

# NEBRASKA'S CORRECTIONAL SYSTEM

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# Inspector General Background

- In 2014 the Legislature adopted Legislative Resolution 424 in order to establish the Department of Correctional Services Special Investigative Committee to initially examine the Nikko Jenkins' situation. It eventually evolved into a much more detailed investigation into the practices of the Department including such issues as restrictive housing, early release of inmates, mental health treatment, and sentence miscalculations.
- LR 424 made numerous findings and recommendations, including calling for the creation of the Office of Inspector General of Corrections.
- Legislative Bill 598 was passed in 2015 and among the changes it made was the creation of the Office.
- In September 2015, Doug Koebernick was appointed to a five year term by the Legislative Ombudsman, with the approval of the Chairs of the Judiciary Committee and the Executive Board. In 2020 Koebernick was reappointed to an additional five year term.
- In December 2020 the Office was provided funding to hire an Assistant Inspector General, Zach Pluhacek. Both members of the Office have received their certification from the Association of Inspectors General.

# Intent of the Office

- LEGISLATIVE INTENT IN LB 598:
  - Establish a full-time program of investigation and performance review to provide increased accountability and oversight of the Nebraska correctional system (and parole);
  - Assist in improving operations of the department and the Nebraska correctional system;
  - Provide an independent form of inquiry for concerns regarding the actions of individuals and agencies responsible for the supervision and release of persons in the Nebraska correctional system. A lack of responsibility and accountability between individuals and private agencies in the current system make it difficult to monitor and oversee the Nebraska correctional system;
  - Provide a process for investigation and review in order to improve policies and procedures of the correctional system.
- Issue annual reports and other reports as needed.
- Provide information and testimony to the Legislature.
- Educate and inform the public.
- Assist inmates and staff with issues that they face in order to better understand the correctional system.

# Correctional Challenges

- Population
- Staffing
- Facilities

**POPULATION**

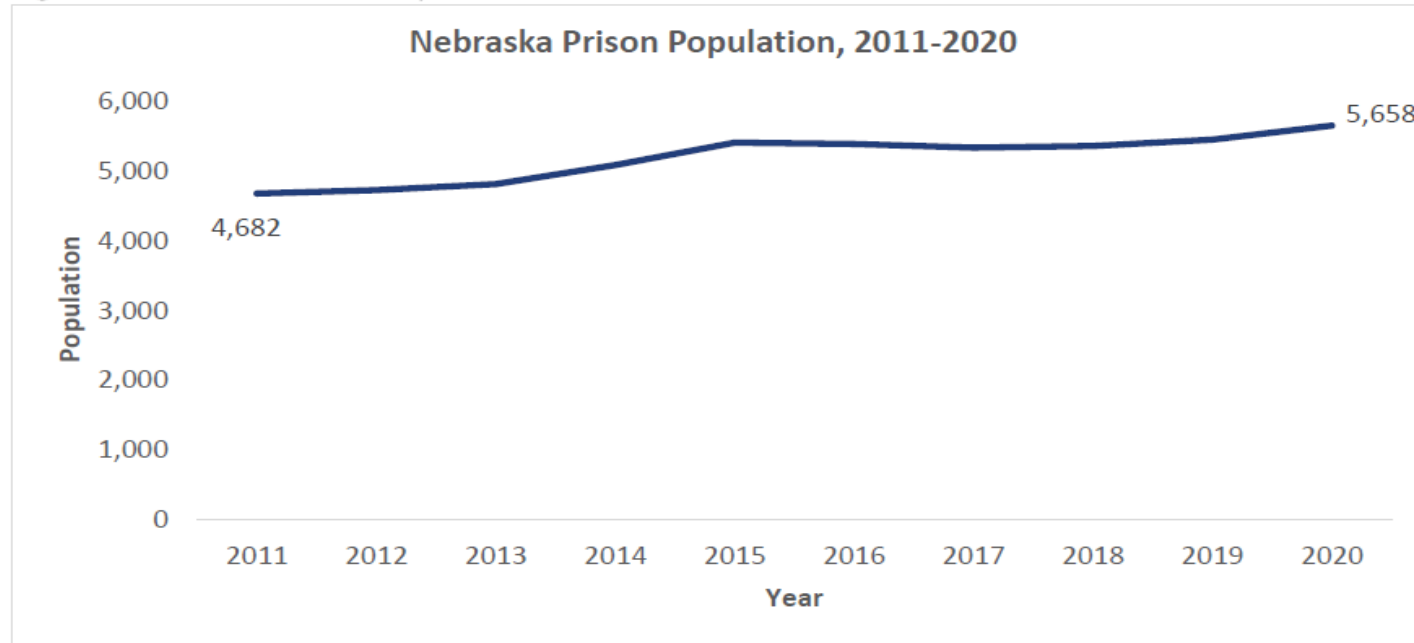
# Prison Population Background

- Population of the state correctional system grew in the 1980's and 1990's and exceeded design capacity of the facilities within the system. Legislation was passed in 1997 to create two new facilities— Tecumseh State Correctional Institution and the Work Ethic Camp in McCook.
- The Community Corrections Council was established by the Legislature to bring the courts, parole, probation, legislature, corrections and other key stakeholders together to address concerns that were raised prior to 1997.
- Population growth was temporarily stabilized and the percentage of design capacity (an overcrowding measurement found in state law) decreased but then grew as “tough on crime” sentences changed and a decrease in correctional programs led to a stagnation of paroles.
- Nebraska's rate of growth is different from most states and the nation as it has continued to increase.
- However, Nebraska's incarceration rate is lower than most states.
- Nebraska has continually ranked as one of the most overcrowded prison systems in the country and an overcrowding emergency was declared by Governor Ricketts in 2020. It will remain in effect until the system is operating at 125% of its design capacity (currently exceeds 150%).
- COVID impacted the growth rate throughout 2020 and 2021 as court operations were impacted and the admissions to NDCS decreased. It remains to be seen whether the lack of recent growth is an anomaly or a new trend impacted by changes made at the local level.
- Two outside organizations have been in Nebraska in recent years to more closely examine this.

### Prison Population Growth Driven by Increases in Time Served

Nebraska's prison population grew 21 percent from 2011 to 2020, with over 5,500 individuals in state custody at the end of 2020. This growth, primarily the result of the increasing length of time individuals spent incarcerated, is an outlier from national trends, which have seen a decline in the overall state prison populations of 11 percent across the country since 2011.

Figure 1. Nebraska's Prison Population Grows 21 Percent Between 2011 and 2020



Source: Data from the Nebraska Department of Correctional Services, Analysis by CII

# External Assistance

- In 2014, leaders from all three branches of government asked the Council of State Governments (CSG) Justice Center to use a data-driven justice reinvestment approach to help the state slow its prison population growth, reduce corrections spending, and reinvest a portion of savings in strategies that would reduce recidivism and increase public safety.
- Phase One was completed in 2015 after CSG completed a comprehensive data and policy analysis, Legislative Bill 605 was passed and it was expected to reduce Nebraska's prison population by 1,000 people per year and ensure supervision for an additional 300 people released from prison per year. It included policies to utilize probation for individuals convicted of low-level offenses, ensure post-release supervision for most people upon release from prison, and improves parole supervision.
- In 2017 CSG reported the following:
  - Admissions and releases within the correctional system were relatively flat;
  - Crimes and arrests were down since 2011 but violent crimes increased from 2013 to 2016;
  - From 2015 to 2017 there was a 21% increase in felony court cases; and,
  - Paroles had gone up slightly in the past few years.
  - More information on this can be found at [https://nebraskalegislature.gov/pdf/reports/committee/select\\_special/jro/jro\\_2017.pdf](https://nebraskalegislature.gov/pdf/reports/committee/select_special/jro/jro_2017.pdf)



# External Assistance (continued)

- In 2021, the three branches of government brought in the Crime and Justice Institute (CJI) to further study and make recommendations, since the passage of LB 605 did not impact the system as expected, as a follow up to the CSG efforts. It was a statewide effort to evaluate Nebraska's criminal justice system using federal assistance through the Justice Reinvestment Initiative.
- A working group was formed and made up of criminal justice leaders and was led by Judiciary Committee Chair Steve Lathrop, Governor Pete Ricketts and Chief Justice Mike Heavican. They met multiple times and created three sub-groups to focus on specific areas. They also analyzed data with the assistance of CJI and their overall goal was to identify evidence-based strategies and data-driven reforms.
- Their final report recommended a variety of policy options to reduce recidivism and protect public safety in Nebraska. Some recommendations were unanimous while others did not receive unanimous support of the members of the working group.
- Legislative Bill 920 ended up being the vehicle for the CJI recommendations during the 2022 legislative session. LB 920 was not passed by the Legislature during the recent session.
- The final report can be found at <https://www.dropbox.com/s/qkteiqryq8mnyl0/NECJR%20WG%20Final%20Report.pdf?dl=0>.

## Members of the Nebraska Criminal Justice Reinvestment Working Group

### Admissions & Sentencing Subgroup

Chief Justice Mike Heavican, Co-Chair  
Donald W. Kleine  
Senator Terrell McKinney  
Judge Jodi L. Nelson  
Thomas C. Riley

Nebraska Supreme Court  
County Attorney, Douglas County  
Nebraska Legislature  
District Court, 3rd Judicial District  
Public Defender, Douglas County

### Length of Stay & Release Subgroup

Senator Steve Lathrop, Co-Chair  
Rosalyn Cotton  
Scott Frakes  
Todd Schmaderer  
Corey Steel

Nebraska Legislature  
Chairperson, Board of Parole  
Director, Nebraska Department of Correctional Services  
Chief of Police, Omaha Police Department  
State Court Administrator

### Community Supervision & Reentry Subgroup

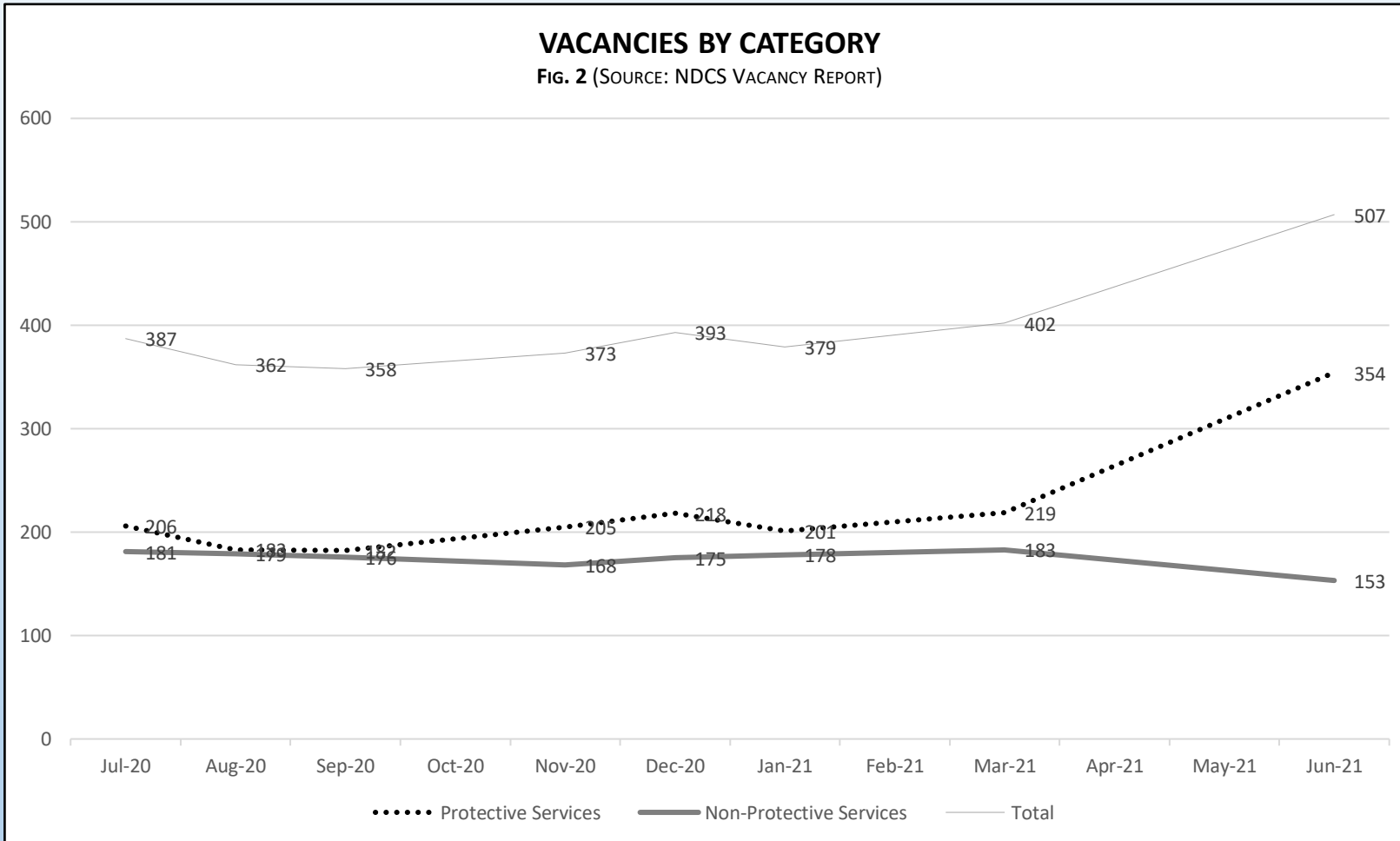
Governor Pete Ricketts, Co-Chair  
Senator Suzanne Geist  
Deborah Minardi  
Mark Overman  
Judge C. Jo Petersen

Governor's Office  
Nebraska Legislature  
State Probation Administrator  
Sheriff, Scotts Bluff County  
County Court, 5<sup>th</sup> Judicial District

# STAFFING

### VACANCIES BY CATEGORY

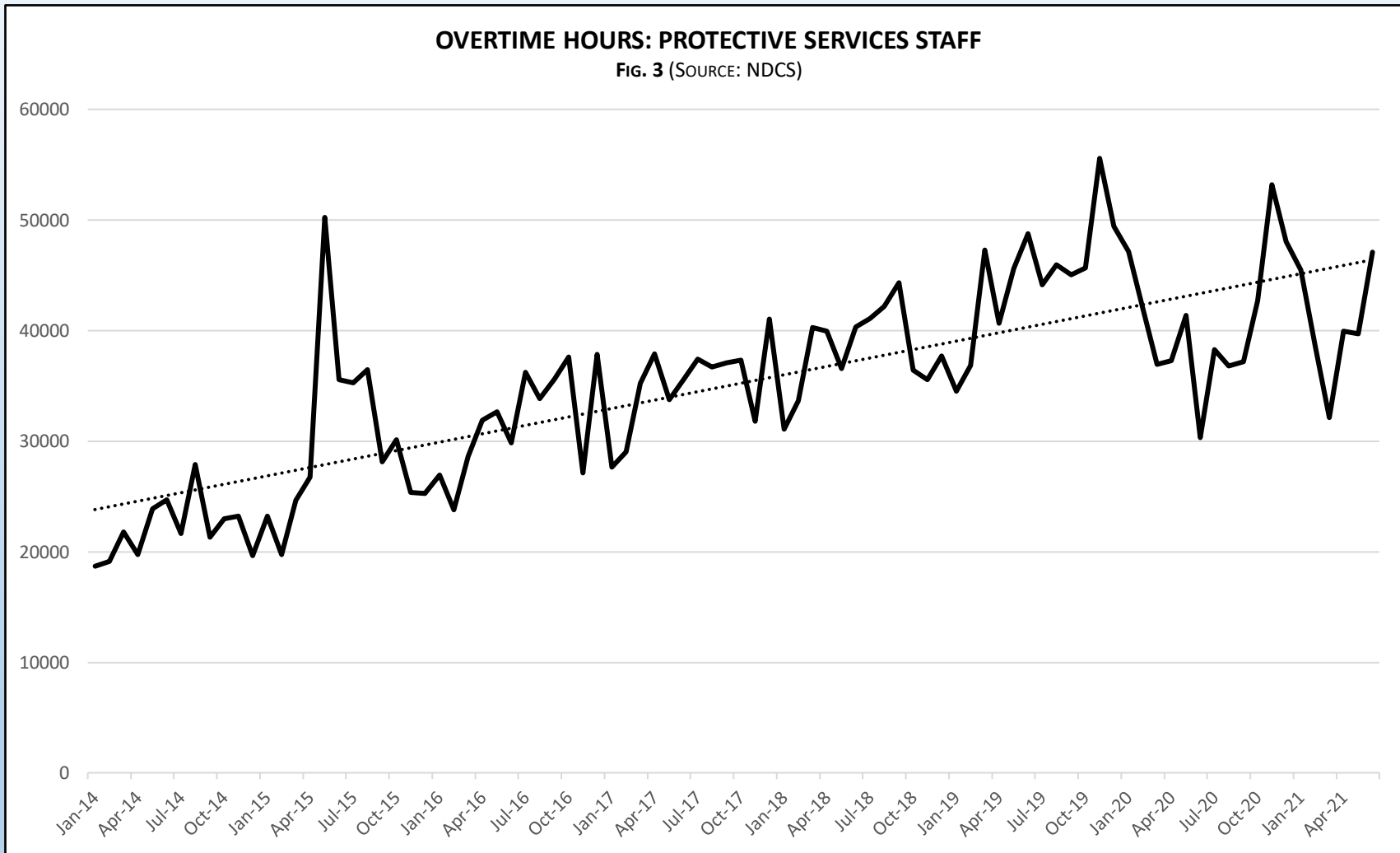
FIG. 2 (SOURCE: NDCS VACANCY REPORT)



Staffing Data is from the 2021 OIG Annual Report

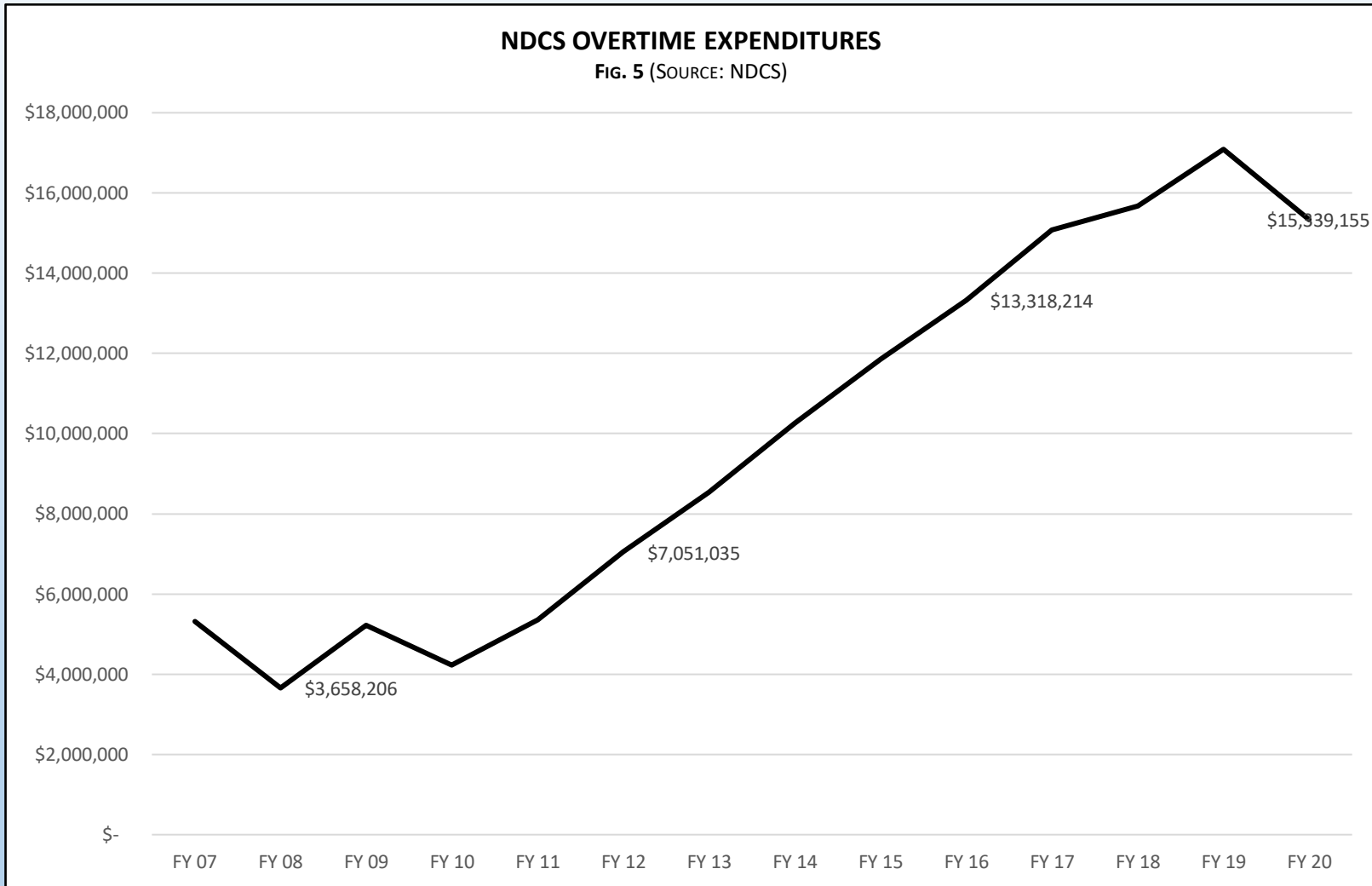
### OVERTIME HOURS: PROTECTIVE SERVICES STAFF

FIG. 3 (SOURCE: NDCS)



### NDCS OVERTIME EXPENDITURES

FIG. 5 (SOURCE: NDCS)



# Staffing

- In 2016, the OIG Annual Report declared that the correctional system was in a staffing crisis which only worsened over time. Since 2016, our office has repeatedly examined this issue and has made multiple findings and recommendations in an effort to address the staffing problems. Many of these findings and recommendations resulted from direct interaction with correctional staff and through a continual review of staffing data.
- The OIG found that staff shortages result in increases in overtime, decreases in morale, more inexperienced staff, inexperienced leaders, and an inconsistency in the treatment of the inmate population.
- From 2016 to 2020 some measures were initiated by the State of Nebraska, including hiring and retention bonuses and staff pay increases. However, despite increases in recruitment numbers the Department faced continual issues when it came to retention.
- Last year significant staff raises were applied to many positions throughout the system as a result of new labor contracts being negotiated. As a result of these significant raises, there has been a dramatic increase in staff hiring, especially in the area of security positions.
- One of the most significant impacts from staffing issues was the declaring of staffing emergencies over two years ago at the Nebraska State Penitentiary and the Tecumseh State Correctional Institution. The two facilities were placed on modified operations which resulted in less time out of the cell each day and limited other opportunities for the incarcerated population. Tecumseh only allows men out of their cells Monday thru Thursday. The Reception and Treatment Center (formerly two prisons: Lincoln Correctional Center and the Diagnostic and Evaluation Center) went to a similar operational schedule as Tecumseh last summer. Despite recent upticks in staffing all of those emergencies remain in effect.

# FACILITIES



# NDCS Facilities

- There are nine total facilities after the merger of two this year. Of those, one (NCCW) is only for women and another (CCC-L) has both men and women who are near the end of their sentence. Except for WEC in McCook, all facilities are on the eastern third of the state.
- Range from intake facilities to maximum custody and then to community custody.
- Additional overcrowded system that will be aided by additional beds coming online in Lincoln in 2022.
  - 384 High Security Beds; 32 bed medical unit, 32 bed mental health unit.
  - Funding appropriated in 2021 for additional community custody beds in Omaha and three new specialty units (32 beds each) in Lincoln.
- In the last five years there were 100 bed units added to the Community Corrections Center-Lincoln and the Nebraska State Penitentiary for men and a 160 bed unit for women at the Community Corrections Center-Lincoln.
- McCook and Tecumseh were the last facilities built in the late 1990s. Nebraska State Penitentiary is the oldest facility but has had many renovations and additions done in the past few decades.
- Even with additional beds, the system will remain overcrowded but only for men.
- Proposal to build a new 1500 bed prison in eastern Nebraska was funded in 2022 but the Department was not provided with the authority to expend those funds (approximately \$241 million).

**WRAPPING UP**

# 2022 Legislative Action

- LB 896 was passed to provide for a higher education research arm to conduct evaluations of the programs offered in the prisons.
- An additional \$5 million for each of the next three years was provided to the Vocational and Life Skills Program to expand reentry efforts.
- Funds were provided to NDCS for security and safety upgrades.
- Funds were provided to NDCS to fund significant salary increases.
- New prison funding appropriated but not allowed to be spent.

# Looking to the Future

- Population growth has somewhat flattened due to COVID and other reasons, waiting to see what happens in the next year or two.
- The overcrowded system will be aided by additional beds coming online in Lincoln in 2022 and the future community beds in Omaha.
- Legislature funded a classification study in 2021 that is ongoing and should be finished this year.
- Security staffing situation is better due to wages and bonuses but is it sustainable?
- Other staffing positions are still difficult to recruit and retain (such as food service, recreation, medical and mental health).
- The new evaluations of the programming will assist the Department and the Legislature in determining future needs of the Department in key program areas.
- January 2023: new Governor, new chairs of the Judiciary Committee, Appropriations Committee and Executive Board, new Speaker of the Legislature and possibly new direction for NDCS.



**QUESTIONS**

**ANSWERS**



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Reports and additional information can be found at  
[https://nebraskalegislature.gov/divisions/oig\\_ndcs.php](https://nebraskalegislature.gov/divisions/oig_ndcs.php)