

Third Session - Fortieth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Reg Helwer
Constituency of Brandon West

Vol. LXVI No. 6 - 2 p.m., Wednesday, August 27, 2014

ISSN 0713-9462

MANITOBA LEGISLATIVE ASSEMBLY
Fortieth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, August 27, 2014

TIME – 2 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Reg Helwer (Brandon West)

VICE-CHAIRPERSON – Mr. Matt Wiebe (Concordia)

ATTENDANCE – 11 **QUORUM** – 6

Members of the Committee present:

Hon. Messrs. Allum, Gerrard

Messrs. Dewar, Goertzen, Helwer, Jha, Marcelino, Pedersen, Schuler, Wiebe, Ms. Wight

Substitutions:

Hon. Mr. Allum for Hon. Ms. Howard

Mr. Goertzen for Mr. Friesen

APPEARING:

Mr. Norm Ricard, Acting Auditor General

WITNESSES:

Hon. Andrew Swan, Minister of Justice and Attorney General

Ms. Donna Miller, Deputy Minister of Justice

MATTERS UNDER CONSIDERATION:

Auditor General's Report—Annual Report to the Legislature, dated March 2014

Chapter 6—Managing the Province's Adult Offenders

* * *

Mr. Chairperson: Good afternoon. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider Chapter 6—Managing the Province's Adult Offenders of the Auditor General's Report—Annual Report to the Legislature, dated March 2014.

Committee Substitutions

Mr. Chairperson: Pursuant to our rule 85(2), I would like to inform that for today's meeting,

Honourable Mr. Allum will be substituting in for Honourable Ms. Howard, Mr. Goertzen will be substituting in for Mr. Friesen.

* * *

Mr. Chairperson: Are there any suggestions from the committee as to how long we should sit this afternoon?

Mr. Kelvin Goertzen (Steinbach): Two hours, Mr. Chairperson.

Mr. Chairperson: What is the will of committee? Two hours and revisit at that time? *[Agreed]*

All right, the deputy minister and the minister are at the table.

I do have some introduction. We have some new pages with us for this year under the supervision of Ms. Cara McCaskill. So we have Vanessa McKay from St. James. Can you stand up, please? Nicholas Warza from Westgate, Vida Ebadi from Kelvin High School, Joshua Wiebe from Springs Christian. So welcome, and thank you for joining us today. We hope the—now, does the acting Auditor General wish to make an opening statement, and could you introduce any staff that you have with you today, please?

Mr. Norm Ricard (Acting Auditor General): Yes, I do have an opening statement. Thank you.

With me today is Sandra Cohen and Larry Lewarton. Sandra Cohen is the assistant Auditor General responsible for directly overseeing our audit on managing the province's adult offenders, and Larry was a principal on the audit team.

Mr. Chair, the Department of Justice manages approximately 10,000 adult offenders, about 24 per cent in provincial correctional centres, and another 76 per cent are supervised in the community. Managing adult offenders is complex. It requires the department to balance the sometimes competing goals of ensuring public safety and reintegrating offenders into the community, and it is affected by financial constraints within the public sector as well as societal views on law and order issues and tolerance for risk.

Our audit examined how the department managed four key areas. These areas are adult correctional centre capacity, supervision of adult offenders in the community, planning and monitoring adult rehabilitation programs and public performance reporting. I would like to highlight several significant findings.

With respect to managing centre capacity or overcrowding, we found that while the department had increased overall capacity by 52 per cent since 2008, by May 2013 the overall occupancy rate of correctional centres remained above rated capacity, specifically at 126 per cent. Department measures to accommodate bed demand over a facility's rated capacity included double bunking in single-bunk cells and triple and quadruple bunking in double-bunk cells and adding dorm-style bunk beds in spaces previously used for recreation and treatment programs.

Overcrowding can have negative impacts, such as restricting offenders' access to rehabilitative activities, increasing the frequency of transfers between facilities, increasing security risks and more labour issues, but the department did not track and monitor the extent to which various measures were used to deal with excessive bed demand. Some impacts were tracked, such as staff overtime and the number of security incidents, but the extent of program reductions caused by overcrowding was not.

In addition, the department's system for capacity planning needed strengthening. We found that comprehensive accommodation standards were not in place, that offender population forecasts were not sufficiently detailed to enable effective planning and that there was no comprehensive long-term capital plan to address the forecasted demand for beds and the deterioration of its aging infrastructure.

With respect to supervising offenders in the community, risk assessments are used to determine supervision levels and rehabilitation plans and are mostly prepared once the offender is in the community. We found that in our sample of 60 files, risk assessments were in place for all offenders, but about a third of the 44 risk assessments prepared while offenders were in the community were not completed within the required eight weeks of the start of the community sentence. As a result, some high and very high-risk offenders were initially not properly supervised, in some cases for several months.

Mr. Chair, we found that case management plans for rehabilitating offenders were present in only 63 per cent of files examined. In addition, the plans were not always done within the required time frame of six weeks after the completion of the risk assessment and often lacked meaningful or measurable goals, specific planned interventions or time frames for achieving these.

Monitoring of offenders in the community occurs in part through face-to-face meetings and through telephone calls. The need of frequency of these meetings is set in department policy and is based on the offender's risk profile. In our sample of 60 files we found many instances where required meetings were not occurring, either because they weren't scheduled or the offender was a no-show. We also found the probation officers were not consistently monitoring offenders' compliance with the court-ordered conditions of their community sentences, such as confirming attendance at addictions or anger-management programs. Further, we found inconsistencies in how probation officers responded when offenders failed to comply with their conditions. In the files examined there was seldom any documentation of the rationales for decisions to not lay charges when conditions were breached, even though policy required consideration of charges.

Of note is that since February 2011, the department has been working on developing and implementing a formal case-management quality-assurance program. With respect to the planning and monitoring of adult rehabilitation programs, the department offers a variety of rehabilitation programs in correctional centres and community supervision offices, but we found that the availability of programs varied between correctional centres, between community offices and between centres and offices. A 2004 internal report recommended greater integration of rehabilitation activities and more centralized co-ordination, but limited progress has occurred.

We also found that the department needed to do more work to identify offender needs and to align rehabilitation programs accordingly. In addition, interagency co-ordination needed strengthening, particularly for shared, very high-risk offenders. In general, the department did not comprehensive—did not have comprehensive information on whether rehabilitation programs were achieving positive outcomes for offenders; tracking a program

offerings, enrolments, completions and outcomes, as well as recidivism rates, was limited.

And, finally, with respect to public performance information, we found that limited information was provided on the department's management of adult offenders. Of note is that the department does not report on overcrowding levels and related impacts or on rehabilitation programs and their outcomes.

Thank you.

* (14:10)

Mr. Chairperson: Thank you, Mr. Ricard.

And now, welcome to Minister Swan and Deputy Minister Ms. Miller. Do you wish to make an opening statement, and could you please introduce your staff?

Ms. Donna Miller (Deputy Minister of Justice): Yes, with me at the table is Greg Graceffo, who's associate deputy minister of Community Safety. This is a new division that we established in our department which merges corrections and policing so that we can proceed in a more integrated manner with respect to responding to issues that have been identified in this report and issues broadly respecting community safety.

I do have a few opening comments that I would like to share with the committee. Our key priority in Justice has been to improve the timeliness and the effectiveness of the criminal justice system. Supported by the work of colleagues in our Justice Innovation branch, we are focusing on increasing the speed with which criminal matters proceed through the court system. A more timely resolution of matters within the criminal justice system, we think, will improve public confidence in the justice system. It will reduce the number of accused in custody waiting for their case to be heard and it will make more time and resources available for more serious cases. Our work in this area continues and will be strengthened by a restructured and refocused department.

We are working on a small number of targeted priorities to address delays in the criminal justice system. With any number of pressures on the criminal justice system we must choose these steps wisely, determining how best to do so and then assess ongoing process—progress, excuse me. To this end we will continue to foster collaborative, intersectoral relationships to create a culture of safety within our communities and work together to provide services and interventions that prevent people from

becoming involved in crime in the first place. Unfortunately, even with multiple interventions in various service streams, many still become involved in the criminal justice system. In Manitoba, we have a daily count of about 10,000 adult offenders who fall under the care and supervision of the adult correctional system. I can advise the committee members that, as of today, today's daily count is 9,889 offenders both in correctional institutions and in the community, and we all know that the adult correctional system in this province constitutes the last stop in the criminal justice system, the last point of intervention.

Constitutionally, we're responsible for all adult offenders sentenced to prison for up to two years less a day and for those detained in custody while awaiting a court disposition. Last fiscal year our total average daily count of adult inmates, those in correctional institutions, was 2,370—that's two, three, seven, zero. In addition to providing care and services that support the well-being of inmates and maintaining order and control of correctional facilities, correctional staff deliver programs and offer services to help offenders reintegrate into society. Manitoba's adult offenders spend on average 62 days serving custodial sentences. As you can appreciate, this is a relatively short time frame for rehabilitation, challenging but not insurmountable.

We are also responsible for managing offenders in the community who are under a probation order or other community sentence. Last fiscal year the average daily adult probation and conditional sentence caseload size was just over 7,800 offenders, with approximately one half of the offenders living outside of the city of Winnipeg. Probation staff is responsible for risk assessments, case planning, focused interventions and referrals to community agencies as well as compliance management.

The Auditor General's report keenly observes—and we've heard this afternoon from Mr. Ricard—that managing adult offenders is complex. As we proceed to the deliberation of the report and the recommendations, I believe that this is an important point to keep in mind.

I'm pleased to advise the committee that implementation of all of the recommendations is well in progress. Of the 29 recommendations in the report, half deal with community corrections. Our response to these recommendations will be addressed primarily through a strengthened quality assurance framework. The enhanced framework will be guided

by the findings of three internal reviews that we have conducted and completed since the release of the Auditor General's report.

The first review includes a workload analysis. In addition to caseloads, we looked at a variety of factors that can impact the delivery of services and our ability to meet established expectations and policy requirements. The second review that we have completed involves the analysis of the quality assurance phase 2 file reviews. Each community probation office and custody centre was evaluated on its ability to meet expectations related to risk assessments, supervision standards, case planning and interventions.

The third area of our review involved a review of all probation files in the Interlake region for adherence to risk assessment timelines, contact and breach standards and documentation requirements.

Opportunities to better meet case management standards and workload requirements across the province have been identified and are being implemented, combined with a central internal review unit in our Community Safety Division that will be responsible for ongoing monitoring and regular quality assurance reviews.

We are well on our way to addressing the majority of recommendations in this report. I don't intend to speak to the remaining recommendations in detail at this time except to note that we're taking steps to find efficiencies, change past practices and, where appropriate, adopt new policies and approaches. Good work has already been done, and I'm confident more progress will be achieved.

And this concludes my opening remarks, Mr. Chair.

Mr. Chairperson: Thank you, Ms. Miller.

Now, before we get into questions, I would like to inform those who are new to this committee of the process that is undertaken with regards to outstanding questions. At the end of every meeting, the research officer reviews the Hansard for any outstanding questions that the witness commits to provide an answer, and will draft a questions-pending response document to send to the deputy minister. Upon receipt of the answers to those questions, the research officer then forwards the responses to every PAC member and to every other member recorded as attending that meeting. At the next PAC meeting, the Chair tables the responses for the record.

Therefore, I am pleased to table the responses provided by the Deputy Minister of Finance to all the questions-pending responses from the March 19th meeting, as well of the—as well as the responses provided by the Deputy Minister of Infrastructure and Transportation from the June 26th meeting. These responses were previously forwarded to all the members of this committee by the research officer.

Now, one last item, I would like to remind members that questions of an administrative nature are placed to the deputy minister and that policy questions will not be entertained and are better left for another forum. However, if there is a question that borders on policy and the minister would like to answer that question, or the deputy minister wants to defer it to the minister to respond to, then that is something that we would consider.

The floor is now open for questions.

* (14:20)

Mr. Goertzen: I want to thank the deputy minister for her opening statement and thank the office of the Auditor General for their work on this particular report. I think it was enlightening and helpful in many—and in many ways and instructive for not only the department but for all of us as MLAs on a topic that sometimes can be difficult to always understand because we don't have always a have personal connection with the justice system, fortunately, but it's an important thing. So to the see the administration of it and some of the good things and the challenges, it's just important to do that, and so I appreciate the work of the office of the Auditor General on this report and others.

Talking a bit about the correctional centre capacity for a little bit, in the report on page 248 it talks a bit about the impact, the negative impact of overcapacity that runs in some facilities at the time of the audit at 145 per cent. It identified both concerns about rehabilitation of offenders and security of offenders, and also staff, it's important to remember within these correctional facilities. It talks about the increase of serious incidences reported within—security incidences reported within our correctional centres and the significant increase that happened between 2009 and 2012.

Was the auditor's office able to look at what the nature of these serious incidences were and whether or not they were directly related in most cases or in many cases to overcrowding? It's—can that

connection be made and can they talk a little bit about what these security incidences are?

Mr. Ricard: So in—when we looked at those security events we did get a breakdown, but we didn't specifically analyze them to—in that extent of detail. We do note in the report that overcrowding may not be the only reason for the increase in the incidents.

So, unfortunately, we can't answer your question in more detail.

Mr. Goertzen: Would the deputy minister be able to provide more details in terms of what the nature of a security—a serious security incident is within the facilities and why there's been a significant increase?

Ms. Miller: Yes, Mr. Chair, I can advise the committee that there are a range of matters that may give rise to an incident report. This could include, for example, an offender having a seizure or another medical issue, to someone threatening—one offender threatening to injure another offender, to fights within the correctional centre, essentially anything that correctional officers believe are worthy of reporting. These are matters that show up as incidents—incident reports in the system.

Mr. Goertzen: Can the deputy minister indicate why there's—

Mr. Chairperson: Oh, sorry, she's not quite done here. I thought you were finished. But sorry, Ms. Miller, please continue.

Ms. Miller: One other point to make in—this is in response to the question about the population counts—the number of incidents is a reflection of the challenging nature of the population inasmuch as it is to the criteria and of the number of people being held. I would advise the committee that the serious incident summary report for calendar 2013 indicates that there were 2,262 incidents, down 11 per cent from the 2,552 incidents in the 2012 calendar year.

Mr. Goertzen: To the office of the Auditor General, they note also, I think, on page 247—so going back a page—the difficulty that overcrowding places on keeping different gang members apart, and I know that's something that's a struggle in every jurisdiction. Were they able to discern any information about the number of known gangs that are represented within our prison population and the number of known gang members that are represented in that population?

Mr. Ricard: Just a reminder that we can really only disclose information that we include in our report or

talk about information that's included in our report. So that question really would need to be directed to the department.

Mr. Goertzen: And in keeping with that response, I'll direct it to the deputy minister about the number of known gangs represented within our correctional centres and the number of known gang members represented.

Ms. Miller: Yes, I can advise the committee that insofar as gang members are concerned, the total number at the youth level is 113, which represents 47 per cent of the youth offender population in custody.

With respect to the adult offenders, the total number is 582, which represents 20 per cent of the adult offenders in correctional institutions.

Mr. Goertzen: Can the deputy minister indicate, how is that identified? Is that self-identification or are there tattoos and other sort of indicators used by staff to determine who's a gang member and which gang member—they're a member of?

* (14:30)

Ms. Miller: Yes, Mr. Chair, I'd just like to, before I respond specifically to that question, to essentially acknowledge the work, the fine work done that is done on a day-to-day basis by our community safety staff, our correctional staff in segregating gang members from other offenders in the correctional institutions.

With respect to how gang members are identified, I can advise the committee that there are criteria that are used. These are widely recognized criteria applied not just in this province but elsewhere in Canada. They consist of six points that are applied to assess whether someone is or is not a gang member. That identification can include self-identification, but that is not the only criterion that is used in determining whether or not a particular offender is a gang member.

Mr. Goertzen: In terms of the separation of those who are identified as gang members, is it—remains the policy of the department to house members of gangs together and separate from those who might be of rival gang members, is that correct?

Ms. Miller: Yes, Mr. Chair, first I would advise the committee that where a gang member is placed in a correctional centre is a dynamic process and one that involves correctional staff constantly assessing that issue.

The second point I'd like to make is that the overarching criteria relates to where offenders will be safely placed within a correctional facility, not only for that offender but also considering the safety of the general population within that correctional institution.

Our correctional institutions are based upon operational units. There are some units holding particular offenders, including gang members; there are general population units where individual gang members may exist, so there are no hard and fast rules. The overarching criterion is where that offender can be safely placed in the context of the overall safety of each correctional institution.

Mr. Goertzen: Is there a sense or a concern, particularly when you're dealing with young offenders, which represents almost half the population being identified as members of a gang when they're outside of the institution, that—what concern is placed by staff within the institution that holding gang members together often just extends the existence that they had outside of the correctional centre inside the correctional centre and that they sort of were with their gang members prior to being incarcerated and they continue that association within the gang—or within the correctional centre? What concern is there that life inside of our jails is just an extension of life outside?

Ms. Miller: We appreciate the question from the member. As the committee recognizes, the scope of the Auditor General report pertains to adult offenders. I can advise the committee that within the correctional system we do treat youth offenders quite separately and differently from how we treat adult offenders, with quite distinctive programming.

Mr. Goertzen: More specifically to the question, then, what concern is there within the adult population that those who are known gang members are just extending their association within the prison system that they came into from outside the prison system, that life inside the prison is just an extension of life outside the prison?

* (14:40)

Ms. Miller: I would advise the committee that the issue of gang membership in the context of correctional institutions is essentially a balancing test.

Our overarching concern is operationally ensuring that our correctional institutions are safe to live and to work in. We work very hard to curtail the

influence of gangs and gang memberships within correctional institutions.

I can advise the committee that we had a devastating disturbance back in 1996 pertaining to the Headingley Correctional Centre, as a result of which correctional staff and the Department of Justice engaged and ultimately reached a series of decisions. We moved to a unit-based approach in our correctional system and our overarching concern, as I expressed at the outset of my response, is to secure safe facilities both for the offender population and for those who work in correctional centres.

Mr. Goertzen: In the report on page 248 the Auditor General references a US Supreme Court decision that resulted in an order to reduce the prison population because of what was considered to be essentially inhumane housing practices within the state of California, but indicates that it's unlikely that a Supreme Court decision in Canada would find the same thing, presumably based on our differing constitution.

What was the basis for that assurance that the Auditor General's office was given that our Supreme Court would be unlikely to find a similar type of a ruling that would indicate that we need to depopulate or ensure that there is more adequate housing of offenders?

Mr. Ricard: That comment is—really, we are relaying, if you will, the department perspective. So we say, however, department officials noted that. So again, it's a question that I think would be better forwarded to the department.

Mr. Goertzen: To the deputy minister, what is the basis of the assurance that a similar type of ruling would be unlikely in the Canadian context as it was in the American context?

Ms. Miller: The department's position on the inapplicability of the American analogy is based on several points. The first point is that in the United States states have jurisdiction over criminal law and each state has its own criminal code. State penitentiaries, therefore, in the American context are more analogous to federal corrections in Canada, particularly with respect to sentence length. A more apt comparison, if it were to be made, is to the American county correctional system which holds remand prisoners and sentence offenders serving one year or less.

The second point of distinction between our province and Canada, as compared to the American

context, is that the American courts have a history of being actively engaged in regulating the operation of state penitentiaries. There is no such parallel with provincial superior court reviews over the operation of correctional facilities in Canada.

So, it was for those two fundamental reasons that we grounded our opinion that the reference to the American Supreme Court case law was inapplicable to our particular context here.

Mr. Goertzen: I thank the deputy minister for that response.

Within—contained within the Auditor General's report is an estimation of a shortfall for corrections based on projections that the Auditor General had at the time, indicating that by 2019-2020 there'd be a shortfall within our corrections system of 2,744 beds, I believe, resulting in capital cost of \$600 million, not to mention the operational cost was identified within the report as well.

Can the deputy minister provide an update whether or not that is still the current projected shortfall and the current projected capital cost to meet that shortfall?

Ms. Miller: Yes, the approach of—that the department has taken to address long-term needs in the correctional system involve a series of initiatives.

First, our approach is based upon a strategic plan to better predict future needs for offenders. And, secondly, the most significant piece relates to our efforts to reduce future demand for bed space. This involves some of the comments that I made in my introductory statement. Namely, it involves initiatives to reduce the time to trial and speed up resolution of criminal cases, which has been one of the key priorities in our department. Supported by the work of our Justice Innovation branch, we are developing, or we have undertaken, a number of projects aimed at improving the criminal justice system. And I could go into some of the details relating to those initiatives if the committee is interested in hearing of those. Suffice it to say is that one of the overarching objectives of these initiatives is to reduce the demand for further bed count in our custodial correctional centres.

Mr. Goertzen: I'll restate the question for the deputy minister. It indicates in the report at page 256, that there is a projected shortfall of 2,744 beds in our correctional system by 2019-2020. The Auditor General indicates that based on a per-bed cost of

\$220,000, there would be a requirement for a \$600-million capital outlay to fill that shortfall.

Can the deputy minister indicate whether or not that is still the projected shortfall by 2019-2020 and whether or not that is still the projected capital outlay to meet that shortfall?

* (14:50)

Ms. Miller: Yes, I can advise the committee that our counts within correctional institutions have stabilized, and specifically in the context of the past 12 months our numbers have stabilized in a band between 2,350 offenders and 2,450 offenders.

I can also advise that our adult populations were predicted to grow between a low of 5 per cent and a high of 9 per cent. Adult custody counts were predicted to reach between 2,434 and 2,642 by 2013-14. The average adult custody count was 2,370 with the highest count occurring in September 2013 at 2,502. The actual average count was just 2.6 per cent below the projection.

As noted in the report, we intend to revise the 200–2012 projections due to counts remaining relatively constant at approximately, as I mentioned, 2,400 offenders for the past year. We have not yet made revisions to those projections because, as recommended in the Auditor General report, we have contacted the Manitoba Bureau of Statistics to see if it can help us in improving our forecasting accuracy.

Mr. Chairperson: Mr. Goertzen—oh, sorry.

Ms. Miller: To date—

Mr. Chairperson: Sorry, Ms. Miller. Can you please continue?

Ms. Miller: Just to close with one comment relating to statistics, to date, counts in 2014-15 have averaged 2,369 offenders and have ranged from 2,268 offenders to 2,441 offenders.

Mr. Goertzen: Does the deputy minister have an indication of when updated projections will be provided through her consultation with the Manitoba Bureau of Statistics?

Ms. Miller: I can advise the committee, Mr. Chair, that we have sent information to the Manitoba Bureau of Statistics. We've given them information on methodology and statistical information and we're waiting to hear back from the Manitoba bureau as to their response to the information we have provided.

Mr. Goertzen: Contained within the report is an indication that in 2010 Treasury Board received a request for approval of a 750-bed facility—correctional facility which was not approved.

Can the deputy minister give more details in terms of that request, whether it was for adults, for males, whether it was—had any particular special functions, and why the request was not approved?

Ms. Miller: The first point in response to the question is to say that it is my understanding that the request involved 750 beds, not a request involving a 750-bed facility.

I can also advise the committee that the government, in reviewing that request, felt it necessary to look at broader systemic factors in assessing this particular request. As a result of that broader review, initiatives such as the justice innovation project which I referred to in my opening remarks was established. And some of the measures that the department is taking to curtail the demand upon additional bed space have been either implemented or are in the process of being implemented.

Mr. Goertzen: So was the—the request was not withdrawn by Justice, it was ultimately denied by Treasury Board. Is that correct?

* (15:00)

Ms. Miller: Yes, Mr. Chair. I can advise the committee that the response of government to the Treasury Board request was to create the Capacity Review Committee to take a broader look at the issues driving demand for bed space. That Capacity Review Committee consulted broadly. The result was, as I mentioned in response to an earlier question, a broader systemic response by government to these issues. That broader response engaged a number of initiatives. I've mentioned the Justice Innovation branch. Other initiatives included the creation of a mental health court, the Winnipeg Drug Treatment Court, closer collaboration between our Community Safety Division and the police, for example, in initiatives such as Block by Block. These serve as examples of the broader systemic approach which was the response of the government at that time, and continued.

Mr. Goertzen: The Auditor General's report speaks to the Dauphin Correctional Centre and the potential difference in how it was—determined its location from the Women's Correctional Centre, which was originally located in Portage and was relocated to

Headingley for reasons of staffing and closeness and proximity, I think, to Winnipeg. Can the department speak to how the location for the new Dauphin Correctional Centre was determined? Was there any sort of call for proposals in terms of different locations, or was the determination made within the department that it would be—continue to be located within Dauphin?

Ms. Miller: I can advise the committee that the location of the Dauphin Correctional Centre was in part based upon the department's response to the capacity review report.

The first recommendation of the Capacity Review Committee in their report was that the Dauphin Correctional Centre should be replaced. The department interpreted that to mean that that correctional centre should be replaced in Dauphin, so that was certainly one of the factors that impacted our decision.

Mr. Goertzen: Just for clarity, there was an indication that the centre should be replaced, and the department indicated or believed that that meant that it should be replaced within Dauphin. Would it—how did that just—how is that distinguished from what happened with the Women's Correctional Centre? I'm assuming there was a recommendation that that should also be replaced, and yet they went through a further analysis in terms of the location.

Ms. Miller: Yes, I can advise the committee that, in the context of the Women's Correctional Centre, that many of the female offenders within the Women's Correctional Centre and—are actually—prior to their incarceration they came from the city of Winnipeg. The other factor that was considered was that many of the employees who would be working in—or for this correctional centre are located in the city of Winnipeg and it is the only facility of its type housing female offenders in this province.

Mr. Blaine Pedersen (Midland): In terms of the Dauphin corrections facility then, the Auditor General made the submission that there was—selection criteria was not used in deciding to rebuild the Dauphin Correctional Centre in Dauphin. I haven't heard from you that there was any selection criteria used, just simply deciding to go ahead with it.

So what is the current—where does the current facility, the new facility stand? Is—has it been started? Are there contracts out for its building or where is it in terms of being built?

Ms. Miller: I can advise the committee that the Dauphin Correctional Centre planning has recently started, but is in the preliminary stage. A consulting firm has been engaged to begin the functional programming process of the design. There have been meetings involving corrections management along with our colleagues in MIT which occurred in June and earlier this month, and this consulting firm will be returning in September for consultations with the community and other partners. And we are also in the process of being engaged in the planning for the staffing of the superintendent for that facility.

Mr. Pedersen: So is there a projected date for this project to begin? Is there a projected date for this facility to be in use?

* (15:10)

Ms. Miller: I can advise the committee that effectively the process for the building of the new Dauphin Correctional Centre has begun. Of course, the Department of Justice does not build these facilities ourselves, and we rely upon the good work of our colleagues in the department of MIT to manage that part of the process, and so that is the scope of my response.

Mr. Pedersen: So the Department of Justice has no idea when this new facility is scheduled to come on stream, to be done? Doesn't that affect your planning if you don't know when the new building is going to come on?

Ms. Miller: I can advise the committee that the building of the new Dauphin Correctional Centre involves a series of stages. We mentioned a moment ago about the design of—the beginning of the design process, so that is one stage. This is followed by the construction stage, followed by the commissioning stage, followed by the training stage and then, ultimately, by the staffing stages. Each of these steps needs to be completed before the next step is engaged.

At this point of the process, we believe it would be premature to advise the committee as to what the time frame would be. Ultimately, for example, we have yet to see a design of the centre. That will obviously impact the scope of the construction involved and so forth. We're still early in the process is essentially the message I'm trying to relay to the committee. Thank you.

Mr. Ron Schuler (St. Paul): To the deputy minister, are there any provisions or special arrangements

made for transgendered and LGBTQ inmates, and what are those arrangements?

Ms. Miller: I can advise the committee that, in the context of transgendered inmates, that we seek to reasonably accommodate transgendered inmates. We look first to safety considerations, secondly to level of comfort of that particular offender, and make accommodation where that is possible.

With respect to our gay and lesbian inmate population, these offenders are held in our general population units.

Mr. Goertzen: There was mention made within the Auditor General's report about a difficulty classifying special needs with inmates, in particular, the issue around mental health, which I know is an important issue for all members of this committee and others have asked about it in greater detail. I know that the department purchases the medication required for those who are incarceration within our system who are dealing with mental health issues. Based on those statistics alone, what kind of indication can the department give us, how many of those who are in incarceration are dealing with mental health issues that require medication bought through the department?

Ms. Miller: I can advise the committee that the department does not track the costs of prescription drugs to individual offenders in an aggregate way. I can further advise the committee that, by way of background, upon admission to a correctional facility all inmates undergo an assessment by a medical nurse. When a mental health issue is identified, the inmate will be referred for treatment to an institutional psychologist or a psychiatrist. I can also advise the committee that from 2007-2008 to fiscal year 2013 and '14, the corrections division increased its contracted services for psychological and psychiatric services by 166 per cent.

* (15:20)

Mr. Goertzen: But the department is paying for medication that must be assigned specifically to prescriptions to individuals within the facility. So what information can the department provide in terms of the amount of money annually that they pay for medication for mental health reasons? And is there no way to determine how many individual prescriptions are being filled, because they must be attached to individuals—I'm assuming that they're attached to individuals—and is this not information

that is available or that the department simply is not choosing to track?

Ms. Miller: I can advise the committee that the department could advise the committee on our costs related to the total pharmaceutical costs that are allocated, that are identified for our offender population. To identify the specific costs pertaining to mental health issues would require us to conduct a manual review of each offender file to assess whether it fell in with respect to prescription costs pertaining to mental health issues and then for us, from there, to manually aggregate those costs.

Mr. Chairperson: Mr. Goertzen.

Ms. Miller: I—sorry.

Mr. Chairperson: Oh, sorry. Ms. Miller, please continue.

Ms. Miller: Just to clarify one point, Mr. Chair, which is to say we do not have the overall pharmaceutical costs that the department spends, but we could certainly undertake to provide that to the committee at some later date.

Mr. Goertzen: And I'll look forward to that response.

Would the department not find it, you know, valuable information to know, as part of their offender profiles, how many individuals within our jail system, correctional system, are dealing with mental health issues and the type of mental health challenges they're facing? Would that not be instructive for the department in terms of programming, rehabilitation? Is that not critical information that would be worth determining?

Ms. Miller: What I can advise the committee is that we do, as I mentioned a moment ago, when a—when inmates are admitted into our correctional facilities all inmates undergo an assessment and that includes a mental health assessment that might arise in the context of that original assessment. As a result of that assessment that is made upon admission, we do develop an overall profile of our offender community from which we respond with interventions including issues such as housing, ultimately, that reflects that profile of our offender community including those that may have mental health issues.

So while we cannot provide specific information with respect to prescription drugs and the cost of those drugs, apropos our offenders with mental health issues, we do have information with respect to

that profile based upon that initial admission and assessment that is done for each offender.

Mr. Goertzen: A follow-up question, I'll ask the deputy minister whether or not she can provide, then, that profile information in an aggregate form in terms of the information the department has of offenders who are dealing with mental health issues. If she could provide that to the recording officer who will then distribute it to committee at a future time.

Ms. Miller: If we could ask, Mr. Chair, for some clarification of what is being requested. That would be helpful for us. Thank you.

Mr. Goertzen: I understood the minister—or the deputy minister to say that upon intake there is an assessment done of the mental health issues that individuals may—might be dealing with, and that—from that there's a profile provided and that there is more aggregate profile of the inmate population and their—what they deal with in terms of mental health issues.

And so we're looking for an aggregate profile of the inmate population, how many individuals may be dealing with mental health issues, those types of challenges, to the extent that that is broken down as well.

*(15:30)

Ms. Miller: Yes, I can advise the committee that the department will certainly look into the information that we can provide that is responsive to the member's question.

Ms. Melanie Wight (Burrows): Yes, I've noticed a couple of things in here that we're hopefully trying that are going to improve things, like the justice innovation, the Thompson video project—I don't know what that is. I'd like to know kind of what it is and then, like, how long do you have to assess it to determine whether or not, you know, it's of value and then we can expand it to something larger, because it seems to me Thompson's probably, I assume, quite small, all right? So is there a length of time in mind where people go, okay, we have to watch this program for, I don't know, a year, two years, whatever it is, before we can determine, yes, we think it's of value enough to expand it?

And what specifically is it, the Thompson—and I have the same kind of idea about the Block by Block, because I know there's a lot of people actually quite excited about the Block by Block program, and I've already been asked if it couldn't be expanded into,

you know, my area, for example, but also many other areas.

Ms. Miller: It may be helpful to provide some background information on the video conferencing initiative that was launched—would be now well over a year, and to speak to the expansion of that conferencing project elsewhere in the province.

So the implementation of the installation of new video equipment at the Thompson Provincial Court occurred along with the installation of new video equipment at Agassiz Youth Centre in Portage as well as upgrades to the video equipment at The Pas Correctional Centre. At all of these three centres, we looked at implementation back in early 2013. The video conferencing that was installed in these three areas was not just—did not just involve the installation of video conferencing, it also involved other measures to support the video conferencing.

So to maximize the effectiveness of that equipment, for example, a custody co-ordinators docket was introduced in the Thompson Provincial Court, and this ensured that an in-custody accused would be transported for an in-person appearance in court only for an occurrence that was determined to be significant. And the guidelines relating to whether an appearance would be significant were established by the department in conjunction with the judiciary of the Provincial Court, and the result of that has meant that appearances now only exist in the Thompson Provincial Court where an accused wishes to enter a guilty plea if the sentence is likely to be more than two years in addition to the time the accused has already been in custody or for a preliminary hearing or for a trial or as ordered by a judge upon application.

Six months after the video expansion initiative occurred in Thompson, we did an evaluation in which—the results of that evaluation showed that the overall number of accused appearing by video had increased as a result of these measures by 90 per cent, that the daily average of court time used had increased by 1.21 hours and that events occurring in court were meaningful as a result of effective case management with use—with the use of the custody co-ordinators docket. In addition, the following court and transportation outcomes were recorded.

In terms of court outcomes, I can advise the committee that there was an 8 per cent increase in the number of dispositions, a 6 per cent increase in the number of bails granted and a 45 per cent

decrease in the number of matters remanded before disposition.

In the context of transportation, we saw reductions in van transportation. We saw reductions in late van transports and we saw reductions in airplane transports.

Building on the success of that Thompson project, a multi-year project is under way to make video court available throughout Manitoba for court appearances. Video conferencing will connect every correctional centre, with the exception of the current Dauphin Correctional Centre, with every courthouse in the province, and a team representing all stakeholder groups is working on the policy and process issues.

I can advise the committee that the first phase of the project will increase the availability of in-custody disposition courts in Winnipeg. Three additional courts in the new Law Courts Building will be equipped with video conferencing equipment and two court ends will be added at the Headingley Correctional Centre.

The overall goal is to reduce the need to transport accused from jail to the courthouse, significantly increase the Provincial Court's capacity to deal with matters where the accused is in custody and reduce the time to disposition. And it's the last point in particular, reducing the time to disposition, that's a significant aspect of the Thompson video conferencing initiative—[interjection]—and then Block by Block. Thank you.

In terms of Block by Block, let me say a few things, and I'm—of course, my colleague, Greg Graceffo, who is sitting next to me, is a core part of the work of the Block by Block working with community members and other public servants and ministers. So Block by Block is an innovative, collaborative approach to improving community safety and social outcomes for families. It's about unlocking agency, community and family capacity. Working together, service providers and community agencies will find creative solutions in order to solve problems for people in need before they become crises. The project will identify and address barriers that prevent people from connecting with the services they need.

The Block by Block project was launched in November 2013. It is being piloted in a 21-block area within the boundaries of Burrows Avenue to the north, Salter Street to the east, Dufferin Avenue to

the south and McGregor Street to the west. This community which is rich in community activism also has high rates of crime and victimization. The Block by Block is a \$600,000 three-year pilot project and it will work in two main ways: first, by offering co-ordinated services and supports from existing agencies to people in crisis and, secondly, by identifying where policies and programs need to change to reduce barriers to service.

In terms of progress, much of the on-the-ground work is being led by a central hub where government, police, schools and community agencies come together to identify situations where individuals and families are at an acutely elevated risk of harm and who need services from more than one organization. A customized plan will be developed based upon individual and family needs to connect them with integrated services—that's a key—and help them make a change for the better with the broader goal of addressing issues like victimization and crime.

The goal of Block by Block is not to create a new agency, but to enhance collaboration amongst existing agencies, amongst government, community-based agencies, health services, police and schools. The knowledge gained will be used to make changes to existing policies and services to better serve all Manitobans. The project will also be evaluated to determine if it should expand to other areas in Manitoba.

* (15:40)

Ms. Heather Leeman has been appointed as the executive director of this project. Ms. Leeman has had many years of experience working with communities, most recently with the North End Women's Centre. And there are no results to report at this stage of the development.

Mr. Chairperson: Ms. Wight, is there a follow-up?

Ms. Wight: Just a follow-up to that—

Mr. Chairperson: Just—I'm looking for something very brief here because we're—

Ms. Wight: There—so then—

Mr. Chairperson: Some of this can be covered in Estimates.

Ms. Wight: —for sure nothing will expand for three years, right? We—you're going to wait for the end of the pilot before we could see expansion, but—am I okay?

Mr. Chairperson: Is there a response, Ms. Miller?

Ms. Miller: I can advise the committee that the government is looking at the Block by Block initiative as part of proof of concept. There may be decisions to roll out the concept in less than the time frame that I had mentioned a moment ago.

Mr. Chairperson: Thank you.

Hon. Jon Gerrard (River Heights): On page 251 of the report, Manitoba has very high numbers of adult offenders who are still in remand status. At this—2010-2011, it was 64 per cent. That's essentially double the number in Saskatchewan, New Brunswick and Newfoundland. I wonder if you could tell us what the current number is, what the current percentage is and why this number is so high compared with Saskatchewan, New Brunswick and Newfoundland.

Ms. Miller: Yes, thank you very much for that question.

I can advise the committee that the comparators that are identified in the report relating to remand numbers to some degree are not completely analogous to the Manitoba situation. For example, in Saskatchewan there are police lockups and there are no admissions over weekends in Saskatchewan so that the numbers that are contained in the OAG report, at least with respect to Manitoba's comparison to Saskatchewan's numbers, are not completely analogous.

I would also advise the committee that it is, I think, well known that the government established the Warrant Enforcement Unit at the result of which has had an impact on the number of admissions that we have in our correctional centres.

Finally, I would point to a number of initiatives that the department has taken and continues to take to try to manage and reduce the demand on bed space in correctional centres. This includes initiatives such as Block by Block which I mentioned a moment ago, video conferencing which we described a moment ago and other steps that our colleagues are—in the Justice Innovation branch—are creating in consultation with the senior management of the department.

Mr. Gerrard: I had asked—that number of 64 per cent was from three years ago. Do you have a current number?

Ms. Miller: I apologize for that, for not including that in my earlier response.

So looking at today's count, I can advise the committee that of the in-house population for adult offenders the total count is 2,390, of which those remanded, the figure is 1,583. The result is that 66 per cent of adult offenders in correctional centres are currently on remand status as of this morning.

Mr. Gerrard: On page 278—on 279 there's a discussion of recidivism, and there's a description for a table, figure 12, which shows that the current method has numbers which are much lower than the previous method. And there's not enough detail for me to figure out exactly why there's a difference between these two methods and what accounts for the lower recidivism rates with the current method compared to the previous method.

* (15:50)

Ms. Miller: There is no national standard in defining recidivism across Canada. However, in Manitoba, as is the case with respect to the Government of Canada, we calculate recidivism as occurring when a person is convicted, not just charged, but convicted of a new offence and has returned to provincial custody within two years of release from jail or other correctional supervision.

We gather recidivism data quarterly, which means that our method of calculation counts the number of people whose sentences expired two years earlier and who were reconvicted in the three-month time period we're looking at.

I can advise the committee that based on our latest statistics for the quarter ending June of 2014, the recidivism rate is: for adult probation, 16 per cent; for adult conditional sentences, 15 per cent; for adult provincial custody, 30 per cent. Manitoba's recidivism rates have remained fairly constant, with only small fluctuations from one reporting period to the next. For example, the quarterly statistics for the same period in 2010 were 14 per cent for adult probation, 12 per cent for adult conditional sentences and 31 per cent for adult provincial custody.

Mr. Gerrard: You know, if somebody comes before the court and there's a plea bargain and the offender admits guilt but may not necessarily have a criminal conviction, how is that counted in terms of the recidivism?

Ms. Miller: In the context of the facts as described by the member, the particular accused is pleading guilty, a conviction would stand and would be ordered by the court. And that therefore would

become part and a measurement that we would consider relevant in assessing recidivism for that particular person.

Mr. Gerrard: Yes, page 288, the department is said to be considering the recommendation to centralize rehabilitation programs. We're now a number of months later on, what's the status of that consideration, has there been a decision made, or?

Ms. Miller: I can advise the committee that the department totally accepts the recommendation advanced by the Auditor General in the context of centrally directing its rehabilitation programming. The department has commenced the restructuring of the corrections branch of our Community Safety Division, and that restructuring will involve the enhancement of the central oversight of programming as part of divisional restructuring and it will also result in the centralized control of programming.

Mr. Gerrard: Page 261, the report indicates that probation officers are now required to lay charges whenever there's a situation where the offender doesn't make initial contact within the court-ordered time frame. Is that true in all cases without exception?

Ms. Miller: Yes, I can advise the committee that the policy today is that offenders released to the community have a court-ordered time frame varying from two to 10 days to make initial contact with Probation Services. That is, obviously, a window and a window for this contact to be made. And the ordinary result, if that conduct doesn't occur—if that action doesn't occur, is that that particular offender would be breached and breach charges would be laid against that offender.

Mr. Gerrard: That's my questions.

Mr. Goertzen: A question related to the issue of drug testing for those who are on probation, there was mention made that there were potential legislative changes happening federally that would deal with the 2006 Supreme Court ruling that would allow for drug testing for those who are on probation. Although not much was done prior to the 2006 Supreme Court ruling, can the department update the status of that and their potential interest in doing drug testing for those who are on probation and who have court orders to remain away from and off the drugs?

Mr. Chairperson: As we are approaching the hour we agreed to adjourn, what is the will of committee?

* (16:00)

Mr. Goertzen: Well, I think we should—there were some lengthy responses to questions. We could extend sitting to at least quarter after to deal with a couple of outstanding issues related to one topic.

Mr. Chairperson: 'Til 4:15? Is that—committee agreed? *[Agreed]*

Ms. Miller: I can advise the committee that the member refer—has referred to the decision of the Supreme Court, *R v. Shoker*, which—by which the court found that the taking of samples to ensure compliance with conditions was unconstitutional.

I can also advise the committee that the federal government has responded to the *Shoker* decision through the tabling of Bill 30, which will allow samples to be taken but only by way of court order. That legislation has not yet been passed in Parliament, as a result of which there is no capacity—legal capacity today to take such samples. We are awaiting the passage of that legislation by the Government of Canada.

Mr. Goertzen: I understand prior to the Supreme Court decision, there wasn't an awful lot of sampling being done—drug sampling being done of offenders. I think the report cites an average of five offenders per month.

Is it the expectation that once the legislation is passed, and with a court order, those drug samples will be available to be taken from those who have particular limitations, or limitations placed upon them? Is it the department's perspective that they will be applying for court orders for the drug samples for those on probation?

Ms. Miller: I can advise the committee that deputy ministers of Justice and public safety have entertained discussions around the detailed implementation of Bill 30 and its implications, assuming that that bill, of course, will pass. And that Manitoba, as is the case with all jurisdictions across Canada, we're in the process of assessing the implications of that legislation for our programming in the corrections field.

That is the extent to which I think I can respond to the member's question.

Mr. Goertzen: The report indicated that there's some gaps obviously in the monitoring of offenders that are within the community, and particularly there's a number of things that were cited but limited to time. One of the things that was cited was the

difficulty in doing curfew checks by phone—which is a practice, I think, the department has been doing for probably half a decade now—because many offenders don't have land lines. And unless they're court ordered, they don't have to have land lines; it was difficult to do those checks.

What steps have been taken since the report to ensure that that particular gap is closed?

Ms. Miller: I can advise the committee that curfew monitoring may be accomplished through a variety of means, including: if a land line is available the automated curfew system may be used; if no phone is available a police agency may conduct a random curfew check; probation officers or community corrections workers may also monitor or confirm compliance during contacts with the offender and via collateral contacts.

I can also advise the committee that a review of curfew monitoring technology is currently in the initial stages and is being completed by our divisional staff.

Mr. Goertzen: Among the findings of the report were that some 34 per cent of risk assessments were late for adult offenders going into the community or being placed in supervision in the community which resulted in many offenders having a lower supervision rate than their actual classification should have indicated had those assessments been done on time.

Has the department looked and assessed to whether or not any of the individuals who were on a lower supervision status than they should have been because of the late assessment committed any offences during the time that they were on a lower status?

Ms. Miller: I can advise the committee that that is certainly a concern of the department. We have not done that assessment that the member—that was a subject of the member's question.

I can also advise the committee that the department has worked very, very hard to ensure that we're working from an enhanced quality assurance framework. And that involved, as I mentioned very briefly in my opening comments, three internal reviews that we completed since the release of the OAG report including a workload analysis, identifying opportunities to leverage and realign existing resources including a quality assurance phase 2 review with plans to strengthen key areas identified in the review and, as well, a review of all

probation files in the Interlake region, 651 files in total.

*(16:10)

So with that—with those reviews in hand, significant work has been done and is well under way towards addressing the recommendations in the OAG report, particularly relating to adult offenders in the community.

Mr. Goertzen: Will the department be changing how it reports recidivism, in particular going over a longer period of time than two years from the time an individual's released, to ensure that it captures the fact that we do have a slow court system and that individuals, who might very well be charged within those two years, time out because they don't get through the court system in time and that are not captured as a recidivist, even though they've been charged within those two years? Will the department be looking at the recommendation that a longer period of time on recidivism be considered and published?

Ms. Miller: I can advise the committee that the department is confident that the current approach that we take for measuring recidivism is currently certainly the right approach. We're fortified in that answer in our approach by the fact that the Government of Canada also identifies this as the correct measurement for recidivism. Having said that, the department is always open to looking at best practices from other jurisdictions and making any changes that we believe best reflect the levels of recidivism within our correctional system.

I think ultimately the core of the answer, in response to the member's question, relates to the initiatives that the department is undertaking pertaining to our velocity initiatives, many of which we've identified this afternoon, all of which collectively support our priority to see that justice is not only resulting in the right response but is also doing so in a timely way. We view that as an integral part of how we need to respond to justice reform in our department.

Mr. Goertzen: The Auditor General's office—are they planning to do a follow-up to this report to see if the recommendations have been put in place, and when would they expect that follow-up to take place?

Mr. Ricard: Yes, follow-up certainly will be scheduled. It typically occurs the year after we issue the report, so we issued this one in March 2014, so in June 2000—status as at June 2015.

Mr. Chairperson: Seeing no further questions at this date, does the committee agree that we have completed consideration of Chapter 6—Managing the Province's Adult Offenders, of the Auditor General's Report—Annual Report to the Legislature—dated March 2014?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Chairperson: Hearing a no, it is—we have not completed consideration.

Thank you to the committee and Vice-Chair. Thank you to the minister and deputy minister and staff for being with us, spending some time with us today, the Auditor General and staff and to the Clerk, researcher, Hansard staff and Chamber staff and, of course, to the pages. And welcome to the new pages for joining us today.

This concludes the business before us. The hour being 4:15, what is the will of committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise. Thank you.

Before we rise, it would be appreciated if members would leave behind any unused copies of the report so it may be collected and reused at the next meeting. Thank you.

Committee rise.

COMMITTEE ROSE AT: 4:15 p.m.

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