getting out of the Capitol and-- and taking it to the community, which is always a refreshing and invigorating way to legislate, so-- so bravo. We'll definitely make sure to follow up with written testimony and some additional materials for everybody but wanted to keep it very top-lined for today. Overall, it will be no news to the policy experts on this committee that Nebraska has a mass incarceration problem plaguing our state prison system and plaguing many of our county jail facilities as well. So in order to address that, you know, from the long hours that you spend on this committee, there is no singular or easy answer to address that and that the reforms that have been initiated have been anemic compared to how muscular the problem has become over decades of either inattention or purposeful policy decisions to double down on the war on-- the failed war on drugs or to get tough on crime and pursue those kinds of-- of failed policies with extreme sentencing and a continual expansion of new crimes for additional behaviors as well. So we, of course, can't talk about mass incarceration with also concurrently and voraciously talking about racial injustice as well, and just wanted to refresh and remind the committee, of course, that far too many of our Nebraska neighbors are incarcerated. But the-- the disparate impact that really falls on Nebraskans of color at every single stage of-- of the broken criminal justice system is-- is real and troublesome. So

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what can we do about it? What does this interim study have to do with that context? A lot, actually: As more and more of our sister states are exploring similar issues and strategies to address mass incarceration and racial injustice, they're bringing all stakeholders to the table. They're shining a bright light on each aspect of the criminal justice system to make sure that we as a community can understand what's going on and can make good decisions about the best reform for us in Nebraska. So you're seeing an emerging trend in jurisdiction after jurisdiction where reform-minded prosecutors are-- are running and winning elections and bringing very robust and bold reforms to the office of-- of the county attorney or the local prosecutor's office, making very deliberate choices in terms of how and who to charge and to best utilize scarce public resources for the true public safety threats that we're all concerned about. That trend has not yet come to Nebraska, but I anticipate it will. And it's part of a broader focus on prosecutor accountability and the critical role that they play within the criminal justice system. One thing that I like about the ideas brought forward in Senator Wayne's interim study is that it really-- it melds so well with our proud tradition of open government in the state of Nebraska, where we have a very robust and strong open records law and open meetings laws to ensure that our public can actively participate in-- in the business of government. And it goes without saying that we might be able to glean some of this important data and information from individual county offices through

existing open records requests. But it's important to note that unless those data-- that data and those reports are already compiled by the office, a county attorney wouldn't have to compile that kind of data or report under an open records request unless it already exists. So more and more states that are looking at uniform data collection and reporting really helps to strengthen citizen engagement and would fall nicely within our-- our strong tradition of open government. The other thing that I think is-- is really important to look at in this context, and it goes into the mass incarceration policy dilemma that is before us, is that, you know, from your vantage point, when individual state senators have brought forward thoughtful reform policies, either in sentencing or diversion or even reentry or other matters like that, you see kind of a-- a typical cast of characters lining up on each side of those-- of those different proposals, right? And I think one thing that's been really frustrating for us in Nebraska when I was a member of the Legislature, and then also now working as an advocate on civil rights and civil liberties, is that everybody recognizes that there is a problem in our criminal justice system. We have different viewpoints on how to perhaps achieve reform and to address that, but it is incredibly frustrating that other solutions that have worked in other states meet almost consistent and concrete resistance from the County Attorneys Association, individual county attorneys, and the Attorney General's Office. And that's their purview to decide how to participate in the legislative process, but I

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would challenge them to bring forward solutions to help us all address these issues. And I think if there was additional accountability and transparency with charging decisions, with racial disparities, with guidelines for how they carry out their work, which we're starting to see in other jurisdictions, it would change the-- the dynamic in terms of, I think, achieving a clearer picture for a pathway to reform. The final piece I want to note is that I know that prosecutors have a really difficult job, and I know that we're lucky in Nebraska to have many committed and thoughtful and dedicated and talented public servants in those offices. So I'm hopeful that we'll be able to have a very collaborative dialog about these critical issues, their critical role in the criminal justice system, and how we can work together to ensure that-- that we can have a better value for Nebraska taxpayers without sacrificing our shared commitment to public safety.

LATHROP: OK.

DANIELLE CONRAD: OK. Thank you so much.

LATHROP: I don't see any questions. Thanks again.

DANIELLE CONRAD: I must have got it taken care of. OK. Thanks.

LATHROP: Anyone else here to testify on the resolution? Good afternoon.

CHRISTINE HENNINGSEN: Good afternoon. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e H-e-n-n-i-n-g-s-e-n. Again, I direct a project called Nebraska Youth Advocates, which is-- focuses on training juvenile defense attorneys and working on larger juvenile justice policy reforms. I just want to take a minute of your time to stress the importance of this data transparency, prosecutorial accountability into the world of juvenile court, as well, as in the criminal justice system prosecutors have broad discretion, in the juvenile court system, as well, whether to refer a case to diversion, whether to seek further detention of a child, whether to charge a child in adult court or in juvenile court. I had to leave the hearing just a little bit ago this afternoon to represent a client of mine, a 13-year-old with a 61 IQ who's in Dallas County's Youth Center; went for a second time to-- to argue for my client's release. He has an IEP; he has an identified intellectual and emotional disturbance. In my discussions with the prosecutor if there was any sort of detention alternative that they would entertain, anything to get this child out of DCYC, where we have the research that shows that not only is it detrimental to him, but actually increases his chances of recidivating, it was a blanket no. And the-- my client is charged with robbery. And that's important because on the probation detention screening tool, if you're charged with a serious felony, it's a-- you get automatically 12 points, and 12 points is the magic number where they are seeking secure attention. So what the prosecutor decides to charge the child with has serious

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implications on whether they're going to be detained in one of our secure facilities. This is-- just opens up to the broader need for data transparency so that we can collaborate and come together and work on ways to increase positive outcomes for our youth and families in the community as a whole. So I-- I applaud Senator Wayne and just wanted to take a moment to say how important it is to our juvenile justice reform efforts as well.

LATHROP: OK. Thanks so much for your testimony. Anyone else here to testify on the resolution? Seeing none, Senator Wayne waives close. Oh, wait a minute, wait a minute. We have somebody that is going to testify. Good afternoon.

INEZ WELLS: Good afternoon. Sorry. My name is Inez Wells, and I am here to support the Prosecutor Transparency Act. The nonprofit organization Fair and Just Prosecution says that prosecutors must be leaders in the effort to ensure that convictions are the result of processes that are fair, transparent, and consistent with the pursuit of justice. Doing this, respecting the privacy and due process rights of those directly involved in the case, is important and constitutionally required. But prosecutors also have an obligation to open the black box and show the public how decisions are made. We know that prosecutors are the ones who choose who to charge and what to charge them with. They strongly influence both the short- and long-term outcomes of people impacted by the criminal justice system.

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With all of this power, there is a lot of them that don't have to really follow any set guidelines or answer to anyone. With total control over plea agreements and sentencing recommendations, it seems obvious how we have so many different outcomes in cases involving same or similar situations. I know you've been looking at bail reform and prosecutors are the ones that request that bail based on their perception of the case. Maybe making that perception transparent could help to solve that issue also. Measures for Justice compile and tracks, compares data at the county level so change makers can see what is really happening in local courtrooms. Their data sparked the transparency legislation in Florida. When I contacted them, I was told, obviously, there's no data for Nebraska. I think Senator Wayne talked about Connecticut passing their transparency legislation that will compile detailed information, including the number of defendants who will get prison time, plea deals, and diversionary programs. Those numbers will further-- further be breaking-- broken down by age, race, ethnicity, gender, and other demographic information.

Nebraska's Department of Corrections is heading into the overcrowding emergency status, among with numerous other problems. Maybe we could figure out where those high numbers are coming from to have a start as to where we could fix this. I've wrote several-- several of you, so I truly believe that if transparency was required, my family would not be in the situation we are in. My 19-year-old son was sentenced to 10 to 20 years. The prosecutor in his case had said from the beginning he

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had been running amok from too long-- for too long. My son, as a minor, had four convictions for MIP and one as an adult. I can't count how many times I was-- have been told that the details of the case didn't matter as far as evidence and the statements. But in the end, those details mattered a great deal when that's what was-- the factual basis consisted of. On sentencing date, the prosecutor told the judge that my son's-- had a history of bullying and physical violence that had been escalating since he was 14 years old. And in my state-- and in my opinion, that is the statement that defined what the prosecutor thought of my son when she charged him with 19 counts. There is absolutely no basis, legally or otherwise, for that statement. It was completely untrue. He has never been charged with anything violent prior to that night. He was never in trouble at school for bullying or any type of violence. It was an untrue statement made by a person of authority, a person who is supposed to represent justice, and there is absolutely nothing that we can do about it. Trying to understand that made me look at other cases from that district court and this prosecutor, and obviously we're far outside of Omaha here. But she was elected in 2014 and there have been nine cases in-- from 2014 until now. So why she chose to send two 19-year-olds, like I said, they-- I'm not trying to minimize what they did, but nobody was hurt. I'm just-- just trying to say I think having this type of information in a use-- usable database would give prosecutors useful tools when making decisions about cases. It would give them the opportunity to see what

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other prosecutors in other areas are doing with a sim-- with similar charges. It would also give our state vital information as to what types of cases are coming from what areas, and that would also give us a chance to address those problems before they got to the level of the criminal justice system, because, as it's been said, if we're being realistic, once they're there, their chances of coming out and having a positive life are very, very limited. And I do want to state that two of Nebraska's recent cases that I could find with the similar circumstances and charges as my son, one person received 200 days in jail; and the other one that had very, very severe violence, it had property damage, which was at a very high-- higher level than what my son's case was, they received 3 to 6 years. So you need to look at your rural communities, too, because sometimes those prosecutors maybe don't have the experience. I don't know what the case was on this, but I think a transparency act is very important. Thank you.

LATHROP: Thank you for your testimony. Can I ask a question?

INEZ WELLS: Yes, absolutely.

LATHROP: Where did you come in from?

INEZ WELLS: I'm from Boone County, but this-- the case was out of Greeley County.

LATHROP: Greeley?

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INEZ WELLS: Um-hum.

LATHROP: OK, good. Thank you.

INEZ WELLS: Thank you.

LATHROP: Anyone else to testify? Seeing no one else, that will close this hearing and close our hearings for today. Thanks again for everybody's attendance.