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## Memorandum

To: Marshall Lux  
Scott Frakes  
LR 34 Committee Members  
From: Doug Koebernick, Office of Inspector General  
Re: TSCI Update  
Date: December 1, 2016

In the Office of Inspector General's (OIG) 2016 Annual Report, an update was provided regarding the Tecumseh State Correctional Institute (TSCI). The update discussed staffing, the changes in SMU West, the change in leadership at TSCI, programming, and the suicide that took place in the restrictive housing unit in May. The report stated that the OIG intended to submit a TSCI update to the Public Counsel, the LR 34 Committee, and the Director of the NDSC no later than December 1, 2016. I have recently visited the facility and visited with staff, inmates and the leadership team. I have also reviewed data and received input from staff and inmates via email or mail. This update will build on the previous update that was included in the OIG's 2016 Annual Report.

I should also share at this time that in the report I wrote that my office would issue a report on the LCC escapes no later than October 1, 2016. However, due to the ongoing investigation of the State Patrol and the County Attorney I was not able to meet that goal. It is unclear when a report on the escape will be completed by my office due to the ongoing investigation and criminal cases.

## **OIG DECEMBER 1, 2016 TSCI UPDATE**

### **STAFFING**

As mentioned in the report, staffing remains a significant issue. In fact, the report stated that “Staffing throughout the facility remains precarious.” At times there have been encouraging signs of changes in staffing levels but then the number of vacancies increases to past levels. While some staff recently received a \$500 bonus or will be receiving an increase in their pay, there are other staff who received neither. Anecdotally this has created a sense of some staff being seen as more important by the central office than other staff and a feeling of being underappreciated has emerged in some of the staff who did not receive either of the monetary increases.

An additional staff bonus program, the Professional Development Bonus, was initiated by the Department utilizing funding provided by the Legislature during the 2016 legislative session. In order to receive a bonus ranging from \$150 to \$250 an employee has to take a certain amount of classes. Since the program began in August only two TSCI employees have participated in the program. Overall, the program has only expended \$11,250 of the \$450,000 budgeted for it as only 65 of the over 2200 Department employees have participated in it.

TSCI has recently implemented a change to attempt to recruit more entry level staff by hiring new entry level security staff as corporals rather than correctional officers. This will allow them to pay a higher entry level wage for those employees. Hiring all correctional officers as corporals was discussed in a Department work group focused on employee recruitment on May 23, 2015. The group met several other times and the cost to implement this was mentioned in one other summary of their meetings. The estimate in those meeting minutes was approximately \$680,000 to \$700,000 to implement this across the correctional system.

Concerns about safety and coverage of various posts was shared with me during my recent visits. One example that was shared regarded security coverage in the gymnasium. In the post orders for the gymnasium corporal, it states that the gymnasium will be staffed with one custody staff and a recreation specialist during all hours of operation. According to the post order, the gymnasium corporal’s primary duty is the safety and security of the gymnasium. The duties of this corporal include conducting searches of areas in the gymnasium and of those entering the gymnasium. The gymnasium has not been staffed with a corporal for a significant length of time so these security measures are no longer being completed on a consistent basis. As a result, recreation staff are expected to do their duties and the duties of the corporal. This could include monitoring up to 64 individuals at one time. TSCI is now looking at doubling the number of individuals who can be receiving recreation at one time which means that one recreation staff member may supervise up to 128 individuals at one time. Similar concerns have been expressed in the past regarding the library and kitchen areas.

### **PROGRAMMING**

TSCI is making attempts to add more programming options for individuals at the facility. Some of these additional programs are run by groups that receive grant funds through the Vocational and Life Skills Program. A program run by the Department that is anticipated to start in January is the Violence Reduction Program. It is a core program that is sorely needed throughout the system yet only a group of 9-12 individuals can currently take the program at the Nebraska State Penitentiary and the program lasts for about one year. There are currently 47 individuals at TSCI who are officially on the waiting list for the program. It is likely that there are more individuals at TSCI in need of the program who have not yet been screened for the program or have refused the program.

Despite the commitment to additional programming options, the barrier to more programming at TSCI is the availability of staff. Efforts over the next few months will show if TSCI can move forward with these attempts to increase opportunities for individuals at the facility.

### **RESTRICTIVE HOUSING**

As outlined in the report, changes were recently made throughout the correctional system in regards to restrictive housing. TSCI holds the largest number of inmates in a restrictive housing setting as most of Special Management Unit (SMU) East and SMU West contain inmates in restrictive housing (154 of the 343 inmates in a restrictive housing setting throughout the correctional system are at TSCI). According to staff, SMU East is a “harder” side of restrictive housing. After the changes were made to SMU West in April (see the OIG report), there were discussions about how to use that side of the SMU for purposes other than traditional restrictive housing. At this time, it does not operate any differently than SMU East. However, if the number of inmates in restrictive housing would decrease there may be opportunities to use it as a restrictive housing transition unit, a mission based housing unit or another type of specialized housing.

As discussed in the report, the Mental Health Association of Nebraska started a Wellness Recovery Action Program (WRAP) in the restrictive housing unit. The first class recently graduated and a second class has now started. I attended one session of the WRAP group and recently met with three individuals who were part of the first class. I was told by all three about the value of the program and how it has changed their behaviors and thought processes. One of the individuals interviewed is currently one of two inmates in restrictive housing who has a mentor from the general population. According to staff, this particular inmate has made many positive changes since being involved in WRAP and receiving contacts with the mentor. The inmate expressed his hope that he will be placed in general population in the next month and then can start the Violence Reduction Program in January. He is a young man who has been in the correctional system for over three years after previously being in the juvenile justice system and the vast majority of his time in the adult correctional system has been spent in a restrictive housing setting.

### **UNITS 1, 2 AND 3**

To better understand TSCI it is important to know how the facility is operated. In addition to the restrictive housing units there are three housing units on the north side of the facility.

Unit 1 has become the protective custody unit for most of the correctional system (339 of the 397 inmates in the correctional system placed in protective custody reside at TSCI). One of the positives about this unit is that they provide substance abuse treatment for individuals in protective custody.

Unit 2 has maximum security inmates living there along with a senior living unit. Unit 2 provides the most challenges to the facility due to the behavior of inmates that currently reside there.

Unit 3 consists of inmates who are more likely to be medium custody inmates and who also have jobs throughout the facility. This is a much less problematic unit.

### **MEDICAL STAFFING**

The Ombudsman’s office and the TSCI leadership team both have shared that the medical staffing at TSCI has faced challenges during the past several months. Medical services at TSCI are provided by a private contractor. Over the past few months the contractor has not only had difficulties hiring nurses but is now contracting with other contractors for other medical positions at TSCI.

## **PLAN FOLLOWING CRITICAL INCIDENT REVIEW OF AN INMATE SUICIDE**

In May, an inmate committed suicide in the restrictive housing unit at TSCI. As a result a critical incident review was completed. The review (in which I participated) made numerous findings and recommendations. As a result, a corrective action plan was developed based on the findings and recommendations. The corrective action plan is comprised of 38 action items that have been reviewed and then acted upon by TSCI staff. As this corrective action plan has evolved TSCI has shared a spreadsheet with the plan and any activity taken on each of the action items to me. The spreadsheet describes the action item, who is responsible for the action item, the target completion date of each action item, and the completed date of each action item. Many of the action items have been completed or were found to already be in place. I would make two recommendations to the Department regarding the corrective action plan:

- 1) Share the corrective action plan with all of the employees at TSCI as well as the wardens at each of the other correctional facilities; and,
- 2) Reconvene the Critical Incident Review Team and present each action item to them so that can discuss whether or not the action taken actually addresses the concerns that they expressed in their report.

## **CHALLENGES**

As has been well documented, TSCI currently faces many challenges to operate in the manner in which the Department would like it to do so.

Chief among these challenges is staffing. As stated in this update and in the annual report of the OIG, staffing includes positions throughout the entire facility. When I visited TSCI earlier this week they had nine staff who had called in sick. When a facility is already significantly understaffed this only adds to their issues of security and the providing of services to their population. During that visit many employees shared how this had impacted the facility during that day. There are attempts being made to address at least some of these staffing challenges but the recently implemented hiring freeze for some positions is now starting to impact the facility as well.

Flexibility and space within the correctional system is also an issue that not only impacts TSCI but most of the other facilities. There are inmates at TSCI who would be good candidates to move to other facilities due to their programming needs or classification. However, since the system is operating at 160% of design capacity this is a barrier that impacts the appropriate movement of inmates throughout the system.

A barrier that is hard to quantify but is nonetheless real is the fact that TSCI (like nearly every other correctional facility in Nebraska) continually asks employees to do more with less. The Warden and his leadership team expressed this concern during a recent meeting. Employees freely share their concerns and experiences regarding their being asked to do more with less. The staff are working a lot of hours and many of them volunteer for additional overtime so that they can assist their fellow employees. While they do their best in many cases to work as a team and provide coverage for each other, the stress of being short staffed and being asked to do more with less continually impacts them. This then impacts the inmates and the operation of the facility.

Finally, a concern that has been expressed to me by several employees and inmates at TSCI is that despite attempts to make change take place at TSCI they do not think things have substantially changed since the riot in 2015. In fact, they talk as if they believe another disturbance could happen in the near future. They shared that if you look at the facility prior to May 2015, staff shortages

existed, inmates did not receive much in the way of programming, and there was an overall sense of unease throughout the facility. Having started as the Inspector General after the riot, I am unable to state whether or not these concerns and observations are valid but I do believe that it is important that they be shared with policy makers and the leadership of the Department.