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Transcriber's Office

Judiciary Committee
March 11, 2014

[CONFIRMATION]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, January 22, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Mark Christensen; Colby Coash; Al Davis; and Les Seiler. Senators absent: Amanda McGill.

SENATOR ASHFORD: (Record malfunction)...first. Darrell Fisher. Okay.

[CONFIRMATION]

DARRELL FISHER: (Exhibit 1) Chairman Ashford, members of the Judiciary Committee, good afternoon. My name is Darrell Fisher, D-a-r-r-e-l-l; Fisher is F-i-s-h-e-r. And I have been nominated for the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, more commonly referred to as the Nebraska Crime Commission. My background includes 33 years in uniform as a sworn law enforcement officer in Nebraska. While attending college in Kearney from 1975 to 1979 I worked at the Buffalo County Sheriff's Office as a corrections and communications officer, then as a deputy sheriff. After college I was hired by the State Patrol where I remained for the next 29-plus years. I retired from the Nebraska State Patrol as lieutenant colonel in 2008. During my service with the State Patrol I served as a sergeant for seven years; a lieutenant in management for six years; a commander for five years; and an administrator for more than three years. Twelve of those years were in training and nearly five of those years as the director of training for the State Patrol. I also served on the Police Standards Advisory Council for more than three years. This council oversees the operation of the Nebraska Law Enforcement Training Center for the Crime Commission. Since my retirement from the State Patrol, I have served as an instructor at the Nebraska Office of Highway Safety; as adjunct faculty at the University of North Florida's Institute of Police Technology and Management; and as an impaired driving assessor for the National Highway Traffic Safety Administration. I was the executive director at the Lincoln Council on Alcoholism and Drugs, and in this capacity I served on the Nebraska Community Corrections Council from 2009 to 2011. In 2013 I served on the Nebraska Public Employees Retirement Board. I was inducted into the Nebraska Law Enforcement Hall of Fame in October 2008. I am a current member of the International Association of Chiefs of Police, the Nebraska Police Officers Association, the Nebraska Sheriffs Association, and the FBI Law Enforcement Executive Development Association. I hold a bachelor of science degree with a comprehensive major in criminal justice from the University of Nebraska at Kearney. In addition, I have completed hours on a master's degree in military history through American Military University. Specialized law enforcement training includes first-line supervision school, Nebraska's management training, and I am a graduate of the Northwestern University School of Police Staff and Command. The challenges faced by the commission are many: law enforcement training and the public's right and need for

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professional law enforcement personnel; continuing education and training for our state's prosecutors; the care and compassion for the crime victims of our state; the implementation and administration of the jail standards and the juvenile detention standards program; a reduction of street and gang violence through the Office of Violence Prevention; racial profiling; human trafficking; and the administration of millions of dollars in grants and the subsequent collection of data and analysis of that data. All serve as challenges to be met. While acknowledging my knowledge, skills, and abilities do not touch on each and every area served by the commission, I believe my experience contains duty...contains direct as well as transferable skills to meet these challenges now and in the future. The commission is the state's justice advocate, as it provides a forum for discussion and problem solving among state, federal, local, and private agencies in Nebraska. I look very forward to this appointment and the challenges that it presents, as it affords the opportunity to work with all partners and stakeholders in the criminal justice community. Thank you very much, and I would be happy to answer any questions you may have. [CONFIRMATION]

SENATOR ASHFORD: Thank you, Darrell. Any questions of Mr. Fisher? Seeing none, thank you. [CONFIRMATION]

DARRELL FISHER: Thank you. [CONFIRMATION]

SENATOR ASHFORD: Department of Corrections. Okay, Michael. [CONFIRMATION]

MICHAEL KENNEY: (Exhibits 2 and 3) Good afternoon. Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Michael Kenney, K-e-n-n-e-y, and I've been appointed by Governor Heineman to serve as director of the Nebraska Department of Correctional Services. I appreciate the opportunity to share with you my experiences and qualifications for this position, as well as a chance to discuss my vision for the future of this agency. I was born and raised in Fairbury, Nebraska, graduating from high school there in 1971. I attended Doane College in Crete, graduating with a B.A. in psychology in 1975. I attended graduate school in the summer of 1976 at Regent College, University of British Columbia, in Canada, completing coursework in ethics and counseling. In 1977 I married my college sweetheart and began working that summer as a correctional rehabilitation counselor at the Nebraska State Penitentiary. In these last 36 years I have held numerous and progressively responsible jobs within the Nebraska Department of Correctional Services in several facilities in various capacities, including warden of five NDCS facilities. From 2006 through 2008 I was a deputy director of the prisons division in Washington State Department of Corrections. In 2008 I returned to Nebraska as a warden until my appointment in September of 2013. My core values are couched in the philosophy of servant leadership; that is, I believe state employees are duty-bound to work with diligence and accountability for the citizens of this state. This applies in every aspect of corrections, from interactions with inmates to appropriate use of state resources to

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preparing inmates for return to the community. My primary goal as director is and will always be public safety. To that end, I will insist upon the humane care and treatment of all placed into our custody, ensure constitutionality and compliance with all laws and national accreditation is maintained. I will critically explore ways to improve the system. I look forward to working with the Council of State Governments in exploring new and different ways to supervise, provide rehabilitation and opportunities, and prepare inmates for reentry into the community. In addition to working with the CSG, we're in the beginning stages of a performance audit with the Legislative Performance Audit Committee, and we're looking forward to the opportunity to work with the recently created special legislative investigative committee. I believe these concurrent studies will provide the excellent opportunity for the department and our partners to determine what is working well and changes that need to be addressed. I'd like to briefly touch on a couple of these challenges that I recognize today. As I stated previously to this committee and to the Appropriations Committee, our number-one, immediate need at the department is to address the capacity issues in our facilities. It would appear that much of what the department asked for was provided in the Appropriations Committee recommendation. Behavioral health services programming is also another issue for the department. In my six months as director, I have also concluded that while I feel we have adequate behavioral health services, it could be improved. As a result, I requested outside technical assistance from the National Institute of Corrections to perform a thorough evaluation of our behavioral health division. The department's collaboration with CSG, the Performance Audit, and the special investigative committee will also provide needed guidance for the behavioral health services division. I also believe we need to reevaluate the vocational needs of inmates. Right now the...through a variety of inmate jobs, duties, and educational opportunities available, specific vocational programming does not exist, per se. I know this committee is exploring vocational programming. I would agree that access to a job is a great indicator of successful reentry. With that said, even successful vocational and behavioral programming is no guarantee of parole. In the past few years the Parole Board has doubled the number of parolees. I believe in my short term I have developed a good relationship with the Board of Parole. They have provided me useful input on the adequacy of the type and length of programs the department is working with the board on changes. Still, there will be inmates who will not be paroled for other factors. Finally, last week I provided the committee counsel with an update on the master planning process, so I won't go into that detail now. I want to reiterate that, while this is a lengthy process, it is required by law to ensure appropriate use of state funds. I appreciate the opportunity to provide my qualifications. I'd be happy to answer any questions the committee has at this time.
[CONFIRMATION]

SENATOR ASHFORD: I just have one. What is your view on administrative segregation? [CONFIRMATION]

MICHAEL KENNEY: My view is that it's potentially overused. I don't know that it's

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overused in our system, but there's a need for a critical eye to examine all forms of restricted housing, particularly administrative confinement. I will tell you it's a very difficult problem to manage. What's at stake are the safety of other inmates and employees. If we release someone from administrative confinement who...and we haven't properly classified that person and they go out and harm someone in the correctional facility, that decision is on us and I think we feel responsible for that. If people get onto administrative confinement because they have done something, said something, or in some say threatened the good working order of the facility, I think we need to review it very carefully. [CONFIRMATION]

SENATOR ASHFORD: Are you aware of the...some recent writings by the new director of the Colorado Department of Corrections and his experience in spending 24 hours in administrative segregation? [CONFIRMATION]

MICHAEL KENNEY: I read the article. I know Rick Raemisch personally. I've spent time with him personally and I have a great deal of respect for him. I put a lot of weight into the article that he wrote and I think what he said is a call to us to all very, very carefully look at our system. Yes. [CONFIRMATION]

SENATOR ASHFORD: Senator Christensen. [CONFIRMATION]

SENATOR CHRISTENSEN: What is the policy on...if inmates call senators, are they recorded? And do you approve of that policy, things that way? [CONFIRMATION]

MICHAEL KENNEY: That recently just came to light, Senator. The inmate calling system has two, I would say, routes in which calls are routed. And each one is identical to the other, except that one is monitored. What they call the social call side of that network is monitored and recorded and an announcement goes out with that phone call to the recipient indicating that. The other call is for confidential--state officials, attorneys, and others, not everybody, but officials, members of the bar, etcetera--and that is a confidential, nonrecorded, nonmonitored call. You still have to accept the call. And what happened in that is originally we made a decision...and I just learned of this within the last week; I had, had some conversations with Mr. Lux about this and he called it to my attention. But in 2009 we made a...the agency made a commitment that state senators would not be...would be included in the list of people that enjoyed the nonmonitored access. I was not aware that in 2011 that decision was reversed because we had a number of officials that did not want...it included everyone from federal government employees, the mayor, any elected official, and inmates were able to call then those numbers and the...and enjoy the privacy. And we did not believe...and I don't want to speculate what Director Houston heard or didn't hear at that time, but the impression that I'm told as I looked into this was that not all these officials wanted to have the unfiltered, confidential style of phone call coming to them from inmates in a facility. So in 2011 we changed that policy and went away from that. The error was we did not advise

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people, at least advise everybody, and I explained that. I apologized to Mr. Lux and said, I wasn't aware that we didn't notify people, and he has made me aware of that now and we are in the process of calling. And in fact, all of your offices, if they haven't, will receive a call because I believe, as I talked to Mr. Lux, some people may want that, some people may not want that. And as I discussed with him, I said, Marshall, I'm inclined to call all 49 senators and ask them their preference. And so you will all be...you and your colleagues will all be given a choice of whether you want to be on the monitored, recorded, announced system that is coming from an inmate or whether you want to be on the nonmonitored, confidential system. And I think the only fair way to do that is to let you as individuals make up your mind about that. But that...that's a little longer than you wanted, but I felt a need to explain that the whole way.

[CONFIRMATION]

SENATOR CHRISTENSEN: So if you're on the nonmonitored, will that be announced to you or it's only announced to you if you're on the recorded side? [CONFIRMATION]

MICHAEL KENNEY: Only if you're on the recorded side. If there's no prerecorded message when you answer the phone and select, yes, I want to hear from that person, you do that and you don't hear this announcement, then it's a private, confidential call. You...anytime we're monitoring and recording the call, that announcement is preceding.

[CONFIRMATION]

SENATOR CHRISTENSEN: Okay. Thank you. [CONFIRMATION]

SENATOR ASHFORD: Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: Mr. Kenney, did you make the decision...first of all, did you know when former director Houston made the decision to monitor and record state senators' phone calls? Were you aware of when he made that decision?

[CONFIRMATION]

MICHAEL KENNEY: No, Senator, I wasn't. [CONFIRMATION]

SENATOR CHAMBERS: He didn't talk to you about it? [CONFIRMATION]

MICHAEL KENNEY: No. [CONFIRMATION]

SENATOR CHAMBERS: And the only time you became aware of it was when the Ombudsman brought it to your attention? [CONFIRMATION]

MICHAEL KENNEY: Yes. I understood that the calls made to Senator Bolz, who brought it to...that was my...I think that was a week or maybe ten days ago. That's the first I knew that these calls were being monitored. I didn't know that we had gone back

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in 2011 and changed the system. [CONFIRMATION]

SENATOR CHAMBERS: So then you're not aware of things that are of great importance that are going on in the institution. Is that a fair statement? This is a very important issue. It's extremely important to members of the Legislature. You did not know that this recording and monitoring was going on with reference to our phone calls. That's what you're telling me, correct? [CONFIRMATION]

MICHAEL KENNEY: That's right. [CONFIRMATION]

SENATOR CHAMBERS: So how would it be that you did not know this? Is it that employees decide not to share with you information about what's going on in the institution? It must be, because they didn't tell you, did they? [CONFIRMATION]

MICHAEL KENNEY: There are...no, no one informed me of that. [CONFIRMATION]

SENATOR CHAMBERS: Were there... [CONFIRMATION]

MICHAEL KENNEY: Senator, there are a myriad of intricacies that go on. I'm not diminishing their importance. I agree with you this is important. I agree with you. I wish someone had told me that that policy changed back in 2011. I didn't know that. As soon as I learned of that, I made immediate steps to rectify that. I don't know that I would go so far as to say that I am unaware then of things that are going on in our facilities. [CONFIRMATION]

SENATOR CHAMBERS: But you don't know whether you're aware or not. If you're not told, you don't know that it's going on, do you? You didn't know this was going on. [CONFIRMATION]

MICHAEL KENNEY: I didn't. I agree I didn't know that this was going on. I get out into the facilities. I talk to the wardens on a regular basis. I talk to the deputy directors and our Policy Research people. I sign administrative regulations. I do as much as I can to completely familiarize myself with all facets of facility operation and department policy, but I can't say that I know every single procedure by heart or what changed. [CONFIRMATION]

SENATOR CHAMBERS: It seems to me this would be one that you should know about, but that's my opinion. To another subject: Did you read the Ombudsman's report on the Nikko Jenkins matter? [CONFIRMATION]

MICHAEL KENNEY: Yes, I did. [CONFIRMATION]

SENATOR CHAMBERS: Did you write a response to that report? [CONFIRMATION]

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MICHAEL KENNEY: I did. [CONFIRMATION]

SENATOR CHAMBERS: And how much...how many sentences did your response consist of, if you recall? [CONFIRMATION]

MICHAEL KENNEY: Well, I believe that response is extremely brief. That response was made in cooperation and upon advisement of the Attorney General's Office, who defends our agency in such cases, and we knew at that time that a claim was being made and I was cautioned very specifically to be extremely brief and not to comment on really any aspects of the report except to say that we may disagree with some of the findings in it. [CONFIRMATION]

SENATOR CHAMBERS: I'm just trying to get all my questions. Let me look at your qualifications here. Oh. You, in the wake of public criticism with reference to good time and other punishments imposed on inmates, put together a regulation that would allow you to take more good time and double the amount of time that a person could be kept in solitary. Is that true or is that false? [CONFIRMATION]

MICHAEL KENNEY: That's not...that's half true, Senator. We did double the amount of good time that could be taken, but that change in the rule book does not address any more segregation time. Nothing was done with disciplinary segregation time. [CONFIRMATION]

SENATOR CHAMBERS: So you did not? If I can find an article where you and the Governor approved of doubling the amount of time that a person could be kept in solitary, that article would be incorrect. Is that what you're saying? [CONFIRMATION]

MICHAEL KENNEY: I would be very surprised and I would correct the record that that is...I don't...I read the rule book two days ago, that particular section, and I didn't see any change in the new rule book that doubled the amount of disciplinary segregation time. And so I'm going to say, if that happened...I don't believe it happened and when I looked at the rule book I didn't see that change in the rule book. [CONFIRMATION]

SENATOR CHAMBERS: Tell me how much...how that system works, how much time is entailed, whether there is a maximum amount of time during a year or a maximum number of times a person can be put in. Just how does that work? [CONFIRMATION]

MICHAEL KENNEY: There is a maximum amount of 60 days' disciplinary segregation that can be imposed for the worst and most flagrant...there are three classifications of misconduct report--Class I, Class II, and Class III--in descending order of importance or severity. And a Class I, which could be an assault, murder, some fairly strong kind of misbehavior, that's punishable by up to 60 days, and that was not changed in the rule

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book. And that's to...going through a disciplinary committee. If a week later an inmate does something else, a separate and distinct misbehavior, and he's disciplined for that, that could also result in more disciplinary segregation time. But... [CONFIRMATION]

SENATOR CHAMBERS: Another 60 days? [CONFIRMATION]

MICHAEL KENNEY: Well, there's no set matrix or formula for it. [CONFIRMATION]

SENATOR CHAMBERS: But it could be up to 60 days. [CONFIRMATION]

MICHAEL KENNEY: Yes, if it was another act of violence like that, if it was a severe case. Sixty days is reserved...for example, if someone literally committed murder, which would be in the misconduct report, that would be 60 days' disciplinary segregation time. We use 60 days very, very rarely. [CONFIRMATION]

SENATOR CHAMBERS: What, short of murder, would result in 60 days?
[CONFIRMATION]

MICHAEL KENNEY: Perhaps a significant assault causing great bodily injury, maybe requiring hospitalization, of another inmate or a staff member. [CONFIRMATION]

SENATOR CHAMBERS: So it there's such a thing as an average, what would the average amount of time be? If you don't have it, don't (inaudible)... [CONFIRMATION]

MICHAEL KENNEY: I don't have it. I don't want to speculate. It ranges...every...our disciplinary penalties range any from dismissal to a reprimand and warning up to the significant loss of good time and disciplinary time. But, Senator, I don't...
[CONFIRMATION]

SENATOR CHAMBERS: Okay, I won't linger on that. Are you aware that people are talking about using county jails as a way to relieve the overcrowding situation?
[CONFIRMATION]

MICHAEL KENNEY: I am. [CONFIRMATION]

SENATOR CHAMBERS: What do you think of that? [CONFIRMATION]

MICHAEL KENNEY: Well, I think it's a response to capacity issues that we have that we're undergoing right now. [CONFIRMATION]

SENATOR CHAMBERS: But I'm asking you, while we're here discussing this, what is your feeling about using county jails for that purpose? [CONFIRMATION]

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MICHAEL KENNEY: I think...I'm sorry. I think it's appropriate given certain conditions are met, certain filters are put into place. For example, we would not be sending violent Type I or Part I offenders to be in this. We wouldn't send anyone who has a parole hearing or a release date within a year. They would not be inmates that are actively engaged in any kind of therapy or programming need at that time. They'd be stabilized; in other words, good-behaving inmates. They wouldn't have any significant health or medical concerns. [CONFIRMATION]

SENATOR CHAMBERS: Okay, because I get...what jail is the farthest distance from the penitentiary that is being considered for this purpose? [CONFIRMATION]

MICHAEL KENNEY: That work...I don't have a list of jails, Senator. That work group is still examining. The jails have to be willing to do it and I don't know, as I sit here, what counties have, as we say, signed up or asked or expressed an interest in that. [CONFIRMATION]

SENATOR CHAMBERS: Excuse me. [CONFIRMATION]

MICHAEL KENNEY: Okay. [CONFIRMATION]

SENATOR CHAMBERS: Have you heard during your experience that some kind of assistance network should be available for inmates, such as a reasonable distance that a family member or a friend or somebody who is trying to help that inmate would have to travel? In other words, would a support system available to that inmate assist in helping that inmate behave and successfully complete the amount of time he or she has to be in prison; or do such things not count? If your family is too far away to visit, it doesn't matter; if friends who want to visit cannot cover that distance, that doesn't matter. So the question that I'm asking, maybe I didn't do it artfully. Would that kind of support system assist an inmate and the institution, secondarily, in keeping that inmate on the path to rehabilitation, whatever is available? [CONFIRMATION]

MICHAEL KENNEY: It certainly would. We have data, not at my fingertips, but we know over the years that family relationships, support relationships in the community are one of the main factors that prevents recidivism. So when we considered--if I can embellish--when we considered this county jail thing, one of the silver linings, if you will, would be that there might be people from parts of the state that aren't near Lincoln and Omaha that could actually...we could actually enhance that kind of visitation if it so worked out. And we would...with all these other considerations being the same, we would think that that would be a good thing if they could have more family visits, more support visits from their community people if they were located in a different place. It would be, I guess you would say, the frosting on the cake. But it would be a desirable facet of that program, yes. [CONFIRMATION]

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SENATOR CHAMBERS: And the corollary would be that somebody who lives in Omaha or Lincoln wouldn't be sent out to Valentine or someplace. [CONFIRMATION]

MICHAEL KENNEY: That would absolutely be taken into consideration. And while I won't want to speak about absolutes, I'm saying that fact would be given strong consideration and that would be...that would weigh as a deterrent to making that transfer, rather than any kind of an advantage. [CONFIRMATION]

SENATOR CHAMBERS: Would the inmate have any say-so as to whether or not he or she would be transferred to a county jail? [CONFIRMATION]

MICHAEL KENNEY: We have not...and again, this is still being formulated. It's not...the ink isn't dry on the final plan at all. [CONFIRMATION]

SENATOR CHAMBERS: I want your thinking. That's what I'm asking for. [CONFIRMATION]

MICHAEL KENNEY: Yeah. [CONFIRMATION]

SENATOR CHAMBERS: I'm asking for your thinking. [CONFIRMATION]

MICHAEL KENNEY: We would consider it but I don't think...I don't know that we would allow...I don't think we're contemplating letting the inmate be the final decisionmaker. But the input would be very important. It would be weighed carefully by us. [CONFIRMATION]

SENATOR CHAMBERS: This, and then I'll let you go for now: There's a woman. She had a number of embezzlements against her. She's serving time at York now for one of them. She came back to Douglas County to be sentenced on another one that they decided to charge her with. She's awaiting sentencing and she asked could she be returned to York because the conditions at Douglas County jail were horrible. Now have you...did that make you do anything or were you not aware of that? [CONFIRMATION]

MICHAEL KENNEY: No, learning of it right now. [CONFIRMATION]

SENATOR CHAMBERS: Well, it was in the newspaper. But if that is true, would that be the type of thing that would make you or whoever you assign to look into these issues consider how things are done in Douglas County that would cause a person to rather be in the women's prison than in the Douglas County Correctional Center? [CONFIRMATION]

MICHAEL KENNEY: Well, I don't know if I would have...it would concern me. I don't know that I would have any jurisdictional authority to do much about it.

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[CONFIRMATION]

SENATOR CHAMBERS: No, I don't mean that you...but, see, that would tie into this whether or not Douglas County is going to be one of those jails you're going to send some people to, to relieve the overcrowding. That's what I'm tying it into...

[CONFIRMATION]

MICHAEL KENNEY: I see. [CONFIRMATION]

SENATOR CHAMBERS: ...because I know you cannot tell the authorities in Douglas County to move her someplace else while she's awaiting sentencing. But it seems to me that people who are going to make a decision or be a part of making that decision about transferring people from the state's custody in the prison to a county-run facility, if an inmate finds the county-run facility to be so obnoxious that she would rather be in the penitentiary--well, the state prison, they call it, for the women. And you don't even have to respond to that because I have finished mine. Thank you. [CONFIRMATION]

MICHAEL KENNEY: I understand. Thank you. [CONFIRMATION]

SENATOR ASHFORD: Senator Coash. [CONFIRMATION]

SENATOR COASH: Thank you, Senator Ashford. Director Kenney, can you speak a little bit about the decision of the department to move to...I'm trying to think of the term. "Scheduled yards," is that the right term? [CONFIRMATION]

MICHAEL KENNEY: I can. [CONFIRMATION]

SENATOR COASH: There was a decision made, not by you but by your predecessor, to go to a scheduled yard system,... [CONFIRMATION]

MICHAEL KENNEY: Yes. [CONFIRMATION]

SENATOR COASH: ...rather than a...would it be a...would the opposite be an open yard? [CONFIRMATION]

MICHAEL KENNEY: Yes. Yes, I can. [CONFIRMATION]

SENATOR COASH: Can you speak to the reason that that change occurred and how you feel about how that's working... [CONFIRMATION]

MICHAEL KENNEY: Sure. [CONFIRMATION]

SENATOR COASH: ...from a perspective of safety, managing inmates, all that?

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[CONFIRMATION]

MICHAEL KENNEY: Thank you. I can. Around October of 2012, we made the decision to go to scheduled yards, which I can...I'll describe in a minute if you'd like just exactly what that looks like. The decision was made by increasing incidence of inmates gathering on the yard. There were times leading up to that while we were in the context of the open yard where groups of 50 to 60 inmates who were gathering under the identifiers of STG, or security threat groups, otherwise known as gangs. And those groupings in prison, when they, as we say, square off or face off on the prison compound, represent great potential harm and threat to the good order of the facility and, frankly, to the safety of the inmates themselves and the staff. And a brief study in looking at prison conflicts with groups of inmates show that that is a really dangerous situation. And rather than wait for something to touch off, as we say, we took steps at that time to isolate. The manner in which that was done is what we are now calling "scheduled yards," and so by housing unit and by separation we no longer allow all of the inmates to be on the yard at the same time. [CONFIRMATION]

SENATOR COASH: And when...if there...when the...when a particular housing unit is not on the scheduled...is not on the yard because it's not their schedule, what's the reality for those inmates? Are they locked up in their eight by eight for the rest of the time? [CONFIRMATION]

MICHAEL KENNEY: Right. [CONFIRMATION]

SENATOR COASH: Or what's the reality for those inmates? [CONFIRMATION]

MICHAEL KENNEY Well, the reality for inmates and the...because of the configuration of the two different facilities, at the Nebraska State Penitentiary the time inmates would be outside of their cell is 10.5 hours a day, and that's not including work assignments. At Tecumseh, it would be 9.75 hours per day and those include getting out of, as we say, out of their cell to go to meals, showers, phone calls, work assignments, visits, mental health, medical appointments, scheduled intramurals, athletic and recreation activities, law library, parenting classes, school. And so they are able to go to work and school and do a variety of activities, but it is true that they are not able to be out of their cells as much as they were used to being. [CONFIRMATION]

SENATOR COASH: Thank you. [CONFIRMATION]

MICHAEL KENNEY: Thank you. [CONFIRMATION]

SENATOR ASHFORD: Senator Chambers, and I...then I have a...one...couple questions. [CONFIRMATION]

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SENATOR CHAMBERS: Oh, go ahead. [CONFIRMATION]

SENATOR ASHFORD: Well, I just want to follow up. I don't know if you had an opportunity, and I hesitate to take excerpts out of a very recent press publication, but there was, I thought, at least, a very interesting conversation on NPR this morning with an inmate who had...is now 51 years old and served off and on. One of the comments in there...I thought it was a good presentation. One of the things that I've seen in looking at this matter is that reform is necessary, and the reform comes in many different ways. But being willing to listen to what others are telling you need to happen, and they can be people from the outside, to some degree takes an acknowledgment by you and by the administration as a whole that change is necessary. It needs to be constructive and prudent, but it's necessary. And what's your...I'm going to ask you specifically about that particular NPR interview this morning. But the...what is your attitude towards being willing to acknowledge that we have...we need to change and need to reform and need to be willing to listen to the fact that what we have been doing in many respects need to be reformed. Can you tell us how...what your attitude is in that regard and how that would inculcate your administration as director? [CONFIRMATION]

MICHAEL KENNEY: Thank you. Yes, I would, Senator. I am very open to change. Part of my training that I embraced many years ago goes under the name of continuous quality improvement. But I believe in that and I believe no organization or system is fine-tuned to the point where it can't be improved. And I certainly won't suggest that this agency can't be improved. I'm very much committed to cooperating with the people we've talked about, CSG, the investigative committee, the Performance committee. I'm eager to hear what they have to say. My instructions to staff have been to be cooperative and transparent. If there are flaws in our system, and I'm certain there are because every system has them, I think it would be arrogant on my part and any others to assume that our agency doesn't have room to do better. That would fly in the face of what I really believe. [CONFIRMATION]

SENATOR ASHFORD: And even to the extent of whomever the Governor is in the future, or the Governor is now, to be able to advocate for the sorts of resources that are needed to make this institution...bring this institution into a place where it's at the standards that exist across the country and we're...are you...can you go to a Governor and say, you're all wet, Governor, you don't know what you're talking about? [CONFIRMATION]

MICHAEL KENNEY: I probably wouldn't phrase it that way, but I want to answer your question very directly. Yes, I'm committed to having the courage to what we call manage in an upward way. I would, Senator, have to have facts and data at hand. I couldn't do that... [CONFIRMATION]

SENATOR ASHFORD: Well, I'm saying you make ridiculous comments. But let's take,

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for...let's ask...let me ask you about the...a couple of things. One is it came out...well, one that came out in this interview this morning, that has to do with reentry. This gentleman said that while...I can't remember what phase of his incarceration he was in, but he...at the point six months prior to his incarceration, he was placed in an environment with other inmates that were hardened or more difficult and that that made it...when he got out, he...it made it even more difficult for him. Are you aware of the need to really understand that and that when people are ready to get out when they're in a reentry phase, whether they're on parole or not, that efforts be made to prepare those people for reentry? And when...how do you see that working? Because I think that's a gap in how we do things... [CONFIRMATION]

MICHAEL KENNEY: Well, not only am I aware, it'll be a focal point. I have to tell you, it's very difficult given our capacity issues. There is no question that some inmates can be sentenced to prison and, by their exposure to other inmates that they admire or have influence upon them, that they learn things. They learn bad habits. They learn bad attitudes. I don't know how to prevent that. I think it's virtually impossible to operate a system where inmates are all separated from each other and they don't influence each other. [CONFIRMATION]

SENATOR ASHFORD: I'm not asking for unreasonable sorts of things. But it would seem to me that when an inmate is going to be released for whatever reason, in whatever way, that there be an effort, an extra effort, to not so much have to build their own prison for them, or their own facility, obviously, but, you know, I think that's a major gap in where...how we do business and... [CONFIRMATION]

MICHAEL KENNEY: We actually work very hard on reentry. We have classes not only that prepare inmates mechanically for the things that they're going to have to do--how to balance a checkbook, how to make a job application, how to develop a skill--but we also work with inmates with the Malcolm X project, that transformational...I could go on and I sense maybe I shouldn't. But this... [CONFIRMATION]

SENATOR ASHFORD: No, no. No, you can do what you...but I'm not...this is not meant to be argumentative. I think if I said to you, I think that we need to infuse a new extra effort both financially and manpowerwise to not only, you know, teach somebody how to fill out a job application, but literally to put them on a pathway to a specific, particular job. And those kinds of programs exist around the country, so it's...to me, and this is not...to me, this is not...and I don't think you're giving me excuses or talking around it, but to me it's not an excuse to say, we do job applications. I mean, you know, these people are getting out, they don't have access to healthcare, and they don't have a job. And that's, to a great extent, why they're reoffending. I think we have a lot of work in this area to make that better. I'm not saying you can't do it. But those, when I talk about...and we've talked about this when you mentioned that your jurisdiction ends at the prison door. That's not what you meant and I understand that's true. But to me,

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breaking through that barrier is...there is nothing more critical to public safety than breaking through that barrier in some way so. [CONFIRMATION]

MICHAEL KENNEY: I completely agree with you. I don't believe in a hand-off. I think if we have a continuity of care...in some systems, I'm even aware of, is...I studied another system--in Sweden, for example--where they have a continuity of care that's extremely enviable, where they are able to care from that time the person comes in all the way through the social service system and the outside and... [CONFIRMATION]

SENATOR ASHFORD: And that's what I think we should do. And I, you know, I was in Sweden last fall and I met with some people over there. They...and they closed six prisons in Sweden over the last two years, three years, or four years by doing that, by literally taking somebody through a continuum of care. They serve their sentence, and then they're into a very holistic, concentrated way of getting them back into society. So I'm very aware of what they've done in Sweden. And people can say, well, they're just Swedes, but I'm half Swedish, so there you go. But I think that that is an example. The last question I have is...and...is this, and then we can go with somebody else: If...when someone is in administrative segregation, and it is a 60-day...I've seen the 60-day rule, but people tend to spend...and on occasion, spend a lot more than 60 days in administrative segregation. What Bob told me...Houston told me on one occasion, and just...is he right or wrong or correct me if I'm...have a misunderstanding. Oftentimes there is nothing adjusted on good time. There's simply an administrative segregation, that's the penalty. What...how does that work? How does that go together? [CONFIRMATION]

MICHAEL KENNEY: Well,... [CONFIRMATION]

SENATOR ASHFORD: Or is that true, number one, and how does that...is the decision made to put somebody in a place...I guess, let me tell me what my concern is. Reading the materials that I've been reading on administrative segregation, the intense mental health issues that arise by putting somebody away from, you know, society, their society or anybody else, that that is...has extreme negative repercussions on that...or can have on that individual. But oftentimes that is what happens and they may not lose good time. They simply are in disciplinary segregation. So how does that work? [CONFIRMATION]

MICHAEL KENNEY: There are...and it's complicated, but there are two forms of being in that segregation confinement. One is disciplinary, which I spoke with Senator Chambers about, and that's punitive and that's the purpose. The other side of that is called administrative confinement, and the yard stick for administrative confinement is you may have served all your time but it is the opinion of the administration that even though you're done being punished, what you did and your pattern of doing it and your propensity to do it again presents such a threat that if you were released from the segregation unit, the fear is that you would go out and do more harm and jeopardize the

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safety of others in the facility. And that...in that system I think is what you're talking about, and that is a very...that's a concern I was addressing earlier. That's what Rick Raemisch is talking about in his article, and that's something we have worked very hard to try to improve. It involves reviews. It involves going and talking to that inmate on a regular basis. It involves incentive programs that they can work their way to a position where they can convince or demonstrate by their behavior to the administration that they are trustworthy and that they need not worry about them being released into general population. That's a really short answer, but I don't know how much you want me to talk about it. [CONFIRMATION]

SENATOR ASHFORD: Well, I don't know if anybody has any other questions as it relates to that. Senator Chambers. [CONFIRMATION]

SENATOR CHAMBERS: So, Mr. Kenney, when you mentioned that 60 days, that really doesn't mean anything, does it, because you can add onto that administrative segregation and stretch it out indefinitely, couldn't you? [CONFIRMATION]

MICHAEL KENNEY: Yes. [CONFIRMATION]

SENATOR CHAMBERS: So then... [CONFIRMATION]

MICHAEL KENNEY: Technically, if the inmate keeps demonstrating to us that he's not ready to...I wouldn't...I don't like the word "indefinitely" myself, but I agree with the point you're making is that if an inmate is down there and doesn't give us some sign that he's going to cooperate or that if he does get out he's...we have some inmates, Senator, and it goes to the issue you brought. [CONFIRMATION]

SENATOR CHAMBERS: That's not what I'm asking you. [CONFIRMATION]

MICHAEL KENNEY: Okay. [CONFIRMATION]

SENATOR CHAMBERS: I want to find the time. So it's possible that Nikko Jenkins could have spent years in administrative segregation, isn't it? It's possible, isn't it, because you said at another time you were here that you didn't know how long he had been in segregation [CONFIRMATION]

MICHAEL KENNEY: I suppose. [CONFIRMATION]

SENATOR CHAMBERS: And I said it had been...it could have been years. Well, you said you didn't know. So right now you still don't know, do you? [CONFIRMATION]

MICHAEL KENNEY: No, but...and it's very dangerous to speculate. But if he were saying the things and behaving in the way that it's reported to me that he was behaving,

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that would cause...yeah, that was a bad situation. But I think to have released him out into general population, from what I understand--I'll qualify it that way--I can understand the reluctance of the warden to do that. [CONFIRMATION]

SENATOR CHAMBERS: Well, if he had those kind of problems, that wouldn't make you, even as a layperson, think that there's some kind of mental illness going on here and it's not strictly behavioral? That never occurred to you? [CONFIRMATION]

MICHAEL KENNEY: Yes, it does occur to me that... [CONFIRMATION]

SENATOR CHAMBERS: And what did you do in view of that? [CONFIRMATION]

MICHAEL KENNEY: Well, what I have done...what's been done just this fall and at... [CONFIRMATION]

SENATOR CHAMBERS: No, I don't want...I want to know in Nikko Jenkins' case. [CONFIRMATION]

MICHAEL KENNEY: I guess I don't understand. I was the warden at Omaha when Nikko Jenkins was going on. [CONFIRMATION]

SENATOR CHAMBERS: Okay, so you weren't there. [CONFIRMATION]

MICHAEL KENNEY: I didn't do anything about...I didn't...I don't...I wasn't even familiar with that case until I became director, I mean, until I read the headlines. But I don't know if that satisfies your answer but... [CONFIRMATION]

SENATOR CHAMBERS: Do you think we ought to give...well, I'm not trying to get you to satisfy me but just give me what you know, and you did that already. So at no time that Nikko Jenkins was locked up in the pen were you working at the penitentiary, is that true? [CONFIRMATION]

MICHAEL KENNEY: That's true. I would love to add one thing on this subject, this very subject. Since last fall we have instituted mental health therapy groups in the segregation unit at TSCI and we're getting ready to implement that at the penitentiary because we do recognize the need that people in administrative confinement do struggle with these same issues that Director Raemisch brought about. And we are already started. It's already in place in Tecumseh and it's coming into place at the penitentiary because I do acknowledge and recognize that that is something that can't just be unattended. [CONFIRMATION]

SENATOR CHAMBERS: How much weight is given to evaluations by this psychiatrist called Scott Moore in terms of how inmates are handled in the institution?

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[CONFIRMATION]

MICHAEL KENNEY: Again, I can't speak to how much weight was or wasn't...

[CONFIRMATION]

SENATOR CHAMBERS: Well, if he said that Nikko Jenkins is faking this and his problem is behavioral and that there is no treatment for whatever is wrong with him, then the conclusion is just keep him in administrative segregation. Is that correct?

[CONFIRMATION]

MICHAEL KENNEY: Senator, I'm not dodging your question. What... [CONFIRMATION]

SENATOR CHAMBERS: I'm not saying you are. [CONFIRMATION]

MICHAEL KENNEY: What I'm...what...I would just like to say I am very apprehensive about going into what I did or didn't know or what was going on with Nikko Jenkins. It is a matter of litigation. [CONFIRMATION]

SENATOR CHAMBERS: I'm asking about now. You said you're implementing these mental health initiatives, I'll call them. Does this Scott Moore have anything to do with formulating these initiatives or evaluating inmates to determine the level of the service made available or even if they merit it? Does Scott Moore have any role to play in that, that which you're doing now, that you described to us? [CONFIRMATION]

MICHAEL KENNEY: To my knowledge, Scott Moore did not have any influence in the programming that we're...that I just spoke of. [CONFIRMATION]

SENATOR CHAMBERS: That's all that I would have. Thank you. [CONFIRMATION]

SENATOR ASHFORD: Just one last follow-up. You started to answer regarding what you were doing this fall, and I assume that's the mental health piece that you just talked about. Was there...also, it's my understanding that there have been some, a number or some, civil commitment proceedings that have been commenced since you've taken over as director for inmates after they leave the institution? Is that accurate?

[CONFIRMATION]

MICHAEL KENNEY: Yes. There's one or two. I can't remember the names, but I know specifically that we've referred a couple and that they were...one I know specifically was committed to the Lincoln Regional Center. [CONFIRMATION]

SENATOR ASHFORD: Okay. And how...just so that...for my own comfort level, how do you do that? And what causes you...what process do you undertake to make that kind of a commitment? [CONFIRMATION]

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MICHAEL KENNEY: I've probably got more information than time allows.
[CONFIRMATION]

SENATOR ASHFORD: And I don't need to know specifically... [CONFIRMATION]

MICHAEL KENNEY: Well, what I...without looking at my notes, what happens is, if we become aware of significant mental health issues, and that would be...I believe the standard is mentally ill and dangerous. The process is that we...and this person is coming up on a discharge. We refer that to the county attorney and we make a recommendation to the county attorney that this person be...undergo a civil commitment procedure. I don't remember the statute. And then the county attorney summons the mental board of health and the hearing is held. And then if that board determines after their evaluation that that person needs...it's actually their decision to...I don't want to say incarcerate, but to hold that person on a mental health civil commitment, then that's made by the mental...the county mental health board. [CONFIRMATION]

SENATOR ASHFORD: So that has occurred since you... [CONFIRMATION]

MICHAEL KENNEY: Yes, that has occurred. [CONFIRMATION]

SENATOR ASHFORD: Senator Coash. [CONFIRMATION]

SENATOR SEILER: If I could add, just for the record, it's dangerous to himself or to others. [CONFIRMATION]

MICHAEL KENNEY: Yes, that's correct. [CONFIRMATION]

SENATOR ASHFORD: Senator Coash. [CONFIRMATION]

SENATOR COASH: To follow up on Senator Ashford's question, is the review of inmates' mental health as they come close to their discharge a matter of procedure now where the department will on a systematic basis look at, well, we have X number of inmates getting ready to discharge and we need to evaluate their mental health beforehand so that we know if we need to make a call to the county attorney? Is that a matter of procedure or does it have to come to the attention of someone in order for that review to occur? How does... [CONFIRMATION]

MICHAEL KENNEY: Yes. [CONFIRMATION]

SENATOR COASH: My concern is you don't know what you don't know. How will you know? What's in place to make sure that corrections is aware if you do have a person who is mentally ill and dangerous so that that referral can be made? [CONFIRMATION]

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MICHAEL KENNEY: Everyone that comes into our system at intake gets a mental health evaluation. And if there aren't mental health issues, then they...if...then there aren't mental health issues. If there are, they're tracked. And, yes, we have not only therapy groups in which they participate, but we have tracking for the people with diagnosed mental health issues and certainly we have people...we have staff tracking with those inmates. And if they're coming upon the release and they are presenting mental health issues, there is a reporting mechanism that we're very familiar...as we say, we're using it. We did...in the year before we had made 11 such of these commitments. So the process is not foreign to us and, yes, there is a way to catch that and intervene. [CONFIRMATION]

SENATOR ASHFORD: But, Mike, I don't...this is...I don't...you don't need to answer necessarily specifically about Nikko Jenkins. But my concern is somebody comes into the institution, they go through D&E, and they determine that there is no mental...someone is...I don't know who that exactly is, but somebody is determined maybe five years prior to release that there is no mental health issues. How do we...what...it is very...in my view, everything, again, that I...over the last nine months that I have read would indicate that people that go into an institution, and certainly if they're in administrative segregation for long periods of time, that they do in fact begin to exhibit and to have mental health issues that can be significant. How do you...how are you...my big concern here, Mike, is how are you going to address these mental health issues with people both in the institution and as they get out? And I don't think...I will tell you that a D&E evaluation is not sufficient. And I don't know...and I would be very interested, and you don't have to go into long division, but what is your...without going into specific procedures, what is your view on how that...on that? How would you change the culture, so to say, in your institution so that we put more focus on mental health, so that we can identify mental health issues throughout the period of incarceration and, if there is a need for civil commitment or other kinds of processes put in place, that it happens? That's my...that, to me, right now, that's the crux of my concern. So tell me, convince me what you're going to do. [CONFIRMATION]

MICHAEL KENNEY: Well, first, I'll explain what we do, do now. And then I'll tell you, if we can get better at it, we will. But you're right. If they come into D&E and they're not determined to have a mental health evaluation but somewhere in their sentence they developed this, whether it's being in administrative segregation or not they develop this, we train all of our staff every year to go to a week of training and during that training they get a component on how to look at self-harm, how to look at suicide, how to notice mental health issues, how to recognize depression. So we have all of our officers and unit staff and the medical staff and virtually everybody that has inmate contact are able to pick this up and we look very carefully. Now I'm...like I said before, no system is perfect. If you want a commitment from me that what...we're going to stress that more,... [CONFIRMATION]

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SENATOR ASHFORD: No, I don't want...I just want you to tell me what you're going to do to make it better because it's not good enough, in my view. Okay, it's not good enough yet, all right? [CONFIRMATION]

MICHAEL KENNEY: Okay. [CONFIRMATION]

SENATOR ASHFORD: That's what I'm saying to you. And in my view, that...it's not good enough. So how are you going to make it better? That's what I'm asking. And if...I mean, you know what I'm asking you. How are you going to make it better? What are you going to do to make it better? What are the three things, two things?
[CONFIRMATION]

MICHAEL KENNEY: Senator, I can't articulate a plan on the spot here to tell you how I'm going to make that... [CONFIRMATION]

SENATOR ASHFORD: And maybe I'm unartful in the question. Senator Seiler, maybe you can clear this up. [CONFIRMATION]

SENATOR SEILER: Do you do an annual physical for the inmates? Do they schedule them? [CONFIRMATION]

MICHAEL KENNEY: I don't know if it's annual or not. I know it's routine, and I can't tell you the frequency. We have a lot of our inmates who are aging and they're on a schedule. We have a lot of them we're monitoring for illnesses. [CONFIRMATION]

SENATOR SEILER: And one of the components being a mental exam?
[CONFIRMATION]

MICHAEL KENNEY: I want to say yes but I'm not going to because I don't want to misrepresent it if it's not true. I don't know the answer to that question.
[CONFIRMATION]

SENATOR SEILER: Thank you. [CONFIRMATION]

SENATOR ASHFORD: Now Senator Seiler...and then I will end with this. Senator Seiler has come up with what I think is a good idea, is to open up a 200-bed mental health facility, especially for people who go into D&E and there is...it's determined that they have mental health issues. So before they even go into the general population, they are...or in that process, they have an opportunity to go through some intensive mental health treatment or whatever it is. What's your view of that? [CONFIRMATION]

MICHAEL KENNEY: Well, my view of that is we have three entities coming in to...that

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are going to inform us. They're evaluating us. They're assessing what our needs are and for me it feels a little premature to say that is the answer. If that is the answer, I am very much for it. I don't know that that is the...I would like to get the benefit...

[CONFIRMATION]

SENATOR ASHFORD: Getting someone's head straight when they get into the institution that I...you and I...and I know, don't know anywhere near as many as Senator Chambers, but some very specific examples. Talking to Bob about people, Bob Houston, about people who...younger...especially young offenders who come into the institution with their heads really in a bad place and to put them into the adult population without significant mental health treatment and then expecting them to do well in prison is a very problematic thing. And so I think, without getting in necessarily with the...whether you put something in Hastings or somewhere else or whatever, just conceptually, do you agree with me that there are people that come in, especially young adults, that really need to get their heads screwed in, screwed on? I mean, what...

[CONFIRMATION]

MICHAEL KENNEY: Yes, yes. [CONFIRMATION]

SENATOR ASHFORD: Okay, thank you. Yes, Senator Davis. [CONFIRMATION]

SENATOR DAVIS: Thank you. You made reference to aging prisoners and just...can you tell us just a little bit about that, what you're dealing with in terms of those individuals--how many are there, the amount of time it takes, the work that goes into that? [CONFIRMATION]

MICHAEL KENNEY: I'll bet you I have the statistics somewhere buried in here, Senator, and I don't want to give you a false percentage. But the number of inmates over 50 is...I want to say it's something like 20 percent and climbing. And what the problem is, is a 50-year-old in our system many times has the physiological age of much older if there's intravenous drug usage and what we would generically call a reckless lifestyle. The arthritis and maybe liver problems...and I'm not a doctor but I can tell you what the doctors tell me, and that is that this group of inmates is presenting more and more demanding medical needs because, in a way, they're aging faster than what their chronological age is. And I don't know if that addresses... [CONFIRMATION]

SENATOR DAVIS: Kind of. What about dementia? [CONFIRMATION]

MICHAEL KENNEY: When we diagnose that, we try to treat that. We try to put those people in a place where they're in a safer place. We accommodate that with the case management and unit management staff that work with that and we do our very best to help them facilitate their time in prison. We make whatever referrals medically and whatever treatment we can make for that. We do have people in our system that

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are...suffer dementia, and it's...I can't tell you again the rate of growth, but it's something we acknowledge and something we address. [CONFIRMATION]

SENATOR DAVIS: Thank you, and then one other question. And you made reference to the interest in vocational training. Do you have ideas with that as to what you'd like to do besides what you've referenced here and...? [CONFIRMATION]

MICHAEL KENNEY: Specifically, I would just like to see it increase, if possible. That's a funding issue. I would...I know that Ms. Casmer has mentioned that and I had mentioned that even in my opening part that we would be...we would look favorably upon an increase in vocational. I the other day looked into researching what the demand...what the most in-demand jobs are that would be appropriate for our inmates and we would let things like that guide us. We are very interested...I want to...use the vernacular, I want to scratch where we itch. I have at times seen vocational programs implemented that when the inmates got out...I remember an occasion when I was a parole officer when an inmate was certified in truck driving and then...but this inmate had a DWI conviction. They went to get insurance and no carrier would...we wasted all that...we wasted that inmate's time and we wasted our time because no insurer was ever going to allow that person to drive a truck commercially. It was a mistake. I don't want to make those mistakes. I can't identify those jobs, but I...that...where we...where they will need, but we want them to be successful and we want to tailor that. If we are able to expand our vocational programs, we want to do that the smart way and make them meaningful jobs that they can actually go out and use. [CONFIRMATION]

SENATOR DAVIS: Thank you. [CONFIRMATION]

SENATOR ASHFORD: You know, I spoke with the Valmont people the other day and there's a very frustrated group over at Valmont and they were...they had invested up to \$9,000 a day in loss of productivity and training costs and in training 100 people at the McCook plant from the Work Ethic Camp. And now, because we don't have a Work Ethic Camp anymore as we did, that...they are unable to take those people into the program because of the nature of the offender because we're now using it as a correction facility. The only thing...and they had 100 people go through that program according to Valmont. And they are more than willing, beyond willing, to start another vocational program, and that's one of the reasons why we drafted LB907 the way we did is to be able to look for Valmont as a partner. I mean, you know, that just seems to me...and it was working so beautifully at McCook, you know, and now it's nothing. So we went from 100 to nothing. And I'm not suggesting that's your fault or your problem, but we need...it is now your problem, so how do we...so anyway, that obviously doesn't really need an answer, but that's obvious. Those are...that's a welding job that exists throughout the state of Nebraska and they pay \$45,000 to \$55,000 to begin with. So anyway, any other questions or comments? Do you have any summary comments? [CONFIRMATION]

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MICHAEL KENNEY: Myself? [CONFIRMATION]

SENATOR ASHFORD: Yeah, Mike. [CONFIRMATION]

MICHAEL KENNEY: Very brief ones. I've spent about four decades altogether preparing for this, and I would appreciate it if you gave me a chance. I am very committed to the success of this agency and to public service, and I would just appreciate your consideration. [CONFIRMATION]

SENATOR ASHFORD: Thank you very...yeah, Senator... [CONFIRMATION]

SENATOR LATHROP: Maybe I'll close with just a thought. After sitting around here for eight years and watching the number of agency heads, some advice, and that is: Ultimately we've seen a lot of good people that have worked for this administration that I think in the end ended up leaving, quitting, or being shoved out the door because in the end they were the person that got blamed for what went bad in an agency. And ultimately your charge is to run the place well and that, at some point, is going to require that you stand up to somebody that won't give you the resources to do it. And I watch in developmental disabilities, and it appears to have been the problem in corrections to some extent, a lot of things that go on in Health and Human Services. Good people are running those places on many occasions, not all, but good people are running them. They're the head of the agencies. And they go to get the resources they need to do the job and they can't get it and then they stay there and try to run the place without adequate resources. And when it all caves in, when it all caves in, it's the agency head that takes the blame. And you know, when you were here the last time, I thought, be careful what you ask for, be careful what you ask for, because if you're not prepared to get the resources or insist on the resources to do your job, you'll be the guy doing the job when things go to hell and you'll be the guy that gets the blame. So, whatever that's worth. [CONFIRMATION]

MICHAEL KENNEY: I appreciate your comments, Senator, and I intend to do the job courageously to the best of my ability and I do appreciate what you said. [CONFIRMATION]

SENATOR ASHFORD: Thank you, Mike. Okay, that closes the hearing. [CONFIRMATION]

MIKE KENNEY: Thank you. [CONFIRMATION]