

Law & Justice
Committee
Hearing Transcripts

Senate Law and Justice Committee

February 22, 2016

Senate Hearing Room 4

SEN. PADDEN: We can call the meeting of the Senate Law and Justice Committee to order for Monday, February 22, 2016. Our meeting today concerns the Senate's investigation into the Department of Corrections' early release of somewhere around 3,200 -- maybe a little less than that -- prisoners before they should have been released. So the chair has a brief opening statement, and then we will go ahead.

The press has reported, and our investigators have confirmed, that for many years the software used by the Department of Corrections in a system called OMNI and before that OBTS, erroneously calculated the length of sentences in certain situations. As a result, approximately 3,000 criminals were released into the community before they had served their complete sentences. During the time they should have been in prison, some were arrested and charged with serious crimes, including vehicular homicide, first-degree murder, felony domestic violence, drug manufacturing – methamphetamines, unlawful use of a firearm, theft of a firearm, first-degree robbery, first-degree assault, first-degree burglary and attempt to elude police. The error involved the implementation of the 2002 Washington State Supreme Court decision in re: King, dealing with the application of so-called good time. DOC received actual notice of the error from Mr. Mirante, who will be here today, in late 2012. But it was not fixed until January of this year.

In today's hearing, the first of a number, we particularly want to explore the following: why the King error was not found and acted upon until 2012, why it took over three years to fix it once it was discovered, and why sentences were not calculated manually and correctly when the software was suffering from a known error. Our witnesses today are Mr. Matthew Mirante, Sr., who raised the issue in 2012 with the Department of Corrections, Assistant Attorney General Ronda Larson, who provided legal advice on the issue, Ms. Wendy Stigall, the records program administrator at the Department of Corrections who requested a change in the OMNI software to correct the sentencing calculations, and Ms. Sue Schuler, the business analyst in the IT department to whom the change request was assigned.

I want to personally thank all the witnesses who are here today. They are here voluntarily and not by the use of subpoenas, so we thank them very much for coming voluntarily. We appreciate the candor and cooperation they've given our investigators. And all of them have been described as dedicated state employees who have worked long hours for the citizens of our state for many years. I also want to compliment many of the front-line DOC workers who have contacted the committee through the FixDOC.org website.

It is not our purpose today to embarrass any of you who may have made oversights or good-faith errors of judgment. We recognize the best intentioned and most dedicated among us all make mistakes. It is critical that we all understand what happened and we understand what factors and circumstances may

have contributed to the debacle that resulted in the early release of more than 3,000 criminals. So I would like to invite Mr. Mirante -- come up to the witness stand first. If you could remand standing, please? If you could just move over Mr. Mirante, right behind you. Could you stay standing and raise your right hand? Do you solemnly swear the testimony you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. MIRANTE: I do.

SEN. PADDEN: Please be seated. Mr. Mirante, could you just state your name for the record?

MR. MIRANTE: My name is Matthew John Mirante.

SEN. PADDEN: And you're from Kent, Washington, is that correct?

MR. MIRANTE: Yes, sir.

SEN. PADDEN: Could you please tell the committee a little bit about yourself and how you discovered this sentencing error?

MR. MIRANTE: Well I'm a father of three and I work for the Boeing Co, drive [a] truck. I've been there for 20 years. My son was involved in a traumatic situation in 2016 [sic], where he had got stabbed numerous times. And the individual that was sentenced, they were going to let him out early. And so when I got a letter in the mail from the DOC -- I think it was in December -- I looked at it and I knew how many days, because I followed it from day one, until -- everywhere he went. So at that particular time they told me he was going to get out, I believe, in February -- I don't know the exact date -- but the calculations from them telling me that and what I had on paper, and I did it all by myself by hand -- was about 45 days early, O.K.?

So at that particular time I did make a phone call, and I said you guys need to check, because this is what I have. And you guys might want to check your computers, or however you do it. And I said maybe you would like to do a hand calculated job like I did, and see where the mistake was made, because he is not supposed to get out at the time you say. And I wanted him there, obviously, every day he was supposed to be there, because it wasn't long enough for me anyway. So at that particular time -- I got a call back the next day -- actually, I think was the next morning -- I can't remember who it was. And they said, you know what? We are going to do that for you, we are going to give you an answer within a day or so. And I said well, what about the rest of the people? And at that time I got a statement, they said, I'm not really worried about them right now, I'm worried about your situation.

So at that time I waited, and I got a phone call back about two days later, and they said, you know, you are right, he's not going to get out until, you know, March -- whatever it was, I don't know -- I don't remember the exact date. But the bottom line is it was exact, the day I said and the day they calculated after they did it by hand. It was right. So obviously the computer had made an error. And at that point I was just was happy he was going to be there the whole time that he was supposed to be there.

SEN. PADDEN: All right. So the date you had and the date they calculated by the hand were the same dates?

MR. MIRANTE: Same dates. Which was good, you know, because like you said, there was a mistake, and you know what? I'm glad I followed from the day he was sentenced in King County, the day he left there to the day they sent him away to all those places. I followed him every day, from the day he went there, all the days he was there. And then all the way until he went to the minimum-security place he was at, Cedar Creek. And then that's when I got the letter saying he was going to get out, and I followed him every day, and so that's kind of how I – a lot of people forget about it, but I didn't forget about it. So I was glad to have my son with me.

SEN. PADDEN: [For] Mr. Mirante, if anybody has any questions, we can take them and we can excuse him. Or he can stay if he wants. Sen. Pedersen?

SEN. PEDERSEN: Thank you Mr. Chair. Mr. Mirante, I want to be sure that I understand what you said. You made reference to asking the Department of Corrections about all of the other people?

MR. MIRANTE: Yes.

SEN. PEDERSEN. To what other people were you referring?

MR. MIRANTE: The other inmates. The other people that were in prison, like what about – ? They told me that they were going to worry about my son's situation, when he's getting out, but I said, what about the other people? As in their release date? And that's when I got that answer.

SEN. PEDERSEN: If I may, Mr. Chair, I would like to be clear that I'm understanding – you're saying that in 2012, after identifying that there was an error with respect to the inmate whose sentence you were following closely, you already understood that this affected a much larger group of people?

MR. MIRANTE: No, I said – just the way they answered me, when I said why don't you do a hand calculation? They said they will do a hand calculation for my situation. Well, when I said what about everybody else? -- I said, like what about all the other prisoners? Which is not my concern, but I made that statement. You see what I am saying?

SEN. PEDERSEN: I'm not sure I do. I am not clear. Why did you believe at that time that it wasn't just an error in the one case?

MR. MIRANTE: I don't know. I just made that statement. So however that helps you, that's all I can tell you.

SEN. PEDERSEN: Thank you.

SEN. PADDEN: Mr. Mirante, anything else you wish to tell the committee?

MR. MIRANTE: No, I'm just glad I could help you. I really didn't want to come down, but I decided it would be the right thing to do. So I made a trek down here.

SEN. PADDEN: We appreciate that. Sen. O'Ban had one question.

SEN. O'BAN: Thank you for coming. How long did it take you to have to hand-calculate the amount of time that this inmate had?

MR. MIRANTE: How long did it take me to calculate it?

SEN. O'BAN: Yes.

MR. MIRANTE: As in when I did it myself?

SEN. O'BAN: Yes.

MR. MIRANTE: Well, probably about 5 minutes.

SEN. O'BAN: Thanks.

MR. MIRANTE: Not much more.

SEN. PADDEN: Thank you very much. Good luck in the baseball season, too. All right. We have some committee rules here ...in your books under committee rules.

SEN. O'BAN: Are you looking for a motion? I so move the rules that are in all of our books, tabbed as committee rules, to be adopted by this committee.

SEN. PADDEN: Questions?

SEN. FROCKT: Were witnesses that are before the committee, are they advised upon invitation from the committee that they are testifying or will be asked to testify under oath?

SEN. PADDEN: Yes, they know that. Right.

SEN. FROCKT: So they were given opportunity to take steps they might want to take, in light of that information?

SEN. PADDEN: They were told they would be testifying under oath.

SEN. PEDERSEN: Thank you, Mr. Chair. I appreciate your getting the rules and the U.S. House rules to us over the weekend. But I guess I would respectfully ask we defer consideration of the rules to a different time, so that members could actually have a chance to review them and propose any revisions.

SEN. PADDEN: That's fine if you want some time to look them over, as long as we will go ahead today anyway. And that's fine. I also want to thank you for your cooperation overall in all of this.

SEN. PEDERSEN: Thank you.

SEN. PADDEN: We will go ahead then and call the panel of the three individuals, Wendy Stigall, Sue Schuler and Ronda Larson. If they could come forward, and if all of you ladies would remain standing, I

will swear you all in as a group. All raise your right hands. Do you solemnly swear the testimony you are about to give in the matter pending [inaudible] will be the truth, the whole truth, and nothing but the truth, so help you God?

[Oath is administered.]

SEN. PADDEN: I guess to get started, if you could each tell us a little bit about who you are?

MS. LARSON: My name is Ronda Larson. I am an assistant attorney general, and I am the AAG who advised the department in 2012.

SEN. PADDEN: All right. Thank you.

MS. STIGALL: I have a prepared statement I would like to read.

SEN. PADDEN: Well, if first you can state your name?

MS. STIGALL: My name is Wendy Stigall, the correctional records program administrator for the Department of Corrections.

SEN. PADDEN: All right. And your name please?

MS. SCHULER: Sue Schuler.

SEN. PADDEN: Ms. Stigall, you had a signed statement that you gave our investigator before this hearing. Is that correct?

MS. STIGALL: Yes.

SEN. PADDEN: All right. We certainly planning on just asking you questions based on that statement. Is your opening statement any different than that?

MS. STIGALL: It just might add more detail, actually, to what I know about this.

SEN. PADDEN: Have you submitted that to anybody before?

MS. STIGALL: No.

SEN. PADDEN: Can you tell us why you didn't?

MS. STIGALL: I didn't know that I was supposed to.

SEN. PADDEN: But you had been in contact both with the governor's investigators and Mr. Bartlett here?

MS. STIGALL: Yes.

SEN. PADDEN: Is there something new that you have that is different from what you told the governor's investigators or Mr. Bartlett in the signed statement?

MS. STIGALL: No, I was just trying to give an outline of what I know. So that is fine.

SEN. PADDEN: Why don't you go ahead, then?

MS. STIGALL: My name is Wendy Stigall. I have worked for the Department of Corrections for over 31 years. I've been in my current position as the correctional records program administrator for the past four years, and to the best of my knowledge, these are the facts and sequence of events related to the sentence recalculation issue.

In 2002, a court decision changed the way jail credits were applied to some offender sentences. The interpretation of the court-ordered decision at that time indicated that a programming fix was needed to the offender records system, which was OBTS at that time. The programming fix was implemented per the specifications provided to the coding developer. To my knowledge, the jail time calculations were never questioned until December 2012.

Our victim services program manager had been contacted by a victim's family regarding the jail credit application. I informed him that the sentence was calculated per the specifications. He in turn contacted the attorney general's office. The AAG reviewed this case and determined that the implementation of the court decision in 2002 was in error, and she contacted me. After discussion, I agreed with her interpretation of the court decision. I then hand-calculated Mr. Robinson's release date and I actually change his court ordered sentence to get it to achieve the appropriate release date.

I notified my supervisor in DOC's risk management division that the error in Robinson's case would impact other offenders. I again contacted the attorney general's office for advice on the application of the change, and the next course of action for implementing the fix and the action for implementing the fix across the system. The AG's office indicated they did not feel that hand calculations would be necessary, but waiting for OMNI to be updated was sufficient. I submitted an IT request to make the system-wide change, [and] indicated it was a change that needed be made as soon as possible. I notified my fellow managers at the administrative services division team meetings on at least a couple of occasions, and also notified our legislative and policy office of the issue.

As is the process for IT requests, I was contacted by our business analyst's office for clarification of the coding needs, and it was routed for review and implementation. IT provided periodic status reports regarding the rescheduling of the request. I believe the request was following an IT governance process that determined the prioritization of the IT requests. Thank you.

SEN. PADDEN: So you mentioned there - the King case, and you mentioned your supervisor that you reported it to. Is that Ms. Doty?

MS. STIGALL: Yes.

SEN. PADDEN: And the AG that you were working with was Ronda Larson, who is here?

MS. STIGALL: Yes.

SEN. PADDEN: Calling your attention to the e-mails that are Exhibit 1, the July 3, 2002 e-mails, a series of e-mails [inaudible].

[Sen. Padden asks Ms. Stigall to read the first email in the series.]

MS. STIGALL: I have to get my glasses. ...It says, "The decision probably won't result in the offender serving more or less time than they otherwise would have served, but implementing the rule the court adopted might require changes to OBTS and recordkeeping functions. The correctional records managers may have their hands full with this one. I suspect that many offenders' (hundreds or thousands), time structure will have to be individually recalculated, because I don't think OBTS can accommodate the rule the court announced in King on a system-wide basis.

SEN. PADDEN: Now if you recall, what was your reaction to that and other e-mails in Exhibit 1?

MS. STIGALL: I wasn't the correctional records manager when this came out in 2002. I didn't have this office until 2012.

SEN. PADDEN: O.K. Well, if any of the other members of the panel would like to comment on those e-mails? Maybe Ms. Larson, would you like to comment on those?

MS. LARSON: Yes, I would like to. First, I would like to say thank you for convening this investigation. I think it is important that you have done this, and I appreciate your wanting to get to the bottom of everything. The e-mail that was sent in 2002 was sent before I was even employed by the division, but it makes sense to me, because of the way that the whole structure worked from the King decision. The King decision did not actually have an effect on the total time that an inmate would serve, although I believe that the Supreme Court would have felt that they probably were making a difference, and I think that that was a misunderstanding by the Supreme Court. They felt that the offenders were losing good time that they earned in jail. But in fact they were having it replaced by the same amount of DOC good time in the big picture.

SEN. PADDEN: Let me just ask you about that. So is that true for the ones that have the enhanced sentences from firearms, as well as those that did not?

MS. LARSON: The King case only affects those with enhancements. The King case does not affect the people without enhancements. So the point of the department's sentencing structure before the King case was to enable offenders to have the greatest chance of success after reentry. They structured sentences to allow the most chance to get into work release most chance to do programming. The King case disrupted that. The DOC tried to accommodate it in a way that would retain their ability to give offenders a better chance of doing reentry programming, but obviously the algorithm that they chose was an incorrect one, unbeknownst to them. So in the big picture, King was not going to have an effect overall. It was simply going to change what type of good time they were getting. It was going to swap the DOC good time out for the jail good time.

MR. BARTLETT: Ms. Larson, Paul Weisser, do you recognize that name?

MS. LARSON: Yes, he is my supervisor.

MR. BARTLETT: He was with the attorney general's office at that time in a non-supervisory role?

MS. LARSON: No, he was a supervisor in 2002 as well.

MR. BARTLETT: And have you had a chance to go back at our request and see if there was any more formal-type guidance provided to the Department of Corrections by the attorney general's office, in addition to this e-mail that we've been looking at?

MS. LARSON: No, there was not a belief that there was more needed. The department and the attorney general's office were all under the understanding that they understood what King said.

MR. BARTLETT: Thank you.

SEN. PADDEN: So I guess next we would go into kind of the discovery of this error.

SEN. O'BAN: Sure. I think would be helpful to the public and to those viewing this hearing if – and I'm not sure who the best person is, maybe it is Ms. Stigall -- if you might help us understand how you first became aware that there had been an error made back in 2002. And we will start from there.

STIGALL: As I said in my statement, the family contacted DOC when we gave them a release date. They felt it was an error. They contacted our victim services administrator, and he came and talked to me and I told him no, it wasn't an error because that is the way DOC had interpreted the decision. So when he came to me I said it wasn't an error. So he took it back and he mulled it over, and he contacted Ronda, and she in turn contacted me, and said yes the way the DOC has been applying these credits all these years has been in error. And I agreed. And so we got to working on putting in an IT request to get the programming changed.

SEN. O'BAN: O.K. and the date of that request, was that at the end of December, as I recall?

STIGALL: That the IT request went in?

SEN. O'BAN: Yes.

MS. STIGALL: Yes.

SEN. O'BAN: O.K., could you just generally describe the process by which the IT individuals are notified from the business folks of some change that needs to be made, based upon a court decision or based upon a legislative change? Help us with that background.

MS. STIGALL: We prepare an IT request that has as many details as we can possibly give them, to tell them what we need changed. And we submit that to what we call the IT gatekeeper, and then it is processed from there, and they approve it. This is my understanding. And then they approve that the enhancement can be included, they prioritize it. It is not prioritized at that time. They just approve it and put it in a bucket to be done, and then it goes for IT consults after that.

SEN. O'BAN: Who is Kathy Gastreich?

MS. STIGALL: She is our risk management [person].

SEN. O'BAN: And did you contact her in December, around December 11?

MS. STIGALL: Yes, I sent her an e-mail.

SEN. O'BAN: And what was the purpose of that contact?

MS. STIGALL: She was our risk person, and we knew these release dates were wrong.

SEN. O'BAN: Why was it important for you to contact the risk manager at that stage?

MS. STIGALL: Because it is a risk.

SEN. O'BAN: Why don't you elaborate on what you believed to be the risk at that point?

MS. STIGALL: Well I believed we were letting inmates out, offenders out, in error. We didn't -- like I said, until that point, we didn't think anything was an error. We thought our computer was programmed the way that DOC, or somebody in records before I was there, interpreted it to be. They thought it was right at that point and time. So then when we found out it was wrong, we would contact risk [management], just so that they were aware there was an issue out there.

SEN. O'BAN: At that time was it your customer practice to contact the risk manager when it might just --

MS. STIGALL: No, at that time I'm sure my supervisor told me they should be contacted. I was still fairly new at that point in time.

SEN. O'BAN: Was it your understanding that any time there was a change that might result even say with just one inmate released too early or too late, that that would trigger a contact to risk management?

MS. STIGALL: Normally there should be, yeah, just so they are aware of an issue, so they aren't surprised.

SEN. O'BAN: So what was Ms. Gastreich's response?

MS. STIGALL: There was no response. I will say, and it is probably not related to the record, I sent that on December 12, and I was out. I had foot surgery on the 11th. I was out from the 12th to the 26th. So I wasn't there for her to stop and talk to. I don't know if she would've tried in that time, but I can't find any e-mail responses.

SEN. O'BAN: We will go over the actual request that you made at the end of December in just a few moments, but let me turn to Ms. Larson, if I could? Of course your e-mail of December 7, 2012, has already been in the public discourse, for a little bit of while - time, but I wonder if you could, just while

you are here, go over that? What was the issue that you identified in your December 7, 2012 e-mail that you wanted DOC to be aware of?

MS. LARSON: My belief at that time was that the problem with the OMNI was affecting a small percentage of offenders. Those with short bases. In hindsight it was not a correct assumption. We know now that it affected many more offenders. That was the issue that I discovered when I looked into Mr. Robinson's sentence.

SEN. O'BAN: And at that time, what was your belief or understanding as to be the number of affected inmates?

MS. LARSON: I did not know how many. I was not believing that it was a lot. In my e-mail, at the end, I do mention hundreds, but that was in reference to the fact that it was going back to 2002. That wasn't in reference to the fact that there might be that many in prison at the time. So my feeling is that it was less than that in prison at the time that were affected.

SEN. O'BAN: And you recommended that that point not to do hand calculations?

MS. LARSON: Right, because my belief was that it would take only two months or less to get OMNI fixed to actually take care of this. So that was also my assumption.

SEN. O'BAN: What was your belief or understanding at that point about how long it would take to do the OMNI fix?

MS. LARSON: My belief was that it would take two months or less, and that is based on – actually I don't know what our conversation was. This e-mail is memorializing our conversation on the phone. In my practice I have not had experience with OMNI, to be on the other side of DOC, to know how long things take, so just based on my own experience with the attorney general's office [and] how we do our computer system, it seems like it is something that wouldn't take that long.

SEN. O'BAN: You had been advising the DOC for some time to that point, right?

MS. LARSON: Right, but when I advise the DOC, it is not as if someone is reporting back to me. These are all the steps we have taken – that's not how it works. The DOC asks for advice, we give advice, they ask for advice, we give advice -- you know, that is our role. Our role is not supervising the DOC. So we're not in a position to really get them coming to us and telling us how things are going.

SEN. O'BAN: O.K., so the basis for your belief that it would take about two months was just based upon computer updates within the AG's office, not experience you'd had with past DOC changes to their system?

MS. LARSON: Yes, or it could've been based on the conversation that Wendy and I had on the phone, because frankly I don't remember what we talked about. But that would be my assumption, based on the e-mail, because it was just trying to memorialize what we talked about on the phone. So I could imagine that I said, how long will it take? So I am guessing. We can't reconstruct it, unfortunately.

SEN. O'BAN: So my last question before I turn it back over – it didn't fall to you to actually determine the scope or magnitude of this issue, that that was a DOC question to answer? Yours was just simply to get the correct or corrected legal advice about King?

MS. LARSON: Yes, that is correct.

MR. BARTLETT: Ms. Stigall, when you were talking, it struck me -- I know that sometimes this has been reported as being a computer glitch at the Department of Corrections. Could you elaborate on your answer right now, with regard to that issue?

MS. STIGALL: Right, and that's why, when we had our conversation before, I said it wasn't really a glitch. That's how the request was put in, for IT to program it, that was the interpretation at the time, and that was how it was coded. Nobody thought it was an error. If we had thought it was an error we would have fixed it right away back then. But that was the interpretation of the records person at that time in working with the agency.

MR. BARTLETT: And when the victim coordinator for the Department of Corrections, I think Mr. Eckstrom, contacted you on Friday, December 7, 2012, and he told you, you know, we've been contacted by this man. He thinks there is been an error in the sentencing release date. Did you at that point and time look into it?

MS. STIGALL: I told him that it was correct.

MR. BARTLETT: And that was based on a long-term –

MS. STIGALL: On what we had been trained. Like I said, I wasn't there at that point and time when the decision was made. But that was the training we had -- the jail credit goes to the enhancement, the good time goes to the base sentence, and that's how we thought it worked.

MR. BARTLETT: And Ms. Larson, you were talking about we have had a chance to talk previously, you were talking about to a large extent your job at the attorney general's office is to respond to both written and oral questions from the Department of Corrections.

MS. LARSON: Yes, that is correct.

MR. BARTLETT: And during that time, your belief is that when you send out information, they are going to act on it.

MS. LARSON: Yes I do believe that, and that has been the case in the past. This is the one exception, I would have to say.

MR. BARTLETT: And as you reread this memo, and I'm sure you have read it more times than you would have liked over last several months, it is fair to say that in this instance you did take an extra step, and that you actually did advise them, not just here is what the law is, but you said your assessment is, from a risk management point of view, it would be O.K. to just wait for the computer fix to come in?

MS. LARSON: Yes, I regret that now. I wish I discussed it further with my supervisor, but at the time I wasn't cognizant of the extent of the problem.

SEN. PADDEN: Just to follow up on that, I mean, you still wanted to get it fixed?

MS. LARSON: Oh, absolutely.

SEN. PADDEN: You believed it would be fixed shortly, didn't you?

MS. LARSON: Yes, exactly.

SEN. PADDEN: Sen. Frockt, you had a question?

SEN. FROCKT: Thank you, Mr. Chairman, I would just like to elaborate a little more on the interpretation because that word struck me, Ms. Stigall and maybe Ms. Larson, you could comment on this as well, you were saying, I think, in 2002, at least based on your information that you have now, you felt like DOC was interpreting the King decision in a certain way. But I guess, tell me if I'm wrong on this, you're saying it is mistaken interpretation, and that is the reason we are now looking back and saying that at the time, that entire tenure, there was no thinking that it was being misinterpreted? It is only in hindsight?

MS. STIGALL: Correct.

SEN. FROCKT: So can you elaborate a little more on that? Because I think it is a little bit confusing to some of us who were wondering what went on here. And perhaps Ms. Larson could as well.

MS. STIGALL: There is no mistaken interpretation of King. It was a mistaken algorithm. So we all knew what King required. The question is how, mathematically, do you implement it? That is where the problem was. It was simply a mathematical error, if that makes sense.

SEN. PADDEN: As you said, you gave advice to DOC. And normally wouldn't an algorithm be tested? Both test cases, test plans, isn't that the normal procedure when there is some new computer program going in?

MS. STIGALL: There is, but you see, my interpretation was that I thought they asked for it to be programmed like that, so I am not really sure –

SEN. PADDEN: You are not sure if somebody – actually just – the program was what somebody had said, but somebody had said the wrong thing. Is that your interpretation is?

MS. STIGALL: That is my interpretation

SEN. PADDEN: Is that your interpretation, Ms. Larson, too?

MS. LARSON: It is. They set the wrong algorithm. I'm not a computer person, but somebody had to figure out what the math was.

SEN. PADDEN: They were not reading the decision – is that correct?

MS. LARSON: Oh yes, they were. We all understood what the decision was. The problem was implementing it. Mathematically, it is a completely different step than trying to interpret what the court said. Everybody understands what the court wanted us to do, but there is a difference in trying to implement it -- a mathematical question.

SEN. PADDEN: I'm just wondering why it took so long to discover the error that but for Mr. Mirante would never have been discovered.

MS. LARSON: I could go through it mathematically, and you could see how difficult it is if you would like, but I don't know that that would serve our purpose here.

SEN. PADDEN: All right. Sen. Darneille?

SEN. DARNEILLE. Mr. Chair, for Wendy Stigall. There is a statement on page 2 of your testimony to Mr. Bartlett that piqued my interest, vis-à-vis this line of questioning that is before us now. First, I wanted to ask, did you have an opportunity to edit and review this document?

MS. STIGALL: Yes.

SEN. PADDEN: Could you speak a little louder into the microphone? Thank you.

SEN. DARNEILLE: On page 2, it says further, until 2013, different counties granted good time to prisoners in their custody at different rates. Could you tell me what impact either of you - can tell me what impact this disparate system out of the 39 counties - when it was and what impact it had on when you pick up the task of determining release dates?

MS. STIGALL: So [in] every county -- the RCW is different for county jail than it is for DOC -- the county jails choose their method of giving good conduct time. So you might have one county that would only give 15 percent when the offender could get up to 33 1/3 percent. Another one might give nothing, because that is not their method of doing it. So each one got to choose. The offenders weren't getting the max, they were actually all being treated differently until we get legislation so that DOC actually calculates the good times so everyone is being treated the same. Prior to that, it depended on what county you are from, how much time you got off while you're in the county jail. Is that what you were asking?

MS. LARSON: That legislation she is referencing is only something that was passed recently. When King was decided, it had the effect of, in the big picture -- if it had been implemented correctly and the algorithm had been correct -- it would have resulted in inmates receiving less good time than they were getting before the King decision. I'm not sure if the Supreme Court realized that. And the reason for that is because, as I said in the beginning, before King, these offenders were losing their jail good time, but they were getting that replaced by an equivalent or greater amount of DOC good time, so [they were] simply swapping out. And then King came along and said no, you can't do that, you have to preserve, you have to set in stone the jail good time. Well guess what? If the jail gives less than 33 percent, and DOC's rate is 33 percent, this inmate is going to be getting less good time than he would have if would have been treated in the way DOC treated him before King.

SEN. DARNEILLE: You stated you are not an IT person, and I'm not, either. So I'm trying to look at this logically, and you are in a position to be answering questions, giving advice to the department. How exactly does one create an algorithm that has these several moving parts, several disparate systems at the jail level? Do you think it is even logically possible to have an algorithm that fits all?

MS. LARSON: Yes it is, and the way it would've worked is you have -- the goal is to decide how much DOC good time is going to be in the big picture allowed. And to do that, you have to figure out how much of the base to multiply 33 percent by. So the base is what he will be serving in the DOC. In order to account for the fact that he has been getting jail good time during a period when he is also serving an enhancement period, which is by definition flat time when you're not supposed to have good time, after move the jail good time for the enhancement period and place it onto base, so that his enhancement is preserved, the full five years, for example, of his enhancement is preserved, and therefore is not getting any shortening that enhancement. That is abiding by the law. But then you have to figure out O.K. if we have to give him that credit for the jail good time and we have to subtract out that from what he would otherwise be getting the DOC good time, right? So that is what they did. They subtracted out the jail good time before deciding how much is left over to give to give DOC good time, but that is not the only thing you need is subtract out, and that was the critical error. In order to decide what the percentage is, you have to subtract out both jail good time and jail time served, and then multiply that remaining by 33 percent. It can be done, it is very complicated. And you are probably all lost by now. Maybe not.

SEN. PEDERSEN: The only question I have -- I mean, it does sound a little complicated, yet Mr. Mirante was able to figure it out in five minutes. Now I know that situation may be different than some of the others, but do you have some explanation about why he could figure it out when DOC didn't?

MS. LARSON: Yeah, because he didn't have to deal with King and the DOC did. So simply, if I'm a citizen who has to figure this out on my own, I simply say O.K., this person has a five-year base sentence and that is the sentence that he can earn 33 percent on, I'll just multiply 33 percent by that, and I will subtract that out, and then that is your release date. But that is not what DOC was having to do. DOC's job was much more complicated than that. Yes it is true, if you just look at it very simply, you can just take five minutes, but that is not what DOC unfortunately was stuck with doing. It had to deal with this King decision.

SEN. PEDERSEN: Thank you, Mr. Chair. I guess I wanted to follow up a little bit more on Sen. Padden's question and try to understand this five-minute question. So if I'm understanding you correctly, Ms. Larson, you're saying that Mr. Mirante was not having to deal with the King decision. But how could he get to the correct number in that case if he wasn't taking into account the King decision?

MS. LARSON: Because he doesn't have to incorporate in his mathematical equation jail good time.

SEN. PEDERSEN: Because in that particular case there was no jail good time?

MS. LARSON: No, because in order to decide what the total one-third equals, you don't have to incorporate jail good time. You don't have to look at what actually happened in the sentence. You just

look at the numbers. If you have a sentence the court gave you that is five years long, what is one third of that? That is a very simple calculation. See how complex this is getting already?

SEN. PEDERSEN: I guess what I'm not clear about why are you saying – so let's maybe start backwards. Was Mr. Mirante correct in his number that he gave?

MS. LARSON: Yes, he was correct, because there are many ways to get to the correct result mathematically. And if you don't account for the fact that this offender had jail good time and you just pretend that he had an enhancement period. And then you/he got to the DOC and then the DOC base to serve, you just look at the base and you just times that by 33 percent, and you get the correct amount of what should be his DOC good time.

SEN. PEDERSEN: So I'm not following why that is. Is that because King County uses 33 percent, and so you don't have the complication of the other counties? Why is it that he stumbled on the right answer quickly and others are more complicated?

MS. LARSON: It is because he wasn't bound by King when he was trying to do it. So here's the thing. King does not change anything in the big picture, as far as how much time they are going to get out early. All King does is say you to preserve this jail good time. If you ignored King you can simply – you can get to the early release date the same way by just focusing on how much is 33 percent multiplied by the base. But in reality what DOC had to contend with is the fact that the jail was giving good time and the DOC was also giving that jail time served for the enhancement period. So to enhance offset the fact that yet this flat time enhancement being served up front.

SEN. PEDERSEN: I guess I'm feeling really thick maybe, but I'm not following why it is that that is a shortcut that he could take, because you are saying he was not bound by King –

MS. LARSON: He was not bound by the actual sentence structure, the actual days where they were served and whatnot, so DOC is bound by what actually happens. It has to account for where he was where he served, what time. If you just want to look at it from a mathematical perspective and figure out how much early release –

SEN. PADDEN: How did it happen, if he wasn't bound by that, but he got to the right answer?

MS. LARSON: It's a matter of math. That's really what we're dealing with here. So if you multiply the base sentence by 33 percent, you're going to get how much good time overall the offender was entitled to. That's not the way the DOC arrives at it, because the DOC has to contend with jail good time as well. So it has to incorporate that into its equation, and that's what made it so hard. Whereas if you are just somebody from the outside looking at this, you ignore the fact that Robinson served time in jail and got good time in jail, and you just say Robinson at sentencing received a sentence of X number of months, you multiply that by 33 percent and then you arrive at how much overall good time he gets.

SEN. PADDEN: The algorithm that we now have, there is now a fix as of January 2016 – I mean that works. Why does that work now? And the previous one, what was wrong with the previous one?

MS. SCHULER: Hopefully I can make it a little clearer. What happened in King is that we were taking the day for day credits off of the mandatory. We were taking the good time and applying it to the base. So if I have a five-year base and I am giving you a little extra good time from the jail plus your DOC good time. Adding those together literally gave the offender more earned time than was really eligible on that five years. If I just took the straight five years and took a third off, that would be my correct date. That is not what DOC was doing. They were taking that jail one-third off, and then the DOC one-third. Does that make it a little better, a little clearer?

SEN. PEDERSEN: Thank you, Mr. Chair. I guess I'm still not following. So if Mr. Mirante – I hear you saying he didn't have to worry about the facts of where the good time was served. Why does DOC have to worry about it, if he didn't? How come his answer was right to the day if he didn't? I don't understand that part of it.

MS. LARSON: King requires the DOC to preserve jail good time. So any calculation that DOC does cannot simply multiply 33 percent by the base, because the DOC has this other variable that's out there, that it has to incorporate into its calculation that he did not have to incorporate.

SEN. PEDERSEN: So was it because in this case, the only good time was jail good time? Is that why it was simple?

MS. STIGALL: It was jail good time, and that would affect the answer you get when you multiply something by 33 percent. There are more variables under King than one needs to calculate this mathematically.

SEN. PADDEN: I guess we will move on, although in my mind I'm still trying to figure out the mistake made in 2002 in an algorithm, which is different than the one now that works correctly – so the one made in 2002 after the King decision was wrong, and I guess – what is responsible for that? I guess that's the question.

MS. LARSON: Whoever programmed the computer in 2002, I wasn't working there –

SEN. PADDEN: Do either of you ladies know who did that in 2002? Do you know who was responsible for that?

MS. STIGALL: I know Janice McMahon, who was records program administrator at that time, submitted the IT request, but I don't know who actually did the programming.

SEN. PADDEN: They were not contracting out the programming like you are doing now? Or was it all in house?

MS. SCHULER: It was all in-house, but I don't know that for a fact.

SEN. O'BAN: Let me take this off the algorithms and into 2013, if I may. We've already established, Ms. Stigall, that you prepared an ITSR request, or maybe a ticket might be a phrase more familiar with, on December 27 to make the change, is that correct?

MS. STIGALL: Correct.

SEN. O'BAN: And you have looked back -- it is Exhibit 5 in the book before you -- that was an accurate representation at that time of the mistake and what needed to be changed, correct?

MS. STIGALL: Yes.

SEN. O'BAN: Is there anything that you would change in the way that you described the ticket that was in any way inaccurate, as to fix the problem?

MS. STIGALL: No, but these are just real general -- just a general understanding, and then after that, you have to get to details to get to different sentence types.

SEN. O'BAN: Right. At any rate, we are going to talk about when this was actually acted upon. My point, I am just trying to establish for the record, is that had this been implemented in an expedited fashion, we would have corrected the problem, and we wouldn't continue to have miscalculations in early releases, correct?

MS. STIGALL: Correct.

SEN. O'BAN: All right, taking the document then, I just want to highlight a couple of aspects to your request for a change to OMNI. You put in there, after correctly describing the problem, you put ASAP -- which I assume meant as soon as possible.

MS. STIGALL: Yes.

SEN. O'BAN: And have you ever indicated before that a request should be acted upon as soon as possible?

MS. STIGALL: Not that I remember.

SEN. O'BAN: O.K., so that was the first time you had done this. And how many years were you filling out these?

MS. STIGALL: Actually, I had only been in this position since February of 2012.

SEN. O'BAN: O.K., so for about a little less than a year. You hadn't ever indicated an ASAP request?

MS. STIGALL: Not that I recall.

SEN. O'BAN: Why did you indicate an ASAP request in this case?

MS. STIGALL: Because it was important. It was releases.

SEN. O'BAN: And at what point did you determine that this was didn't just apply to just a [small] number of inmates, but to a much larger group?

MS. STIGALL: I think, at the time, I was trying to come up with some different scenarios about how we could apply it, because I asked Ronda if she could help me. I came up with three or four different scenarios to see what would be the best way. It seemed every way I came up with, I came up with the same answer, so I knew it wouldn't just be the short sentences, I knew it would be everybody.

SEN. O'BAN: And did you have a number in mind in December of 2012, on December 27?

MS. STIGALL: I assumed it would be hundreds.

SEN. O'BAN: At some point, shortly after, did you put a spreadsheet together to try to figure out a likely number?

MS. STIGALL: Right. I think there were approximately 2,700 on the list.

SEN. O'BAN: And when did you prepare that list?

MS. STIGALL: I requested it in I believe it was January '13.

SEN. O'BAN: Of 2013, correct? So on January 13, 2013, you were aware that this problem could have impacted as many as 3,000 individuals?

MS. STIGALL: Right, but it's not everybody we're releasing today, it was also life without parole, 50-year sentences, so –

SEN. O'BAN: But that is certainly a large number of individuals that would generate an ASAP request?

MS. STIGALL: Yes.

SEN. O'BAN: So that point and time, in late December, early January, when you put together the spreadsheet, when did you believe the fix would be made?

MS. STIGALL: I was hoping it would be made in a few months, like Ronda – I'm sure that was our conversation – and it normally takes at least a few months. Regardless, you're not going to get it in less than three months.

SEN. O'BAN: And walk us through – and maybe this is a question as well for Ms. Schuler, I will let others of you comment. Walk us through the process by which your group would take a look at all of the requested updates and then make a determination as to which ones were the most important and which ones were the least important.

MS. SCHULER: My part in this is, once the IT request is made by the business, then I get with the business and I gather all of the requirements including the calculations if I can. And at the time I wasn't able to get the calculations. Our technical analyst was busy with another project. But once that's done and it's put in the system, it is normally set for the first possible maintenance release that we believe it can get into. Normally the current maintenance release is usually being coded, and it probably won't be stopped - what's in there. And the next one, we probably have already set the scope. So I normally go to

the third release out, which is every two months. Simply because we have 100 per-maintenance-release fixes that we're working on.

SEN. O'BAN: So in late December or early January -- that would mean a minimum of six months?

MS. SCHULER: Correct.

SEN. O'BAN: And that is just for the garden-variety change, right?

MS. SCHULER: Almost any change.

SEN. O'BAN: O.K. But what about changes that are regarded as being ASAP, as being very - are very important changes? Is there a different timeline typically?

MS. SCHULER: Not to my knowledge.

SEN. O'BAN: So walk us through that. Is there anyone or any group that, on a regular basis, would sit down and decide, while we already have these in the pipeline, this one that we just determined is most important and we are going to elevate that to one of the most important fixes, so it jumps ahead of the others?

MS. SCHULER: We had folks that were looking at what priorities were being set by the department, and I believe that what was out there for, defects as well as other enhancements, and like I said, the department projects. So there was a group of folks that were looking at that.

SEN. O'BAN: So who are those groups of folks and how often did they meet?

MS. SCHULER: I don't have their names. It was called the CCRW, basically the IT governance, and those were the people that would be looking at these things

SEN. O'BAN: Would that include Mr. Dunnington?

MS. SCHULER: I don't know if he was -- I don't know.

SEN. O'BAN: But was it a mix of people from sort of the business side that understood the whole law and the importance of making sure these things were done on a timely basis?

MS. SCHULER: No.

SEN. O'BAN: It was just the IT folks?

MS. SCHULER: No, it was upper IT and up through management.

SEN. O'BAN: O.K. How high would that go up in management, to do the triaging and decide what is most important?

MS. SCHULER: I believe the CIO was aware of it, but that would be just speculation on my part, because I didn't sit in those meetings. I just assumed that he knew some of this.

SEN. O'BAN: I understand that there was a rating system, like a 1 through 4?

MS. SCHULER: Yes.

SEN. O'BAN: And I understand this was initially a number 2 in importance number, one being the highest?

MS. SCHULER: Yes.

SEN. O'BAN: And at some point that it was downgraded to a three, I believe. Can you explain that why was downgraded?

MS. SCHULER: No I can't. I know that we received an e-mail that said all enhancement requests would be a sev 3. Severity 3.

SEN. O'BAN: Who sent that e-mail?

MS. SCHULER: That came to me from my supervisor.

SEN. O'BAN: And that was --?

MS. SCHULER: Dave Dunnington.

SEN. O'BAN: And who was his direct report?

MS. SCHULER: Jeanette Sevedge-App.

SEN. O'BAN: So, do you know why this wasn't rated 1 instead of the 2 initially?

MS. SCHULER: One is a critical -- that means that the system is not even working. The entire system, you can't even get into it, you can't calculate any sentences.

SEN. O'BAN: So this had the highest rating except for a system shutdown?

MS. SCHULER: Correct. That's what I put in there.

SEN. O'BAN: So this was a pretty urgent request.

MS. SCHULER: Yes.

SEN. O'BAN: So even just sort of following the general guidelines, you would expect a fix within six months. But this wasn't fixed within six months, was it?

MS. SCHULER: No, it was not.

SEN. O'BAN: I've seen some reports, I think maybe one that Ms. Stigall had put together, that indicated September 2013 would be the date that this fix would be made. Are you aware of that?

MS. SCHULER: No.

SEN. O'BAN: All right. I'll put this question to you, Ms. Stigall. Did you expect this to be fixed by December 2013?

MS. STIGALL: I thought it would be, because I had a records manager meeting -- and it was August of that year. So I notified the records managers, because I thought it was coming at that point in time.

SEN. O'BAN: O.K., and I believe you put a PowerPoint together and actually tried to educate the people who made these decisions?

MS. STIGALL: Right.

SEN. O'BAN: So you had the full expectation this would be changed in September?

MS. STIGALL: Yes.

SEN. O'BAN: And it wasn't changed in September, was it?

MS. STIGALL: No.

SEN. O'BAN: Can you explain why?

MS. STIGALL: No, it's IT.

SEN. O'BAN: I mean, you've been there for a long time, you sort of understand how these are triaged. Do you have an explanation for why, even though you thought that would be fixed in December 2013, it wasn't until January 2016?

MS. STIGALL: No, it was just IT. I would get notification that it would be pushed out again and that was the end -- I don't know.

SEN. O'BAN: Last question before I turn it over. You had rated this as ASAP, and understood it to be a 2, and you were aware it wasn't being fixed throughout 2013 and 14, and 15. Did you at some point try to flag this or bring this to the attention of anyone? That while you put a high urgency on this it wasn't getting done?

MS. STIGALL: We had the IT process though, as Sue said, through committee. So they had the request and I notified my supervisor to begin with and other staff, and then we have the process, and I thought the whole time that somebody was actually setting a priority, knowing what that said.

SEN. PADDEN: So getting back to the PowerPoint presentation that you had -- was Mr. Warner at that presentation?

MS. STIGALL: He was there in the morning. He was just at a meet and greet with the records staff that were there. He wasn't at the meeting the whole day.

SEN. PADDEN: So he said it was important enough for him to be there at least initially. And would he have been informed about the meeting by somebody else that was there?

MS. STIGALL: No.

SEN. PADDEN: He doesn't have any line of communication from –

MS. STIGALL: I don't know.

SEN. PADDEN: All right. But maybe some other people there would know whether he was informed.

MS. STIGALL: He knew we were having the meeting. He came down to meet to the records staff, and that was the extent of it.

SEN. PADDEN: And so we are a little perplexed here why -- after you put an ASAP, and then it being ranked 2, which was practically the highest-ranking you could give to it because one is a system shutdown -- why things didn't happen after that? And you apparently brought it up with this PowerPoint presentation. How many other people were at that presentation?

MS. STIGALL: It was a records manager meeting. There were records managers from throughout the state, so I think we had 30 or 40 people there.

SEN. PADDEN: And it was discussed at that time?

MS. STIGALL: Right.

SEN. PADDEN: And was there a concern by people that were there beside yourself?

MS. STIGALL: I guess basically the records program administrators. Basically we set what is going to be coming up, and we notify the people. So I told people would be coming and I would be giving them more instruction when it actually came.

SEN. PADDEN: So it was more informational?

MS. STIGALL: Informational, right.

SEN. O'BAN: Ms. Schuler, let me ask you, I'm trying to get a better idea of the atmosphere -- within the IT world, I assume there were several of these changes that would be discussed on a regular basis. About how many updates are in the pipeline at any one time back in 2013?

MS. SCHULER: I can honestly say that as I was working the consultation on this, I closed 164 items, and that doesn't even include what went forward for IT fixes and enhancement requests, if there is a lot of projects that the department likes to have done. I honestly don't have those numbers in front of me but I do know that each maintenance release, we usually work on about 100 things.

SEN. O'BAN: Doesn't that, at least looking back, cry out for some system of triaging, when you have so many at one time, [for] trying to determine which ones may need to jump up in priority?

MS. STIGALL: Are you asking me if we had that, or should we have had it?

SEN. O'BAN: Should you have?

MS. STIGALL: Yes.

SEN. PADDEN: Are you aware that there are state agencies in state government have a system where they put a fix in, if it doesn't get done by a certain time it escalates to a supervisor and then they have to make a decision on whether, what do with a fix, but there was no system like that in the Department of Corrections?

MS. STIGALL: Not to my knowledge.

SEN. PADDEN: So there was really no way that -- if you put it as a 2, it didn't mean too much. I mean it didn't get done, and then somebody de-escalated it down to a three, right?

MS. STIGALL: Correct.

SEN. PADDEN: So one thing, I think, [that] would help us understand is that you had some other projects that were given high priority to you, that I gather, from the witness statements that I have read, were pulling IT individuals away from some of these fixes that needed to be made. And one I have seen reference made to is the Advance Corrections initiative.

MS. STIGALL: Yes.

SEN. PADDEN: Can explain what that is?

MS. STIGALL: It's not my project, so I honestly couldn't tell you everything about Advance Corrections. I'm sure the department could tell you, I do know that there was a point in time when it took a large amount of priority, as they were doing what we call business requirements, gathering and writing the HLD's, which is a high-level design -- basically what the computer is going to do for these projects -- but there were other projects as well.

SEN. PADDEN: Is it your view that that project did take away resources that had they been deployed to a more timely fix- making these fixes and updates that this particular one that would've been the subject of this hearing would have happened sooner?

MS. STIGALL: That is truly what I do. I wouldn't want to say yes or no at this point.

SEN. PADDEN: Sen. Frockt?

SEN. FROCKT: Thank you Mr. Chairman. Ms. Schuler and Ms. Stigall, how long had the system of prioritization been in place before the date of that PowerPoint presentation to you just mentioned? Prioritization of the work orders: 1, 2, 3, 4.

MS. SCHULER: I do believe, and don't quote me because I don't have this fact, but I would have to say. Sometime after the initial deployment of OMNI which was [in] 2008. I would say 2010 maybe, or 11.

SEN FROCKT: How long have you worked in this role of the Department of Corrections?

MS. SCHULER: Since 2006.

SEN. FROCKT: Was there any kind of prioritization in the prior system when there was a work order that needed to be accomplished?

MS. SCHULER: I didn't work in the OBTS. I was brought aboard to help gather the business requirements for OMNI.

SEN. FROCKT: So the prioritization system was in place even back to prior secretaries' administrations?

MS. SCHULER: It must've been something. I would assume it was something even in the OBTS world.

SEN. FROCKT: What was the date of the PowerPoint presentation?

MS. SCHULER: I didn't see it.

MS. STIGALL: I think it was August 2013.

SEN. FROCKT: You were not at that meeting, Ms. Schuler?

MS. SCHULER: No.

SEN. FROCKT: And there were 30 or 40 people there? So you gave the presentation Ms. Stigall?

MS. STIGALL: Correct.

SEN. FROCKT: But you don't have any way of knowing what the other people who were in the room might've taken away from that presentation, is that right? In terms of the information you were conveying?

MS. STIGALL: No I don't.

SEN. FROCKT: You don't know what Mr. Warner thought at the time, do you? Because you're not even sure if he saw it?

MS. STIGALL: No, he wouldn't have seen it. He came for a meet and greet, and we stopped the meeting. While he was there he talked for a little bit and then he left and then we had the rest of the meeting.

SEN. FROCKT: For us to figure out what other people were thinking, wouldn't it be better for us to ask them directly rather than having you speculate on what they saw?

MS. STIGALL: Yes.

SEN. FROCKT: Thank you.

SEN. PADDEN: Ms. MS. LARSON, maybe we could go back to this whole period from 2002 through 2012. You have exhibit number 10 which is an e-mail to a Ms. McDonald in 2007, about a problem that seems very, very close to the problem we're dealing with on OBTS improperly subtracting jail time served from periods of flat time. Could you explain it and give us the background on that?

MS. LARSON: So this e-mail is actually addressing a different issue than what we discovered in 2012. When I wrote this e-mail I was not aware and nobody was frankly aware that the base sentence was receiving too much good time. This e-mail instead was simply to say under King, you are required to set the jail good time in stone on one hand, but on the other hand the DOC for good policy reasons wants to run enhancements as early as possible in the sentence to enable offenders to be eligible for work release and other reentry programming. If you're going to do both of those at the same time and you are going to credit jail time served towards the enhancement, then it is arguable that you might be violating the statute that says during periods of enhancement time, one may not earn early release and that is [RCW] 9.94A.533 and so my read of that statute was that it might be a problem if the DOC as required by King is preserving jail good time on one hand and on the other hand is running the enhancements starting at the jail booking date.

SEN. PADDEN: The fix I think indicated that the DOC should keep the mandatory term intact and subtract the jail time, as it does with jail good time from a non-mandatory term. I realize this would require reprogramming of OBTS and so although it's not the same issue, it is a similar issue and the fix was very similar, compared to the December 2012 situation.

MS. LARSON: Yeah, if the fix I suggested in here would've been put in place we inadvertently would've fixed the Robinson situation. We didn't know the Robinson situation existed, but this would have fixed that.

SEN. PADDEN: And it wasn't fixed either, or what?

MS. LARSON: No, but it was something that at that time because we didn't have an awareness of the bigger problem. It is – you know, the DOC's goal and its mission is to reduce recidivism. To do that, you have to have offenders prepared for reentry, and part of that is to have them serve their enhancement as early as possible in the sentence. So my e-mail is going up against that important policy, and who am I to say that it should have been followed when they can arguably still abide by the statute? No court has come out and said that the statute was being violated. I was simply proposing this as a possibility -- here's something, an issue that you might want to look at. It wasn't saying that is something I know is wrong and the statute is being violated, no question about it. That is not what this was about. So when you have that, and then on the other hand you have the knowledge you need to make sure that offenders are ready for reentry, it is a balancing test, I would imagine, for whoever had this information.

SEN. PADDEN: And the balance ends up in favor of the policy and against the fix, is that what happened? You're saying if it was fixed then, we wouldn't have had the early release of all the prisoners later?

MS. LARSON: That is right, because we didn't know at this time, in 2007, that the algorithm was incorrect. So we didn't know that the math had been incorrect all that time. But this would've covered that -- it would've taken care of that.

SEN. PADDEN: And you tried to follow up Ms. Stigall on this, or not?

MS. STIGALL: Yes, I looked, and like I said it was not here in 2007 in this role, but I did look through the King files and I could not find any other information on it, and if I had been requested to be reprogrammed it would have been done from 2007.

MR. BARTLETT: So to clarify, you actually went back and looked to see if there'd been reprogrammed pursuant to Ms. Larson's e-mail and you could not find that?

MS. STIGALL: Correct.

SEN. O'BAN: Let me try to get some perspective. So now there's a group set up to try to triage these sorts of requests and prioritize them, correct?

MS. SCHULER: Yes.

SEN. O'BAN: What's that called? Tiger group?

MS. SCHULER: The Tiger team. They refer to it as the Tiger team, yes.

SEN. O'BAN: When was the Tiger team created?

MS. SCHULER: I believe early January. I don't know because I wasn't actually a part of it.

SEN. O'BAN: January of this year?

MS. SCHULER: Yes.

SEN. O'BAN: And do you know if the creation of that Tiger team – was that something that they formed based upon what other agencies have done? Do you know how they came about designing that and how to staff that?

MS. SCHULER: No I don't. I wasn't part of those discussions.

SEN. O'BAN: Who would be the best person to ask about that?

MS. SCHULER: That would be our CIO, Ira Feuer.

SEN. O'BAN: Was there a point along the way over the last 3 or 4 years that it would have occurred to you that would be a good idea to have something like the Tiger team to prioritize these types of fixes?

MS. SCHULER: When things come fast and furious, yes, it would be nice.

SEN. O'BAN: O.K., did you ever make that request to any of your superiors?

MS. SCHULER: No.

SEN. O'BAN: Do you know anyone who ever raised that as it might be a good management idea?

MS. SCHULER: Not to my knowledge.

SEN. PADDEN: All right, well you have explained a little bit about your job and the process and how a request works its way through the system. You made a request under Exhibit 8, can you take a look at that final IT request, March 25, 2013?

MS. SCHULER: Yes.

SEN. PADDEN: O.K., that was three months to finalize the request?

MS. SCHULER: Yes, during that timeframe I was trying to get the calculations as both Ronda and Wendy have already referenced, every offender has not every offender but there is a lot of different types of sentences so when an offender has more jail time credits then he has base, how should the system react? What is the quick calculation for that? When the offender has a 10 percent crime but there is a law in place and says the jail is allowed to give them up to 15 percent on the jail credits, how is the system going to calculate that? So we were truly looking for in trying to get was the calculations? So that when this was implemented, it was totally correct. We wanted every offender situation to be handled. Steve Collins, as I said earlier, was totally involved in another project, consumable inventory services where he was writing the calculations for the tax, the tax for each county as they are ordering the stores and programs Steve retired right after that, and there was no movement to replace him. So Wendy had to work with Ronda to give us a spreadsheet of what those calculations might look like. And so we were just trying desperately to get those calculations.

SEN. PADDEN: Was your feeling when he wasn't replaced that you were somewhat starved for enough IT people?

MS. SCHULER: For someone like me, yes.

SEN. PADDEN: Can you explain what ClearQuest was and how it was used?

MS. SCHULER: ClearQuest is our tracking system for defects and enhancements and that is where once this was approved I wrote a ClearQuest item which is where I assigned this step two and it goes into a tracking system.

SEN. PADDEN: And then we had all these delays, right?

MS. SCHULER: Correct.

SEN. PADDEN: And is there another explanation besides being resource starved for the delays?

MS. SCHULER: Not that I'm aware of. Unfortunately there's not a lot of documentation as to why those moves were made when they were moved to different releases.

SEN. PADDEN: And at the same time there were a lot of demands on this Advanced Correction initiative that we talk about earlier?

MS. SCHULER: Yes, some of our resources were being used for Advanced Corrections and for some other projects.

SEN. PADDEN: And that was a higher priority?

MS. SCHULER: At one point, yes.

SEN. PADDEN: And do you know why or –

MS. SCHULER: No, it wasn't my project.

SEN. PADDEN: Do you know why, Ms. Stigall, that was a higher priority?

MS. STIGALL: No.

SEN. PADDEN: Do you know whose project it was?

MS. SCHULER: I believe it just came down from administration. I can't tell you who it actually put it in.

SEN. PADDEN: You don't know if this was Mr. Warner's big project or not?

MS. SCHULER: No. I assume he knew about it. I don't know that he was the one who requested it.

SEN. O'BAN: Ms. Schuler, at what point in time did you become aware that this was an urgent need, that this involved a number of inmates, hundreds or thousands of inmates? At what point did you become aware of that?

MS. SCHULER: We didn't become aware that it was going to impact thousands until -- I don't have the exact date, but it was in November when we deployed the first fix. We put the coding into our test environments and we started testing I think one of you spoke to testing when things get moved into production. So it had been dropped into our first test environment and we run calculations and we do this all the time so that we know what this fixes going to do, because we know that will impact sentence structure. And at that point, we had seen anywhere five to maybe 100 impacted in the past, we saw 3,000.

SEN. O'BAN: So I am back into the 2013 timeframe though, were you are aware of this problem impacted more than just the Robinson case? That impacted probably number of inmates?

MS. SCHULER: Not the extent that it impacted, no.

SEN. O'BAN: Ms. Stigall mentioned she put together a spreadsheet that showed hundreds if not several thousand. Do you ever see that spreadsheet?

MS. SCHULER: Not that I can recall.

SEN. O'BAN: You gave this a two?

MS. SCHULER: Yes.

SEN. O'BAN: O.K., Why did you give this a two as opposed to a three or four initially?

MS. SCHULER: Because we knew it was going to impact offenders. When you had said hundreds and not thousands, any time that you're going to impact 100 offenders it is something we would like to see done as soon as possible.

SEN. O'BAN: So I put this question to Ms. Stigall, but I will put it to you. It doesn't get changed in the first six months, it doesn't get changed in September 2013. You are aware as you see these requests for updates coming through that this impacted probably at least hundreds of inmates. Were you concerned about it not being fixed by September 2013? I'm asking you, Ms. Schuler.

MS. SCHULER: At the time I had other projects that were going. Once I get one consultation done, I keep getting new ones to do, so I don't actually follow every single one every single day.

SEN. O'BAN: But I notice that once a project is not done, it changes to a "must fix".

MS. SCHULER: A "must fix", correct.

SEN. O'BAN: And it looked like by September 2013 it had achieved that status, "must fix". Tell us what that means. What is a "must fix"?

MS. SCHULER: A "must fix" is when we set a certain end release and we tell the coders that it is going to get done and then they will come and say, well we don't have the resources, or it's code freeze, or whatever, and it goes to what we call the "must fix", so it becomes top of the next release.

SEN. O'BAN: O.K., so it gets "must fix" status in September of 2013. It goes to the top of the release, so at that point in time it should've been fixed by the next release, which was when?

MS. SCHULER: I don't have that date.

SEN. O'BAN: Probably within a couple of months?

MS. SCHULER: Usually.

SEN. O'BAN: O.K. So it is "must fix" status now. It was a two, now it is down to three, but it has "must fix" status on it. Why was it not fixed two months later?

MS. SCHULER: I don't know. I don't have documentation why it wasn't.

SEN. O'BAN: It wasn't a cost issue, was it?

MS. SCHULER: I don't believe so. I don't know.

SEN. O'BAN: O.K. But you don't believe it was a cost issue?

MS. SCHULER: Resource issue, maybe? I don't know. As I said, there was nothing documenting about why those were moved out.

SEN. O'BAN: Well, I notice Exhibit 8 is the IT consultation form that you prepared and there is actually a section that talks about out-of-pocket estimates, several different boxes to check . There is the over \$5,000 box. That is not checked, correct?

MS. SCHULER: Correct.

SEN. O'BAN: The box that was checked was \$500-\$5,000, correct?

MS. SCHULER: Correct.

SEN. O'BAN: In fact it looks like the total cost would've been about \$3,800, based on that estimate. So that is not a huge cost issue is it?

MS. SCHULER: Not compared to some, no.

SEN. O'BAN: So wasn't really for cost reasons that this fix wasn't made, right?

MS. SCHULER: I don't believe that's the issue, no.

SEN. O'BAN: Where does this form go?

MS. SCHULER: This form would go back to my boss, Dave Dunnington, and then he would route it back up through whatever his chain was at that point.

SEN. O'BAN: So your understanding is that would go beyond Mr. Dunnington?

MS. SCHULER: Correct.

SEN. O'BAN: And what would be the highest level that you understand it would go to?

MS. SCHULER: That I don't know, I wasn't a part of that process

SEN. O'BAN: At least to his report, correct?

MS. SCHULER: I would've thought so.

SEN. O'BAN: O.K.

SEN. PADDEN: Who is in charge of the IT department at the time that this was going on? Was that Mr. Schweitzer?

MS. SCHULER: I don't know. We had seven in a short period of time. I honestly do not know the dates for every one of them.

SEN. PADDEN: Seven over how long a period of time?

MS. SCHULER: Over a 4 to 5 year period.

SEN. PADDEN: Was it the time when Mr. Warner was the head of DOC?

MS. SCHULER: Correct.

SEN. PADDEN: What you know was his relationship with the IT Department?

MS. SCHULER: I don't know. At my level, it was nothing.

SEN. PADDEN: Ms. Stigall, do you have any information on that?

MS. STIGALL: No.

SEN. PADDEN: Was this turnover impacting the morale in the IT department to have that many different bosses in that short of time?

MS. STIGALL: I don't know if impacted moral me personally, change is stressful.

SEN. PADDEN: So there was stress at least for you with all these changes?

MS. STIGALL: Correct.

SEN. O'BAN: Ms. Schuler, I was looking at Exhibit 8, which you may have in front of you, and it looks like there was a timeline that you have prepared. Could you take a look at that document? When did you prepare this document?

MS. SCHULER: My boss asked me to do it when the first set of calculations were done and he was getting questions from his bosses and higher up as to what happened.

SEN. O'BAN: So this was prepared sometime after November 2015?

MS. SCHULER: Correct.

SEN. O'BAN So I won't go through each item that can be done later, but it looks to me like you tried going back you tried to track each time this particular fix came up for review by IT – that's what this is an attempt to try to record?

MS. SCHULER: Correct. Instead of trying to read that entire ClearQuest item.

SEN. O'BAN: And I'm just looking, it looks to me like this particular fix came up repeated times over the 2012, '13 and '14 period, correct?

MS. SCHULER: Correct.

SEN. O'BAN: Were basically these dates, I won't go back and read them all I just want to get the context for them, are they key to when the IT group would meet on a quarterly basis to determine what were the fixes that were needed to take place in the next iteration?

MS. SCHULER: To my knowledge, I'm not sure what you're talking about with quarterly meetings?

SEN. O'BAN: So how was it on these dates that you've indicated here, that someone or a group of people would take a look at this particular request for a fix and then make the decision to delay the fix?

MS. SCHULER: These were all the dates that were indicated in the ClearQuest item. I just condensed them into this.

SEN. O'BAN: And how are changes made? Does someone go in and make a change on a periodic basis?

MS. SCHULER: When something changes, yes. If it's not going to make that release, and it is moved to the next, yes, someone would go in and do that.

SEN. O'BAN: So there is a decision made to delay including this in the next release?

MS. SCHULER: Yes.

SEN. O'BAN: And that's what each of these dates indicates?

MS. SCHULER: Yes.

SEN. O'BAN: Alright, thank you.

SEN. PADDEN: All right. Up to one question and then we will take a little break. The ladies have been here for some time. Go ahead, Sen. Frockt.

SEN. FROCKT: Sure. Thank you, Mr. Chairman, just to follow up a line of questioning from a few minutes ago, turning to the 2007 memo. Ms. Larson, if I could ask – I see you cc'd Donna Mullen. Who is Donna Mullen?

MS. LARSON: Donna is someone who used to be doing the same type of stuff that I do. She used to work in my unit.

SEN. FROCKT: Was she your supervisor?

MS. LARSON: Oh no. She was there before I was hired, but I ended up doing a lot of same stuff that she does.

SEN. FROCKT: Were you all at the same level?

MS. LARSON: Yes.

SEN. FROCKT: And to this memo go to anyone else at the Attorney general's office?

MS. LARSON: It went to my supervisor and also went into an inbox so it could be put into our case management system so that it can be searchable by anyone in the corrections department division at the Attorney general's office.

SEN. FROCKT: Who was your supervisor?

MS. LARSON: Paul Weisser.

SEN. FROCKT: And was there anyone – who else had access to that inbox that was searchable?

MS. LARSON: Once it is put into the law manager system, it is searchable by anybody in the corrections division of the Attorney general's office.

SEN. FROCKT: Do you have any indication that this memo and anyone higher than your immediate supervisor Mr. Weisser?

MS. LARSON: No, I don't.

MS. FROCKT: You don't know one way or the other?

MS. LARSON: I have no indication that it did.

SEN. FROCKT: O.K., so you'd be speculating about who saw what and when?

MS. LARSON: Right.

MS. PADDEN: Would Mr. Judge have been in that unit and would he also have had access to it?

MS. LARSON: I'm not sure if he was in our unit that time. He's, I can't remember if he was working there, but I don't think you would have. He was working in a different unit so we have two units in the corrections division. My unit was the habeas corpus unit and his unit was the civil rights unit. And we don't work on the same issues.

SEN. PADDEN: I think we will take a brief 10 minutes break at this time and then we'll be back.

[Hearing resumes.]

SEN. PADDEN: All right, we will go ahead go ahead and resume the committee hearing, and if Ms. Schuler and Ms. Stigall and Ms. Larson could resume their chairs – and you of course are still under oath. Sen. O'Ban, you had a question?

SEN. O'BAN: Yeah, It may go without saying, but I just want to get it in the record. This is for Ms. Schuler and Ms. Stigall. In 2013, 14, and 15, was there any fix other than this one that implicated hundreds or possibly thousands of inmates who might be released early, to your knowledge?

MS. STIGALL: Not to my knowledge.

SEN. O'BAN: Then, so this was in terms of public safety and the early release of inmates, this was sort of the mother of all computer fixes that need to be made, correct?

MS. STIGALL: Yes.

SEN. O'BAN: O.K.

SEN. PADDEN: All right. And we talked a little about contracting out, could you explain what was in-house and what was contracted out and who the contractor was?

MS. SCHULER: I can't tell you it gets contracted in or out because I don't make those decisions, but we contracted with Sierra at the time, I believe it is Sierra Cedar now, I am not party to how much they are supposed to be doing, but sentence structure was pretty much done by Sierra if that is what you're asking.

SEN. PADDEN: And do you know how many employees they had working for the Department of Corrections?

MS. SCHULER: No I don't.

SEN. PADDEN: And would it have been somebody at a higher level than you making decisions on how to use their services?

MS. SCHULER: Yes.

SEN. PADDEN: Was there a reason why the in-house folks didn't want to do any fixes involving sentencing?

MS. SCHULER: I believe because they didn't really know sentencing well enough. As I said before the people who did know it had retired and had been replaced. And I think that they were just a little leery of messing up other sentences that we wouldn't know about by trying to create this fix.

SEN. PADDEN: I'll get to Sen. Darneille next. How many in-house programmers/developers did you have?

MS. SCHULER: I believe we have four, three or four.

SEN. PADDEN: And how many positions were not filled during this time?

MS. SCHULER: I don't know. I don't have those figures.

SEN. PADDEN: What was the highest number you remember of developers when you were there?

MS. SCHULER: Probably about eight.

SEN. PADDEN: So you had gone from at one point, eight, to four. Sen. Darneille?

SEN. DARNEILLE. Thank you, Mr. Chair. Ms. Schuler, I just received these documents when I walked in, so I haven't had a chance to really read them all the way through in a thoughtful way and still try to listen to what is going on. But there is a statement where you say, or it has been – I guess I wanted to ask first, did you have an opportunity to review and correct any items in this?

MS. SCHULER: Yes.

SEN. DARNEILLE. Thank you, and it says Ms. Schuler stated that no in-house DOC developer wanted to work on sentencing fixes because of the significant implications of a mistake affecting prison-wide populations.

MS. SCHULER: Correct.

SEN. DARNEILLE. It seems like I too have kinda of have been shocked -- I've been here 16 years, and I have worked at the same time frame as a layman on as terms of secretaries, but it seems like there is just a considerable amount of changes in your supervisors or in the people you worked alongside. But I'm wondering about that particular sentence. Did you feel that that was true, that there was an overwhelming number of your colleagues would not want to work on certain kinds of fixes like sentencing fixes and did this apply to other topic areas as well?

MS. SCHULER: I think sentencing structure was probably the most complex that we do have. They worked on some of the smaller data fixes, some of the smaller coding issues, but sentence structure touches almost everything the offender is doing.

SEN. DARNEILLE. So why does the body of these workers, why do they feel that their skills are not sufficient to do this, and somehow a company's employees outside would have sufficient skills to know this or implement it?

MS. SCHULER: I don't know.

SEN. DARNEILLE. But you feel it was pretty common then, significant implications, for them to outsource the kind of work, the sentence work? So they were betting that the skill sets outside were better than the skill sets inside?

MS. SCHULER: Yes.

SEN. DARNEILLE. Did you think that they were also betting that there wouldn't be any fingers pointed at people on the outside that would be pointed at people on the inside?

MS. SCHULER: I don't think so. I mean, not at my level.

SEN. PADDEN: When did Sierra started doing work for DOC?

MS. SCHULER: Sierra was the contractor back in 2006 I believe, and they are the ones that actually coded OMNI.

SEN. PADDEN: So you had quite a transition from OBTS to OMNI, and both of you ladies were there for that? Was that a difficult transition?

MS. SCHULER: Yes.

SEN. PADDEN: In what ways?

MS. SCHULER: It was a change in how we do business. Some things just, I don't know.

MS. STIGALL: A lot of the issues were the rules from information that carried over from OBTS to OMNI, so conversion was where we had more issues. When we started having sentences, it was pretty good, but there were conversions issues.

SEN. PADDEN: Was there a time when you were using both systems, or did you have OBTS as kind of the legacy system and then the new system, the OMNI system?

MS. STIGALL: Now we had what we called "the frozen OBTS" that we could refer to so we could see what it looked like before. We kept it for a while, but OMNI was our system of record once it came online.

MS. SCHULER: We still have OBTS.

MS. STIGALL: But not for sentence structure.

SEN. PADDEN: Oh, so you actually use it? It is not a deep freeze?

MS. SCHULER: There are still a couple of components that are still in OBTS that have not been moved out yet.

SEN. PADDEN: All right. And Ms. Larson, I want to move on. I mean we've got all this point here in 2012, we did the manual recalculation for Mr. Mirante on his son's case. And you gave advice that wasn't necessary to do it right away, but you thought the fix was coming in soon. Were there any other reasons why at some point they didn't go to manual recalculation on this fix that kept taking so long, that you know?

MS. LARSON: Well I would imagine the reason is that there wasn't the feedback, there wasn't a back-and-forth, and we've been consulted again our advice had been/would've been different.

SEN. PADDEN: And you were never consulted after that advice you gave about waiting for the recalculation for a while until there was a fix? You weren't consulted on this issue after that?

MS. LARSON: Right, other than the follow-up when Wendy presented me with various examples to work through.

SEN. PADDEN: And Ms. Stigall, you created an Excel spreadsheet identifying the number of prisoners impacted by the King error at some point?

MS. STIGALL: Our planning and research team did.

SEN. PADDEN: In January of 2013?

MS. STIGALL: Yes.

SEN. PADDEN: And what did that show then?

MS. STIGALL: That there would be approximately 2,700 offenders would be affected.

SEN. PADDEN: So in January 2013, you knew there would be 2,700 impacted and you had previously said ASAP, you'd been through this, it was marked as two which was practically the highest level you can go and it also had a "must-fix" on it, but still nothing got done. And you folks don't seem to know why. Or is there something I am leaving out here?

MS. STIGALL: I don't know why. And like I said, I thought there was IT governance, and somebody was looking at it who knew what it said, and there were priorities for the agency higher than that request.

SEN. PADDEN: All right. There are questions. Sen. Frockt, and then Sen. Darneille.

SEN. FROCKT: Thank you, Mr. Chairman. This is to I guess Ms. Schuler and Ms. Stigall since you were at DOC. When a lot of the initial events that sort of led to this problem, you became aware of in December and January 2013, that was at the end of Gov. Gregoire's administration and prior to Gov. Inslee coming in early January. Did you notice any change in the operations or culture at the DOC between those two periods when all these events were taking place?

MS. STIGALL: I didn't.

SEN. FROCKT: So whatever was going on with sort of subsequent to Gov. Inslee coming in, you would agree that it was a similar environment as it was with Gov. Gregoire?

MS. STIGALL: For us it was business as usual regardless of who was in governor's office.

SEN. PADDEN: Sen. Darneille?

SEN. DARNEILLE. Thank you. Ms. Schuler, again, in your report with Mr. Bartlett, you go into quite some detail about staff that were leaving the organization. I am trying to put dates on these things to figure out if it was during the recession when we were making all the agencies be more efficient or cut back on personnel. And I'm sure you had some back then, in 2008 and 2009 and 2010.

MS. SCHULER: I didn't notice the turnover like I did when I became a business analyst. Prior to that my time was spent on gathering business requirements for OMNI. I noticed that staff turnover as became a business analyst and the people that I worked with were leaving. And the people that I relied on—

SEN. DARNEILLE. So Mr. Collins was one of three technical analysts who were lost and not replaced.

MS. SCHULER: Correct.

SEN. DARNEILLE. And DOC had gone through numerous CIOs – what were CIOs?

MS. SCHULER: Chief information officer.

SEN. DARNEILLE. And there's been a lot of staff turnover as well. IT's budget has been cut to the bone and this increases the stress levels and leads to a loss of continuity and institutional memory. I just wonder if all these kinds of variables might make you feel less sure about the outcomes of any of the projects that you are referring over to that department? Yes, and that you had said earlier I believe that you know later, towards the end of your statement, you had said that the IT department had lost some

continuity and processes as a result of staff turnover, and pointed to a departed CIO as not being particularly good for the process and that they had moved IT, they had separated IT out from one of the . . .

MS. SCHULER: From our CIO at the time and moved us under budget, they moved my unit as well as the project management unit.

SEN. DARNEILLE. And you are talking in here about how that also increased some stress.

MS. SCHULER: Yes, we were removed from some of the communications that were occurring in the IT department.

SEN. DARNEILLE. So natural allegiances/awareness about processes and people's strengths and weaknesses were kind of lost to you because they were now in another unit. Has that been reintegrated?

MS. SCHULER: Yes, that was one of the first things I redid was brought us back together as one unit.

SEN. PADDEN: And Ira is who?

MS. SCHULER: Our current CIO.

SEN. PADDEN: He took office when?

MS. SCHULER: I don't honestly know when he started.

SEN. PADDEN: But November or October of 2015?

MS. SCHULER: Yes, that sounds about right.

SEN. PADDEN: Mr. Pacholke hired him to be the IT, the seventh one in 4 or 5 years, but he made these changes?

MS. SCHULER: Yes, Ira made the changes, I am not sure who hired him, but he has been instrumental in making a lot of changes recently.

SEN. PADDEN: All right. And one of the other things you mentioned in your statement is the lack of backup in most IT operations. Usually even smaller ones, one person might know one language and somebody may know another one, but usually there is a backup in general for the work you do. But you really didn't have much backup there, do you?

MS. SCHULER: No, I referred to it as single points of failure that certainly doesn't mean that myself, Wendy or Mark or Dale failed, that's not what that meant. What that meant is if we leave tomorrow, we are taking an awful lot of history with us, and there is no one backing us at the moment to mentor someone to come into our positions. To have that knowledge, as Wendy said, you have to have the knowledge for not only what happened today, but what happened in 1983 in the sentencing laws, and

why was OMNI coded this way? Why do we do it like this and this is knowledge that is going to be leaving the next few years.

SEN. PADDEN: So all this turnover and the lack of that institutional memory and especially in the sentencing things, as hurt the IT department significantly? Would that be a fair statement?

MS. SCHULER: I don't think it has hurt us yet, but it could, is what I was saying, in the future. Losing Steve Collins was huge to me, because he was a person that I relied on for the calculations. That is the person I would go to and say, OK, Steve, this is what they want to do, what should the calculations look like? And now I sort of have to fumble through with Wendy's help, the vendors and the coders, and we try to make it right.

SEN. PADDEN: So it is a lot more difficult for you -- and he was never replaced with somebody else?

MS. SCHULER: No, he was not.

SEN. PADDEN: Anything else that you want to add or clarify on anything that you said earlier? Or add? Ms. Larson do you have something?

MS. LARSON: Yes, I just wanted to mention that one of the most important things that could come of this is to perhaps simplify sentencing, specifically in regard to enhancements being flat time. That has been one of the most complex issues that the department has dealt with in my time being with the Attorney general's office, in my 13 years. Because enhancements are flat time, it complicates sentence structures inordinately, so that would be a good place to change it.

SEN. PADDEN: All right. Sen. Roach?

SEN. ROACH: Thank you, Mr. Chairman. Since you do feel that way, I am wondering, has anyone ever presented that that thought to the Sentencing Guidelines Commission?

MS. LARSON: That has been presented as one of the DOC's proposed bills during the year that the governor asked agencies to have 10 percent cuts proposed, but the bill did not go forward.

SEN. ROACH: Well, what year was that?

MS. LARSON: I believe it was two years ago.

SEN. ROACH: Is in the system right now?

MS. LARSON: I'm not sure if it has been revived. It would be nice if it was.

SEN. ROACH: It was just tried once? Well, the point is, I am not getting down on you, but the point is, look, if you recognize this as being an issue, and you have years in which to deal with this, and we have the Sentencing Guidelines Commission which meets I don't know four times a year, we have someone who sets an agenda, it really seems to me, in fact there is probably someone from the Department of Corrections on the sentencing guidelines commission, so you know I really find fault with a situation where there is a vehicle in which to move forward something that needs to be corrected or changed,

would save government money at for no other reason, most taxpayers would like to see it. That it wasn't moved forward. And you don't have to have the Sentencing Guidelines Commission. You could come to any one of the senators or house members, they would probably be more than excited to run a bill supported by the department, if you follow me.

MS. LARSON: I agree with that. I wrote that bill.

SEN. ROACH: So it is unconscionable when we are paying a liaison from the department to the legislature that that was done, and I will bet there are a lot of other things, hopefully you go back in your inventory of, gee, what can we do to make our lives better, to make the state of Washington more secure? What could we do to make the system work better to save money? What have we got here in our back of bills? And get them done in other words.

MS. LARSON: I agree. That bill in particular might've had a little bit of opposition because it gives you the idea that you're being soft on crime, which I disagree with, but that is one of the contentions that created a problem with the bill.

SEN. ROACH: I honestly think what we are looking at because these kinds of problems are pervasive across government, it is because we just get used to our jobs. I mean, my job is one of advocacy, and I do that a lot, if I have something that I really believe in, I don't take the first no. In fact, I don't take no, I just keep going. I know, you all agree with that. But the fact is, how do you expect to win anything if you take it to the Sentencing Guidelines Commission gets pooh-poohed because somebody might not like it and you go back and don't do anything with it. That is what is bred in government. It is an inbred kind of thinking. In fact, I wrote a little note up here to one of my colleagues, well, it is government work. Because there is no sense of getting out there and advocating, because you go in, you clock in, you clock out.

MS. LARSON: So would you be a person who might advocate for that bill? Because that would be terrific in my mind.

SEN. ROACH: By the way, I have been on this committee, it is Law and Justice when Republicans have majority, it is judiciary when the Democrats have [the] majority. I've been here 26 years. I've been on this committee for 24 years, maybe 26, but I'm pretty sure 24 and I don't even see anybody from your department coming in and gracing my door. So you don't have a good relationship with the legislature in my opinion, and you know, this is part of what needs to change. It's a culture. It's a culture. Come in, bring it to me, and let's take a look at it.

SEN. PADDEN: Again, I think Sen. Roach is talking not about you three ladies but others and I just want to thank you for again cooperating with our investigator and answering the questions to the best of your ability, and being part of this effort of the Senate to kind of find out what happened and you helped. But obviously you still have questions about why this all happened and how it all happened, so we will continue on with some more hearings, and hopefully we will be able to get to the bottom of this. We know that the governor's investigation will be released here shortly, so between everything hopefully

we will find out and try to correct this because it is a very sad situation as to what happened. Thank you very much for being part of that. We have one final question here?

SEN. O'BAN: Ms. Larson, did I read somewhere that you are no longer with the AG's office?

MS. LARSON: My last day is March 1.

SEN. O'BAN: Do you care to comment on why you are leaving the AG's office?

MS. LARSON: No. Thank you.

SEN. PADDEN: Thank you again very much. With that, we are adjourned.

Senate Law and Justice Committee

February 25, 2016

Senate Hearing Room 4

SEN. PADDEN: Good morning. We will go ahead and call the Law and Justice Committee to order for February 25, 2016. This is a continuation of the Senate committee's investigation into the early release of approximately 3,000 prisoners by the Department of Corrections. This is our second meeting, and today we hope to find out what systematic or management issues allowed the King issue to go uncorrected for specifically over three years after actual notice.

If you will recall, Monday at our first hearing we heard from Mr. Matthew Mirante, Sr., who notified the Department of Corrections himself about the inaccurate release date for his son, who had been stabbed viciously, and they manually corrected that sentence, but continued to not make corrections for all the other prisoners. We hope to find out why that was uncorrected at least for those three years plus, from December 2012 to January of 2016. What corrective actions have been taken since that time or if there are any additional corrective actions that should be taken? And is OMNI really fixed and can the public rely on it?

We know that obviously there has been a problem. The governor himself, in his Directive 1601, issued last month, observes that state IT systems providing critical functionality such as public safety often had inadequate or undefined processes for prioritizing and managing critical issues.

Our first individual to come forward and testify this morning is Ira Feuer. Mr. Feuer, if you could come forward and please remain standing, and raise your right hand, please.

Do you solemnly swear the testimony that you are about to give in the matter pending shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. FEUER: I do.

SEN. PADDEN: Please be seated there, and just for the record, if you could speak directly into the microphone and state your name and current position.

MR. FEUER: Sure. My name is Ira Feuer, and I am currently the chief information officer for the Department of Corrections.

SEN. PADDEN: Thank you for coming today. Thank you for appearing voluntarily. Sen. O'Ban, do you have some questions?

SEN. O'BAN: I do. Thank you, Mr. Chair. Mr. Feuer, how long have you been in the IT field professionally?

MR. FEUER: In the IT field for 34 years.

SEN. O'BAN: And just briefly if you would describe your educational background, from college onward?

MR. FEUER: Sure. I have a Bachelor's of Science in Chemistry with a minor in physics. I have a bachelor's of science in computer science. I have a Master's of business administration with an emphasis on information technology.

SEN. O'BAN: And you spent approximately 34 years in the public agency IT world, is that fair?

Here. I spent about 30 years in the public agency public sector, but I spent about four years in the private sector.

SEN. O'BAN: O.K. And I think at one point you were also the director for DSHS, is that correct?

MR. FEUER: I was the CTO and director of IT for the economic services administration for DSHS, yes.

SEN. O'BAN: Thank you. So when did you assume your current position?

MR. FEUER: August 17, 2015

SEN. O'BAN: And who was the secretary of the time you assumed that position?

MR. FEUER: Bernie.

SEN. O'BAN: Bernie Warner

MR. FEUER: Yes.

SEN. O'BAN: And what did, Mr. Warner, how did he characterize the IT department when he hired you?

MR. FEUER: When he hired me, we had a little meeting one-on-one, and he said it was I was taking over a well-run well established IT organization.

SEN. O'BAN: And did you come to agree with that, or did you come to change your review about that representation?

MR. FEUER: I changed my view.

SEN. O'BAN: Why don't you elaborate, please?

MR. FEUER: Well, I found the organization to be about 170 people strong. They all had tremendous caring toward the Department of Corrections. A lot of them had been with the Department of Corrections their entire career. They were all professional, they were all pretty much capable of doing their jobs. They just didn't have good processes in place, good governance in place, good prioritization in place, just normal things that help the IT organization run more efficiently. So it was a little bit helter-skelter there

SEN. O'BAN: How would you characterize the communications across the board?

MR. FEUER: Communication in IT when I got there was not good. In fact one of the major units, the project management office and business services office which has the business analysis was actually moved out of IT and then reported directly to the assistant secretary at that time, and they did not communicate at all. And it is critical for the project managers to talk to the IT staff and vice versa. And it is critical for the BA units to talk to the development team as well. And that communication ceased, there was just no communications between the two groups.

SEN. O'BAN: Why is that important to have that communication between those two groups?

MR. FEUER: Well, first the project managers oversee the entire project, so they are running the project from day to day. And if they are not talking to the people that are doing the project, they don't know what is going on, so they really can't do their project management work properly and vice versa. The team that is doing it really has no leadership in what they're supposed to do and when they're supposed to do it by. The BA unit is the initial step to get the business requirements done, so the business requirements turn into the technical requirements, and it turns into the coding. So if the business requirement people are not talking to the development team that is just a breakdown of a systemic proportion.

SEN. O'BAN: So that lack of communication goes to an inability then to prioritize which projects are the most important?

MR. FEUER: Yeah, correct.

SEN. O'BAN: Why is it important that the business people are communicating the prioritization aspects to the IT folks?

MR. FEUER: So they know what to work on.

SEN. O'BAN: O.K. And when we say business, we are obviously not talking about a for-profit business. By that term what do we mean in the context of the Department of Corrections?

MR. FEUER: Say that again?

SEN. O'BAN: When you say the term business in the Department of Corrections, just so we understand the terms correctly, elaborate for me what you mean by business in this context?

MR. FEUER: So it is the business of corrections. The business analysts are subject matter experts in different fields. For instance we have a sentencing person that is an expert, and a health services person that is an expert in that area, so these are the subject matter experts in the business of corrections.

SEN. O'BAN: Do you have, sitting here today, do you have an opinion is there a point in time where this communication was better and business was communicating priorities to IT within the Department of Corrections?

MR. FEUER: So one of the things I asked the assistant secretary to do, Brian Tinney at the time, was to bring that group back into IT, and he agreed to do that before he left. So we brought the groups back,

we had meetings to make sure to get all the hard feelings out of the room and stuff, and get them talking again, which they did. So we realized we had a problem with the whole prioritization process. IT shouldn't be in the business of prioritizing projects at all. It should be the business [division] that prioritizes the projects and IT should be the enabler, it is the enabling strategy to be able to implement the project.

SEN. O'BAN: Was there a point in the past that you understand that business was in fact informing IT as to its proper priorities?

MR. FEUER: When I got there I wasn't clear what the process was. That was some of the problem. It wasn't well defined in it didn't seem to be followed at all. Once in a while it was the business making the priorities and then it seemed it was IT possibly making the priorities, so when I got there it was very clear. I could see that in the first week I was there.

SEN. O'BAN: So you've been in this field for 30+ years, would you say it is the common practice to have the business side talking freely with the IT side to help establish priorities?

MR. FEUER: So in fact the business alone should establish the priorities with IT not part of the committee, but just being support and technical assistance to the committee that the business people sit on.

SEN. O'BAN: O.K., you put it better than my question. My point though is what you just described is as it should be the relationship where IT is the enabler and the businesses establishing the priorities. Is this your experience, sort of the industry standard?

MR. FEUER: Yes.

SEN. O'BAN: So you experienced that in different places where you worked, including in the public field, correct?

MR. FEUER: Yes, we implemented that at DSHS. We called that triage at DSHS and in Miami – Dade County, we implemented that as well.

SEN. O'BAN: Are you familiar with the Advance Corrections initiative?

MR. FEUER: Yes sir.

SEN. O'BAN: I was reading your statement, and you used the term that the project came to block out the sun. Can you elaborate on what you mean by that?

MR. FEUER: Yes, when large projects come into a development team, sometimes they are so massive and they are not resourced correctly, that they take over everything. And so there is very little resources left to do maintenance and enhancements, and that was what was kind of happening here. I also saw that phenomenon with the Affordable Care Act when I was at DSHS. They took over almost all the resources to implement the Affordable Care Act at DSHS. So I used the same term there, too. I said

blocked out the sun. That became a famous term of mine throughout the state that we blocked out the sun.

SEN. O'BAN: It's very descriptive. So in terms of the impact, would you say that that had . . . well let me back up. In terms of this issue that brings us here today, the fact that there was prisoners who were released early because there was not a timely software enhancement or a change. And this of course predated before you came, we know that. would you describe that as sort of a regular maintenance that you would expect to be done in the regular course on a timely basis in a well-run environment?

MR. FEUER: Yes.

SEN. O'BAN: O.K. And given what you now understand, given the nature of the software fix that I understand is being implemented under your watch, how long would you expect that project to take, to actually implement, from when it is discovered to when it is actually online? And the adjustments are being properly made?

MR. FEUER: No more than three months.

SEN. O'BAN: And, of course, you understand this did take three months. It took three years from the time we are told DOC first learned about it in late 2012 two until now when you took over. Do you have an opinion as to why it took three years rather than three months to make that change?

MR. FEUER: I can only have an opinion on that because I haven't done the investigation and I haven't been able to read the investigative report yet. But just from my experience again it was a systemic problem dealing with poor communication, poor governance, poor prioritization processes in place, I'm not sure anyone knew who was really making decisions on prioritization, and so there was lots of problems. It didn't seem to be just one individual or something like that. It was just a systemic problem. It was the whole system.

SEN. O'BAN: And in your judgment, who is responsible for making sure that the governance is properly situated to put the right people in place in business, the right people in IT to make sure that business is making the calls on prioritization?

MR. FEUER: In my experience, it is the CIO.

SEN. O'BAN: And who was your predecessor as CIO?

MR. FEUER: I believe Lee Baublitz was the acting CIO.

SEN. O'BAN: Right. In your judgment from what you understood in talking with DOC employees that had been there for some time, do you believe that the Advanced Corrections initiative was a contributing cause to drawing away resources from the regular maintenance to as you say sort of darkening or blocking out the sun?

MR. FEUER: It did and obviously it impacted maintenance, but maintenance of critical items like early release date calculations should have still continued. There should have been resources available to do that.

SEN. PADDEN: I have some follow-up questions. I assume some other members of the committee have questions. So everybody will have a chance to ask their questions. So when did you become aware of the sentencing error, the so-called fix, the King fix?

MR. FEUER: November 2.

SEN. PADDEN: O.K., November 2 of 2015. And we see here from the chart which is Exhibit 11, the time frame of both the departmental secretaries and the timeframe of your tenure and the other DOC chief information officer's tenure. So you came in it looks like is that –

MR. FEUER: August 17.

SEN. PADDEN: O.K. August 17, and you found out you say on November 2.

MR. FEUER: What I normally do is I first interviewed my staff, the 170 people on my staff. I interviewed my management staff one-on-one and then I interviewed the teams in a group setting, to kind of do a SWOT analysis, a strengths, weaknesses, opportunities and threats analysis, and then I went to interview the assistant secretaries to see, to introduce myself and see what we can do to help them and then I went down to the division. And that's when I got to Wendy Stigall of records, and that's when she told me she was frustrated about an issue that is been out there regarding sentencing calculation for several years.

SEN. PADDEN: O.K., so that was November 2. And then what do you do once you found out from Wendy Stigall that we had this problem? At that time, did she tell you how long she had been trying to get a fix, and her rankings prioritization that she did?

MR. FEUER: No, she just said it was a while, and I could tell she was very frustrated by it. So after we concluded the meeting, I went downstairs to talk to Dave Dunnington, to see if they were working on it. And then I also spoke to Jay Hahn, who was my application development manager, to see if they were working on it.

SEN. PADDEN: And Dunnington was Stigall's supervisor?

MR. FEUER: No, Dave Dunnington was the head of the business analysis unit.

SEN. PADDEN: O.K. And what did you learn from them after your conversations?

MR. FEUER: He told me they were working on the business requirements since September of 2015 and that Jay Hahn told me they had started writing the code. Actually Sierra Cedar, Mark Rydell started writing the code in the first week of November.

SEN. PADDEN: So what was your reaction to all that? I mean, you were aware that the result was that these prisoners were getting out early?

MR. FEUER: No, she did not describe it that way to me. She did not give me that level of detail. All she told me was the sentencing calculation error, and me being new to corrections, I really didn't know what that meant. It could've meant that that meant a lot of things. There were a lot of sentencing calculation things. But I knew it was a critical thing and I knew she was frustrated. So I wanted to make sure it got done.

SEN. PADDEN: O.K. So when did you actually learn that prisoners were being let out early as a result of the failure to fix this problem?

MR. FEUER: Probably toward the end of November, I found out exactly what the problem was that we were fixing.

SEN. PADDEN: All right, at that time, did you notify the – the end of November, would be after Bernie Warner left and Mr. Pacholke was head of DOC. Did you inform him of the problem then in late November?

MR. FEUER: I did not.

SEN. PADDEN: Did you consider informing him?

MR. FEUER: I did not.

SEN. PADDEN: And why was that?

MR. FEUER: Because I didn't know the magnitude of the problem. So I didn't know this was only impacting one prisoner, two prisoners, five prisoners, 5,000 prisoners. I really didn't know the impact. The only way we were going to determine the impact is once we got enough of the fix into the code where we could run a query and then we could go and tell the secretary exactly the magnitude of the problem.

SEN. PADDEN: So you knew it was a serious problem, but you didn't know the full extent of it, or how many prisoners were involved. So when did you find that out?

MR. FEUER: Probably in mid-December.

SEN. PADDEN: Pardon. When?

MR. FEUER: Mid-December.

SEN. PADDEN: I'm sorry, when in December?

MR. FEUER: The middle of December.

SEN. PADDEN: Mid-December. So you don't have a specific date?

MR. FEUER: If I had to guess I would say it is something like December 12 or something like that.

SEN. PADDEN: O.K. And is that when you inform Secretary Pacholke?

MR. FEUER: So we had a meeting, Dave Dunnington, Wendy and myself, and we decided that Wendy, since she knew the sentencing rules and calculations, that Wendy would go and talk to senior leadership about it.

SEN. PADDEN: So she did that you think around December 12 or 13?

MR. FEUER: December 13 or 14th, somewhere around there.

SEN. PADDEN: All right. And what happened? Were you ever called in to talk to senior management yourself, or did you go with Wendy or did she just –

MR. FEUER: Wendy went on her own and described the situation. Secretary Pacholke then went into action, considered it immediately a crisis, went into crisis management. He notified the governor's office. I attended a meeting in the governor's office with the governor's staff – the governor was not there – with the DOC team, Jody Becker-Green, the deputy secretary, Jeremy Barkley, the communications director, myself, Wendy and Alex as well, met with the governor's team. On December 17. I remember that day vividly, because I twisted my ankle on the way to the governor's office. So I have an L & I claim out on that.

SEN. PADDEN: All right. Well, I'm sure that there are people in the governor's office who can direct you to the right people to talk to. So – and then there has been an all-out effort, numerous hours spent for coding and hand calculating an awful lot of sentences, is that correct?

MR. FEUER: That is correct. It was a lot of things that Secretary Pacholke started putting in place with documenting the processes. We had to set up systems so that we could continue to track things. And it was just all hands on deck, to make sure that the prisoners weren't leaving early, and then a big effort to apprehend the prisoners that needed to get back and serve their time.

SEN. PADDEN: O.K. So your focus was on that and then you really haven't had time or have you to go back and investigate the previous history of how this all came to be?

MR. FEUER: No, I have not.

SEN. PADDEN: But you did speak with our investigators, and I presume the governor's investigators about this.

MR. FEUER: Yes, I spoke to the governor's investigators twice and I spoke to your investigators once.

SEN. PADDEN: O.K. And that would've been Monty Gray who you spoke to?

MR. FEUER: Yes, I spoke to Monty Gray for about an hour and a half.

SEN. PADDEN: O.K. And was your follow-up conversation with Mr. Gray?

MR. FEUER: Yes.

SEN. PADDEN: And in that follow-up conversation did Mr. Gray give you some opinions as to personnel actions that the governor might take?

MR. FEUER: Yes, he sent me an e-mail.

SEN. PADDEN: All right. And you felt that was improper, didn't you?

MR. FEUER: I thought it was strange, yes.

SEN. PADDEN: All right. And you notified the governor's office about that, didn't you?

MR. FEUER: No, I notified the secretary, the assistant secretary, and the deputy secretary.

SEN. PADDEN: O.K., and you don't know if they notified the governor's office?

MR. FEUER: I do know.

SEN. PADDEN: You do know, and they did?

MR. FEUER: Secretary Pacholke notified the governor's office.

SEN. PADDEN: All right. And were you aware that as a result of that, Mr. Gray was taken off the investigation?

MR. FEUER: No, I was not.

SEN. PADDEN: O.K., he was as a result of that. And I just say myself, I apologize and I know that Mr. Bartlett has apologized too, and I personally think that was improper for him to do. And that is certainly the governor's decision or Mr. Pacholke's decision. Certainly not his. Just so you know, I felt so seriously about that that he was removed from the investigation.

MR. FEUER: I felt bad about that. I thought Mr. Gray was an excellent attorney and treated staff with respect and dignity. So I'm sorry about that.

SEN. PADDEN: Well, thank you. Going back to some of the processes here, you go back in general, even though you didn't do an investigation, obviously you've got a lot of experience, you know your way around the IT world. So normally on priorities, when software application or manual processes are used to track projects, or I should say -- what normal software applications or manual processes are used to track progress, developers assigned, document things? There apparently wasn't a procedure there to track that sort of thing, have you tried to implement a procedure like that?

MR. FEUER: So when it is a big project, we have a project manager assigned to it and we used Microsoft Project to follow the dates and the resources and sometimes even some of the costs of the project. If it is a smaller project, we track it through ClearQuest which is our defect tracking system.

SEN. PADDEN: So we heard testimony and maybe you were aware of that from Ms. Stigall that they had a prioritization of 1 to 4, one being a system shutdown and two being the next most serious. And she put in this fix back in December 2012 as a two, a very high priority. She also put ASAP on it and then later it was downgraded to a level 3. Do you have any idea how that would happen?

MR. FEUER: Ms. Stigall wouldn't have given a severity number only the IT staff would have given that.

SEN. PADDEN: That might've been Ms. Schuler.

MR. FEUER: Two, in my opinion, would've been the proper severity code, and by the way those severity codes, one through four are standard throughout the industry, we use the same levels in Miami-Dade, it is used across the board. So to would've been the correct one, changing it to a three was not correct.

SEN. PADDEN: O.K. And also generally your experience in the industry of a programmer that is doing code and is not unavailable, normally is there a backup?

MR. FEUER: There should be a backup, yes, if somebody were fortunate enough to win the lottery, yeah, we need to mitigate that problem.

SEN. PADDEN: All right. Is there normally a policy in written documentation of functionality code and edits or changes to that functionality in code?

MR. FEUER: Can you say that again?

SEN. PADDEN: Yes, is there normally a policy/practice of requiring written documentation of functionality code or changes to the functionality in code?

MR. FEUER: So there are two kinds of practices where you could have technical writers actually write documentation and place them in notebooks or have them online in notebooks or something like that, or you can have inline documentation within the code itself. You document what you have done in the code and I believe Mark's coding practice is to put the documentation inline, Mark from Sierra.

SEN. PADDEN: All right. I guess one other thing, speaking of Sierra, so this process which DOC had on some in-house folks and then in contracting out a fair amount of the actual sentencing revisions to Sierra, what was your opinion of that whole process?

MR. FEUER: So the sentencing module is a very complex module. It always most reminded me of the eligibility module in DSHS for public assistance and things like that, so it requires a very skilled programmer to do that. Mark was doing that almost from the beginning so we're going to set some things in place with Sierra and also in-house that we're looking at some short-term and long-term solutions so we don't have just a dependence on Mark to fix the sentencing module.

SEN. PADDEN: O.K. And you have served a relatively brief time under two heads of DOC, Mr. Warner and Mr. Pacholke. On Mr. Warner, what was your evaluation of his style or his interest in the IT department?

MR. FEUER: Mr. Warner wasn't there very long while I was there and I didn't have any meetings with him, although once I had that initial first day kind of meeting so I didn't really get to know him that well. Secretary Pacholke, we had regularly scheduled one-on-one meetings, plus he had an open door policy where I could come in at any time and talk to him about anything that I thought was important. So even though he says he's not, he is fairly knowledgeable in information technology and just a very bright man in general.

SEN. PADDEN: You had about 2 1/2 months with Secretary Warner and during that time you never really had a discussion on IT matters with him?

MR. FEUER: No, mostly with his chief of staff, Pete Dawson.

SEN. PADDEN: I see. And you have had numerous ones with Mr. Pacholke on a what, a weekly or biweekly basis?

MR. FEUER: Oh, it was almost daily. During the crisis it was daily. Twice-daily.

SEN. PADDEN: All right. O.K. Those are all the questions I have. Sen. Pedersen?

SEN. PEDERSEN: Thank you very much, Mr. Chairman. Mr. Feuer, thank you very much for being here this morning. I guess I would like to start by trying to understand this project that supposedly blocked out the sun, and the relationship between that and the prioritization that you are describing. Are you saying that this Advance Corrections project was a priority that was established by the IT folks?

MR. FEUER: No, the Advance Corrections was set by the Secretary Warner as the highest priority of the department.

SEN. PEDERSEN: O.K., and can you describe for folks what exactly the Advance Corrections, if it were successfully implemented, what the objective of the Advance Corrections process was?

MR. FEUER: Instead of doing static assessments, it will do dynamic assessments. So in theory it would be more accurate to be able to place people in the correct programs that they need to go [into] because over time there behavior characteristics change.

SEN. PEDERSEN: And I'm sorry when we are talking to people, we're talking about —?

MR. FEUER: Offenders.

SEN. PEDERSEN: Offenders. And are we talking about offenders within the prison system, or are they coming out of the prison system?

MR. FEUER: Within the prison system.

SEN. PEDERSEN: O.K. What are some of the risks if you don't place offenders in the right part of the prison system?

MR. FEUER: So then they might not get the right programs, and you know they might not be able to get the correct training that they need to be able to go back into society.

SEN. PEDERSEN: And what would happen if you put the wrong people in the wrong place? What are some of the risks that you are mitigating against?

MR. FEUER: You could have people that are in jail in prison without you know being given the services that a different priority if they've gotten better and they behaved themselves and their risk got better, they would be allowed to go into work release, they would be allowed to go into a different programs to be able to be useful in society once they were released from prison. Otherwise they would just stay in the prison.

SEN. PEDERSEN: So put differently, if you don't get this right you might be putting people into work release who are inappropriate candidates for that and who might hurt someone, for example if they are out?

MR. FEUER: That could be.

SEN. PEDERSEN: So I guess I heard you before saying that the problem was that it wasn't the business people who were making the priority decisions, that somehow that was being taken over by the IT function and I guess I am confused, because now it sounds like there was a project, people could probably have different points of view about whether Advance Corrections should've been the most important thing, but it sure sounds like that was a decision that was made by the business folks and a direction was given to the IT team.

MR. FEUER: I'm not sure it was made by the business folks or by Secretary Warner on his own.

SEN. PEDERSEN: Do you not consider Secretary Warner to be the director of all of the business folks?

MR. FEUER: Well when you say the business folks, that is plural. I would assume you are talking about multiple people there. I don't know if he unilaterally made this decision or not.

SEN. PEDERSEN: O.K., but it wasn't coming from the IT people.

MR. FEUER: Absolutely not.

SEN. PEDERSEN: I think you have in front of you the e-mail that Sen. Padden referred to, did staff give a copy of that?

MR. FEUER: Yes.

SEN. PEDERSEN: And is this in e-mail you received from Mr. Gray on the investigation team?

MR. FEUER: Yes.

SEN. PEDERSEN: Would you be so kind as to read the fourth paragraph of that to us?

MR. FEUER: "I have another topic I would like to discuss with you, as you may have seen the Governor's letter today, attached in case you haven't seen it, mentions 'appropriate personnel actions' and the need to comply with 'human resource laws.' I don't know who would be the target of such personnel actions other than Dave Dunnington, Wendy Stigall and Sue Schuler. Everyone else's fingerprints that are on the prisoner release issue has either left or is about to leave in the case of the AAG. I have strong opinions on the fairness of throwing those people under the bus. I would be interested in your views on how much you would be willing to say publicly."

SEN. PEDERSEN: And that, as you said -- you felt that crossed a line in the investigation?

MR. FEUER: I didn't say it crossed a line. I just thought it was strange that he would ask me that. So I passed it on to my supervisors.

SEN. PEDERSEN: Is that consistent with the rest of the investigation and your experience with the investigation team?

MR. FEUER: No, this was very different.

SEN. PEDERSEN: And how is it different?

MR. FEUER: Because it was almost asking me to give testimony on something I really didn't have a lot of facts on. I couldn't really give an opinion one way or another, and so let me say this, it didn't feel right to me when I received it and read it.

SEN. PEDERSEN: And Sen. Padden, may I ask a question of Mr. Bartlett, just to complete that?

SEN. PADDEN: Yes, that's fine.

SEN. PEDERSEN: O.K., thank you. Mr. Bartlett, I would like to have your comment on whether you believe that was an appropriate line of questioning or interaction with a witness in an independent investigation?

MR. BARTLETT: I did not believe it was an appropriate question to put. I thought the wording perhaps came from Monty Gray's heart, that he had come to know these people, and perhaps felt a degree of sympathy to the predicament that they found themselves in -- long-term dedicated public employees -- but no it was not an appropriate e-mail to have sent to Mr. Feuer, or actually to anyone in this investigation. Nor is it appropriate for an investigator to be providing his personal views on what is or is not appropriate.

SEN. PEDERSEN: And I want to thank you for taking that action to remove him from the team and I hope that we won't have any repeat of that in the process.

SEN. PADDEN: Yes, Sen. Frock?

SEN. FROCKT: Thank you, Mr. Chairman. Mr. Feuer, thank you for being here today, and I just want to ask you a few questions about the statement you gave to the investigators, I guess that was Mr. Hensley and Mr. Gray. Did you have a chance to review the notes?

MR. FEUER: Yes.

SEN. FROCKT: And was it accurate, to the best of your knowledge?

MR. FEUER: I made some changes.

SEN. FROCKT: O.K. What were the changes you made?

MR. FEUER: They were changes where they missed a word, missed a term.

SEN. FROCKT: O.K. And the changes, I assume, Mr. Bartlett, these changes are reflected in the copies we have?

MR. BARTLETT: Just for the record, all of the witnesses that we've interviewed have been provided copies and their edits are maintained in our database, but what has been provided to the Senate, unless there are specific time issues, are the corrected versions.

MR. FEUER: Right, and just to add to that, I did it in "track changes." Max reviewed the changes. He agreed with the changes and then he accepted the "track changes," and so what you're seeing are the changes in the document.

SEN. FROCKT: O.K. So obviously you're comfortable with that statement.

MR FEUER: I am very comfortable.

SEN. FROCKT: So I want to turn to the period of November and December of 2015, and you can even look at it if you have the statement before you. It's on page 6. You indicate that once you became aware of the problem in November of 2015 you started to look into it and figure out what needed to happen, but you state that no one ever raised the question, or I guess the notes state, of whether the change would impact hundreds or 1000 offenders until you ran the comparison query in December 2015 and you label that has the "oh, blank moment," as it were. Could you elaborate a little bit for us on that for us? What did you mean by that?

MR. FEUER: By the "oh blank moment?"

SEN. FROCKT: Well, what you're getting at, at that point, because I think that is important.

MR. FEUER: So when we started, like I said, we didn't know the magnitude of the problem so that's why I didn't report it to Secretary Pacholke or to Julie Martin, my direct supervisor, or Jody Becker Green, the deputy secretary. But as soon as we were able to run the query, when Mark had written enough code where it was almost fixed, and we did a recalculation on the early release dates and it pulled up thousands of names, I knew that was critical at that point.

SEN. FROCKT: So at least to your knowledge, that was the first time that, at least at your level, that you had been made aware of, and that you had any indication from anybody below you that that was the scope of the problem prior to that time?

MR. FEUER: No, nobody below me knew what the scope was, we couldn't even guess.

SEN. FROCKT: Did you have the impression that they were withholding that information from you? I'm asking your impression.

MR. FEUER: No, I don't think they were withholding.

SEN. FROCKT: And subsequent to that query you then, you were called over, as I understand it, to the Governor's office at some point?

MR. FEUER: A couple of days later, yeah. Pretty quickly -- things happened very rapidly, yes.

SEN. FROCKT: At that point, was there a sense of crisis that this had to be dealt with immediately?

MR. FEUER: Absolutely.

SEN. FROCKT: All right. When you went into that meeting was there any indication from the senior staff, anybody on the governor's team, at least in that meeting that you were in, [that anyone] had been made aware of the problem, prior to that point in December of 2015?

MR. FEUER: Absolutely not.

SEN. FROCKT: Can you give me just a general sense of what the questions were that you were asked in that meeting?

MR. FEUER: The questions were very good. They really wanted to understand what the error was, and how we fixed the error so we went through that. They had a little whiteboard that they use in their meetings, so we were drawing on little whiteboards, and then Wendy finally gave the ultimate explanation to them, and I don't know the gentleman's name, but he got it. He totally was able to repeat it on his own, draw the picture on his own, so he understood what the error was and what the fix was to the problem.

SEN. FROCKT: And who from your team went to the meeting -- from DOC, I should say?

MR. FEUER: Jody Becker Green, Jeremy Barkley, Alex MacBain, myself, Wendy Stigall, and that's it, I believe.

SEN. FROCKT: And do you remember who or how many people from the governor's office were there?

MR. FEUER: A lot. Nick Brown led the meeting, I know that, and there was a whole -- around the big conference table in the governor's area -- there was a whole table filled of governor's staff.

SEN. FROCKT: And were there any questions that the Governor's team raised that gave you any indication that they had been aware of the problem at any time prior to that meeting?

MR. FEUER: Absolutely not.

SEN. FROCKT: All right. You went on to say in your statement later on that you had been with the Miami – Dade police where you faced constant crisis situations. And that you understood how crisis should be handled and managed. And then you stated, and I'm quoting here, that you view that this was a great, 100 percent well-handled crisis-management scenario. Is that right?

MR. FEUER: Absolutely, yes.

SEN. FROCKT: And why do you say that?

MR. FEUER: Just because, from my historical perspective, being in a police department, not being sworn but being a civilian in the police department, I had the opportunity of being the commander of information technology. I have first-hand experience working with the crisis management teams there, and Secretary Pacholke kinda followed the book on crisis management, almost as a first responder. He organized, he delegated, and he documented processes. We were in constant communications - twice a day meetings and check-ins, working through the clock, almost 24 hours a day, weekends and things like that. And continued to refine processes and getting information out to the public, creating the web site with the web presence, and getting information out on the web as quickly as possible, so we could be as transparent as possible. So I thought it was a picture perfect handling of a situation.

SEN. FROCKT: And you indicate that obviously you did not work with Secretary Pacholke that long, because you'd only been in the department for a few months at that point, am I correct? But you said you weren't sure where Secretary Pacholke gained his experience, that he understood what to do from the minute it became a crisis and handled every decision appropriately, right?

MR. FEUER: And I said that because I don't know, I don't think the corrections or corrections officers are considered first responders. I imagine they do have incidences, critical incidences at the prisons and so they would be trained and incident management, but I don't know where Secretary Pacholke was trained. I know that my director of the Miami-Dade Police Department and many of his staff were trained at the FBI Academy.

SEN. FROCKT: And you went on to say in your statement here that the consistent message from Pacholke and the Governor's office was to get the fix right and get it out, is that correct?

MR. FEUER: Absolutely, and then Secretary Pacholke added another word. He wanted rigorous testing done to make sure it was right.

SEN. FROCKT: So you go on to state, at the end of your statement that you had seen governance improve during your time at Miami-Dade County and that -- I'm sorry, these are comments, I suppose, from the investigators. But their assessment was that Pacholke and Feuer had sent a clear message to

the department to improve their discipline and processes. These were apparently comments from the investigators, their impression of your testimony. Would you care to comment on that statement?

MR. FEUER: Sure. One thing that Secretary Pacholke did right away, he realized that Advance Corrections had blocked out the sun, and so he changed the prioritization around Advance Corrections. It was no longer the number one priority. We went back to the old traditional way, enhancements and defects were number one, and Advance Corrections would fit in where we could fit it in with the resources. So the Advance Corrections project plan has been elongated out.

SEN. FROCKT: I want to go back to just sort of back to the beginning of your testimony ask one last one of question so that was, you indicated in your statement, that in addition to Ms. Schuler and Ms. Stigall you were surprised that the issue of the corrections fix and the King problem that never come up prior to 2012, either through the state auditor, the state CIO or the DOC's risk management unit. What did you mean by that?

MR. FEUER: I tried to explain to them that I thought the problem was bigger than just DOC, that not only was it a systemic problem with IT within DOC, between management and IT in DOC, but how come the state auditor never audited OMNI to determine those calculations were correct, I thought there would be an audit, especially if this was going on since 2000 actually right, and then the office of the CIO has oversight over project like this. So they could have called an audit as well, to audit and see where the project was at the time. And internal risk management, again, should have been aware of it, and should have raised it to state risk management as well, possibly, so I thought it was kind of a systemic failure of a lot of potential people.

SEN. FROCKT: You indicated -- and the words I wrote down at the beginning part of your testimony were processes, governance, helter-skelter prioritization and cultural issues. I think, is it fair to say that you're describing how you would characterize some of the problems that existed even prior to the time that you arrived?

MR. FEUER: Oh, absolutely.

SEN. FROCKT: Do you think those systemic issues based at least on what you know now and having seen how the department operates, do you think those go back to even prior to December 2012?

MR. FEUER: I believe so.

SEN. FROCKT: Why do you say that?

MR. FEUER: I just feel there wasn't stabilization until -- the last time that my staff told me that they felt that the organization was stable, it was when Kit Bail was there. So you can go, you know -- you can follow that back and see who was --

SEN. FROCKT: Who is Kit Bail?

MR. FEUER: Kit Bail is the first CIO on that chart.

SEN. FROCKT: The six CIOs going back to – when was he there?

MR. FEUER: She was there 6/1/2006 to 2/1/2011.

SEN. FROCKT: That goes all the way back to when I believe, was it Eldon Vail who was the secretary that time, right?

MR. FEUER: Yes.

SEN. FROCKT: Thank you very much. Those are all the questions I have right now. Thanks.

SEN. PADDEN: Sen. O'Ban?

SEN. O'BAN: Thank you, just a couple of follow-ups. You mentioned earlier I think with Sen. Padden that when you spoke with Ms. Stigall in November and she seemed frustrated and we heard from her testimony that she was aware of course of this issue, that she would have been the one who wrote the ticket and get this at the top of the inbox as it were. Did she explain to you why she thought for three years this fix that she thought was so important had not been addressed adequately?

MR. FEUER: No.

SEN. O'BAN: Looking back, do you think it is again a symptom of the fact that there was no process for someone like Ms. Stigall to take this matter to someone above her and say this is urgent, this is the most important thing we should do, stop everything else and get this done? Is that a symptom of the problem?

MR. FEUER: I'm not sure if there's a formal process, there probably was no formal process, but she did report to an assistant secretary and it is the same assistant secretary that had IT under her too, so you would think in the most logical scenario they would talk about it at a staff meeting together. And so IT, Wendy would bring it up at a staff meeting at IT and IT would have to answer to what is the heck is going on?

SEN. O'BAN: And who is the assistant you're referring to?

MR. FEUER: It would be Doty at that time.

SEN. O'BAN: By the way, this e-mail that you got from Monty Gray, expressing some sympathy for a couple, three people there at DOC in the IT department, it didn't impact your testimony here today in any way did it?

MR. FEUER: Absolutely not.

SEN. O'BAN: And you're not aware of it impacting anybody else's testimony correct?

MR. FEUER: Right.

SEN. O'BAN: And you're not aware of it impacting any aspect of this investigation, to your knowledge?

MR. FEUER: Correct.

SEN. PADDEN: Sen. Darneille.

SEN. DARNEILLE: Thank you, Mr. Chair. Well one of the benefits of being toward the end of the line is that a lot of my questions have been asked, or touched upon. But I wanted to go back, if I could, to the description of the Advance Corrections project. Not just the blocking out the sun but you compare it to your work at DSHS as comparable to the ACA implementation. Which you know I don't have a lot, my son is a coder of videogames, but I don't have any personal knowledge or competency in any of these areas. But I would tend to look at that ACA has being a very large project. You have 170 FTEs?

MR. FEUER: Yes, well now, 160.

SEN. DARNEILLE: Well, I want to reference back to that in a moment. How many people do you think were engaged in the ACA implementation, coding?

MR. FEUER: I had 300.

SEN. DARNEILLE: So you're thinking that this project, Advance Corrections, was going to take or had been taking a large book of business for your department?

MR. FEUER: Yeah, it was taking a large chunk of that, not of the 170, but of the development team and the business analyst, the whole team that was involved in software development lifecycle. So it went from business requirements to technical requirements to development to testing.

SEN. DARNEILLE: They weren't adopting something that have been developed somewhere else. It was a new idea?

MR. FEUER: It was a new assessment that was done with Washington State University.

SEN. DARNEILLE: So there was some other work. But hadn't that been sort of a response to a legislative concern?

MR. FEUER: Absolutely. That's what my notes say.

SEN. DARNEILLE: So as I look at this chart with all the changes in the CIO position, over those pivotal years, I'm trying to figure out where Advance Corrections intersected with the CIO positions.

MR. FEUER: So Advance Corrections, kind of I had a conversation quickly with somebody yesterday, I heard different dates when it actually started, but he gave me a date of 2014, was the actual start of development of Advance Corrections.

SEN. DARNEILLE: Under Doug Hoffer, then?

MR. FEUER: If [inaudible].

SEN. DARNEILLE: So as you came in, you don't have to answer the question, but I'm curious because I've come in and done management, come in two places that have a lot of change, I look at that and I wonder how you felt coming in, seeing all those actings and just a short term less than a year permanent CIO position ahead of you, and you were looking than at this Advance Corrections project, having already started by the time that being succession of quick CEO's had started. What were your feelings coming into that?

MR. FEUER: If the crisis hadn't happened, I would've followed my normal best practices and determined whether or not – how significant the staffing impact really was with Advance Corrections and enhancements and maintenance, and if it impacted it so severely, I would've met up with Julie Martin, my assistant secretary and we would have come up with a plan to approach the chief financial officer and try to see if we could find some additional funding for additional resources.

SEN. PADDEN: All right. I'm sorry, are you finished?

SEN. DARNEILLE: No, I am not. At the point when you had that "oh blank moment," you were talking about a calculation error and understanding more about what the magnitude was of that. Did you consider or did any of your staff admit to considering that they thought the result might be the other way around, that in fact prisoners were held too long but rather than too short?

MR. FEUER: There was some brief discussion on that, but I think once we talked to Mark about the logic and how the logic was applied in the algorithm, we thought it was going to come out the way it was going to come out, the prisoners were being released early.

SEN. DARNEILLE: So in the subsequent analysis of individual cases, did you ever discover anyone who was held too long?

MR. FEUER: I've not been told that, so I don't know.

SEN. DARNEILLE: And now I wanted to look back on the personnel changes if I could. What effect do you, and this is a question I asked the other day of other folks who have testified, what do you think the effect of either the implementation of the Advance Corrections or in the normal book of business, of your department, what do you feel the effect of not just the personnel changes of this management level but the line staff level, what do think that resulted in, and do you think it is typical for an agency of the size?

MR. FEUER: No, it is not typical. There was tremendous turnover in the department at all levels, which obviously had an impact. Some people that left with a lot of institutional knowledge, so that obviously hurts when you have people that have so much institutional knowledge and walk out to another department like HCA. People who are more inclined want to go to the apartments they perceive have more money and can do exciting, innovative things. Such as HCA, which has a tremendous amount of federal money, DSHS which also has federal money, such as L&I which has self-funding and has money, the Department of Transportation is money. We're just state government funded and I've been in government for a long time and general fund money is to very difficult to get. So I understand that and

you know we may not be doing the exciting things, we will start doing some exciting and innovative things, but at the end of the day, we have the business to do and it is a very important business. So you know, I hope the churn just stops and we can get some stability there.

SEN. DARNEILLE: So since this investigation started, can you describe your personnel staffing at this point? Is it going down? You mentioned you are now down to 160.

MR. FEUER: No, the 160 was a movement to take what we call the business intelligence unit and move it to the research and data analytics unit which makes more sense, since they are kind of doing the same type of work. So that wasn't necessarily people leaving or anything that was just an organizational taking of 10 bodies and moving them over to another division.

SEN. DARNEILLE: So my last question is, do you think this response to recognizing that there is a calculation error, do you think this project has now blocked out the sun?

MR. FEUER: No.

SEN. PADDEN: Great, now just a couple of final questions here. Your statement you talked a little bit about Assessments.com, indicating it was not a good performer, is that correct?

MR. FEUER: That is correct.

SEN. PADDEN: And you also indicated you heard that the CEO was a friend of former Secretary Warner's? Is that correct?

MR. FEUER: That is correct.

SEN. PADDEN: And you described their work as not producing quality work at all?

MR. FEUER: That is correct.

SEN. PADDEN: And do they still have a contract with DOC?

MR. FEUER: They do.

SEN. PADDEN: Are you assessing it?

MR. FEUER: Yes we are.

SEN. PADDEN: All right.

MR. FEUER: And we are going back to day one and looking exactly at how that procurement went down.

SEN. PADDEN: All right. And there were some issues with their CEO, right? Some personnel issues?

MR. FEUER: Want to elaborate on that?

SEN. PADDEN: He had a criminal history, isn't that correct?

MR. FEUER: That's correct.

SEN. PADDEN: O.K., thank you. That is all the questions. Thank you very much for your testimony and appearing voluntarily.

MR. FEUER: Thank you very much.

SEN. PADDEN: All right. We'll next call Mark Ardiel. Mr. Ardiel, if you could raise your right hand, do you solemnly swear that the testimony that you're about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God? Please be seated and thank you for coming voluntarily down from Canada to appear here today. You work for Sierra Cedar, is that correct?

MR. ARDIEL: Yes. That is correct.

SEN. PADDEN: And what is your position with them?

MR. ARDIEL: I actually work for Sierra Canada, which is a sister company to Sierra Cedar. I am a technology principal at the company and so that is a management position that is above the consultant level, so I started as a consultant and was promoted into that position.

SEN. PADDEN: And you've been doing contract work with the DOC for quite some time?

MR. ARDIEL: Yes, it has been about nine years.

SEN. PADDEN: Is a pretty much exclusively for DOC or do you do work –?

MR. ARDIEL: It had been until the last year and a half, where some of my time was split off to some other work.

SEN. PADDEN: All right. And you also met with the Senate's investigators and gave them a statement that you reviewed and made many corrections and signed it, is that correct??

MR. ARDIEL: That is correct, yes.

SEN. PADDEN: And they had asked you about the King fix – you recall that?

MR. ARDIEL: Yes.

SEN. PADDEN: And whether it was a programming or design error, what was your understanding?

MR. ARDIEL: So my understanding of the issue there is that the original implementation of the application was following the business requirements that were provided. So from my point of view , the application was working as designed, although looking at how it now is working after the fix, it wasn't calculating the way that the fix – the calculation wasn't doing it how it should have been doing it, but it was unknown based on the requirements that were given.

SEN. PADDEN: All right. And you felt your duties were to follow whatever DOC wanted you to do, is that correct?

MR. ARDIEL: That's correct. The priorities of our work were driven based on DOC's decisions.

SEN. PADDEN: And you get a lot of requests from them for fixes, is that correct?

MR. ARDIEL: Yes.

SEN. PADDEN: Was this King fix a higher priority than any other fixes?

MR. ARDIEL: As it was set in the system, it had a higher priority based on the number that it had. So we work on things on priority from 1 to 4, generally there is not ones because it is a system shutdown type fix. And so the priority level is managed that way and it would've had a higher priority than something that was designated a three, but if there were other things designated two, it wasn't specifically set out to be a higher priority than any other two.

SEN. PADDEN: O.K. You felt that the workflow management was not necessarily up to the best practices in the industry – would that be a fair statement?

MR. ARDIEL: Well I wasn't, I don't think I made that statement myself. I've only really worked on this particular project since I've been in the industry, so it – well I've worked on some other stuff before I started with Sierra, but I don't have any comparables for best practices as to what we were doing.

SEN. PADDEN: But you did state that the lack of formal process was not ideal, didn't you?

MR. ARDIEL: Yes, I did think that is far as I know, the way the work that was being put out, I don't know if there was any review happening to maintain the priorities.

SEN. PADDEN: And you also noted that you saw a lot of turnover in the people that you worked with at DOC, is that correct?

MR. ARDIEL: There was quite a bit of change, specifically in the interfacing I had with the IT business analyst folks or whatever their actual job title is. And also some of the technical staff there. And there was changes over time. I wasn't sure as to why I thought potentially that they would be coming to headquarters from outside the agency for like a term and then maybe they would go back to their original position. I didn't really know how that was working, but there were changes, the actual experts that I would work with would change over time. Some of them would remain over time, but there was definitely change going on.

SEN. PADDEN: And as far as the governance group, you weren't familiar with any such governance group?

MR. ARDIEL: No.

SEN. PADDEN: The investigators indicated to you that some DOC staff have expressed a concern about new projects taking up bandwidth that otherwise would've gone to OMNI maintenance. You recall that question?

MR. ARDIEL: I recall talking about that. I'm not sure specifically if the questions came from DOC staff themselves, it was sort of a, it was in the air that there was potentially other work going on that took a lot of resourcing.

SEN. PADDEN: And according to the report you signed, it said that you agree with that characterization for sure. Is that correct?

MR. ARDIEL: Yes.

SEN. PADDEN: Now, I understand you went on paternity leave for a while during this time. And how long were you on paternity leave?

MR. ARDIEL: Six months.

SEN. PADDEN: And the King fix was in abeyance during that time?

MR. ARDIEL: As far as I know, so it was worked on when I was off.

SEN. PADDEN: Now, your company though, was this only something you could do, the coding on that fix?

MR. ARDIEL: It is not something exclusively that I could do, any Java programmer on our team would be able to look at that code and work on it. The issue being they may not understand the functional area as well as I do because they are not commonly working on it so it might take a bit more time for the and understand what is going on in the code but it is not something they could not look at.

SEN. PADDEN: And was it your understanding that people in DOC missed you or they just didn't ask whoever was replacing you to continue on with the work or what?

MR. ARDIEL: That's my understanding from what I've seen since then, yes, that is my understanding. Though it is not something that could not have been done. That is just an observation that I would make.

SEN. PADDEN: All right. And this actually started back in late 2012, right, and then in early 2013?

MR. ARDIEL: So yeah, the first that I would've heard of this issue I think was in March of 2013.

SEN. PADDEN: And during this whole time frame you estimated you may have spent about 80 hours on the King fix?

MR. ARDIEL: So from the time between 2013 and when I went on leave, I think my estimate was around 80 to 100 hours I had spent to figure out what needed to be done.

SEN. PADDEN: It was earlier estimated quite a bit less time by the DOC personnel, right?

MR. ARDIEL: Possibly the estimate was lower.

SEN. PADDEN: All right. But [you] kind of turned it into high gear since November?

MR. ARDIEL: Yes, when I came back from leave there were a few other things that were done and this was on the release to be done, so I turned my attention to getting it done.

SEN. PADDEN: And about 300 hours since November -- are you finished with the work now?

MR. ARDIEL: There are still some issues that we are working on. There are just two or three Issues that have come up since it has been put into production, otherwise the issues have been very minor.

SEN. PADDEN: What are those issues that are still out there?

MR. ARDIEL: The issues that exist that are being worked on still are specific to certain scenarios in sentencing. I can explain them if you want the details.

SEN. PADDEN: I am sure it would be rather complex and maybe some of the members understand them, but are some of those fixes such that somebody could still be released early without the fix being --?

MR. ARDIEL: With what's happening now, certain credits are not being given when they should be given so it is sort of the opposite effect.

SEN. PADDEN: So somebody could be in longer than they should be.

MR. ARDIEL: At the moment, yes, depending on if they meet the criteria where these scenarios I can explain that later or if you want now.

SEN. PADDEN: You noted in your report that this had been moved. You have different maintenance criteria and he numbered them and you indicated it was moved from M 34 to M 35 before you start work on it. Do you know who is moving this or moving it from one priority list of fixes to a later one?

MR. ARDIEL: Only based on looking at that tool, the ClearQuest tool that you can see, but I'm not sure who determined the decisions to make those moves.

SEN. PADDEN: All righty. Did anybody prior to December 2015 explain to you the implications of this error?

MR. ARDIEL: Not to the degree that it has come about to be known. The explanation to me would be more just that it's not calculated in a way that we want.

SEN. PADDEN: Right. I think that's pretty much all the questions. You did say by the time it became an emergency, your job on the coding was largely completed, is that correct?

MR. ARDIEL: That's right. By the end of November I have mostly completed the implementation as I had known it to be done. And by mid-December, is when I started to hear an escalation of urgency and so the coding had already been in place at that point.

SEN. PADDEN: All right. Thank you. Any other questions? Sen. Pedersen.

SEN. PEDERSEN: Thank you, Mr. Chair. Thank you, Mr. Ardiel. I was wondering if we could go back to the point that we got to a few minutes ago, and if you could first give us a sense of what are the some of the kinds of scenarios that might still cause a mistake in the release date.

MR. ARDIEL: Yes, so one of the scenarios has to do with the way that jail credits could be given in the jail. They could be given a different percentage than the law code allows and based on I'm not sure if there was a decision for this, but there can be a 15 percent earned time credit while they are in jail. But it is only a 10 percent law code so they would get a 15 percent credit for the jail time and once they get put into DOC custody it will revert to a 10 percent earned time calculation. And there is a bunch of logic like they have to fit a certain, it has to be a seriously violent or have a sexual motivation and be a certain felony class during a certain time period. And so that logic was put in place but it is only looking at the law code felony class where they can be overridden during data entry. So there needed to be a change so that logic would look up the right felony class code to identify if those credits were eligible to be at that level. So the way that the system is set up the users entered the jail credits and they entered the goodtime credits the go to jail credits and the math should be based on the ERT, earned time percentage of the law so they can center up to 15 percent per jail for these particular offenders. The system will validate that that is the most they could get so they enter more than that it will trim it down to what they are allowed to get so they don't get too much goodtime credit. What will do if they don't qualify for that rule it will cut it down to 10 percent so they only get 10 percent goodtime instead of what they are eligible for it is 15 based on details being allowed to give 15. So [if] that makes any sense it means that some of the goodtime credits will not be applied although now that I think about it may not make a difference in the overall earned time release date because the goodtime credits are in the time that they are going to serve.

SEN. PEDERSEN: So I guess two questions may be about magnitude of in different ways. If you take the worst-case scenario in terms of how much longer someone could be kept in prison, do you have a sense of how many days are we talking about or weeks or months?

MR. ARDIEL: I just convinced myself as I walked through that that I don't think it will change their earned release date because the good credits come off the goodtime comes off of the length of sentence afterwards, and so if you don't take those credits during the processing they will get that anyway.

SEN. PEDERSEN: O.K. So assuming you are correct about that are there any other pending fixes that you are aware of that would affect the correct –?

MR. ARDIEL: Yes, the other two issues that I know about are not related to the earned release date. They are related to the maximum expiration date, which is the full length of the confinement term without the goodtime. So there are special situations where there can be a maximum length confinement added to the sentence which overrides the actual length of the base confinement, to give them a different maximum expiration and that element isn't used to calculate the earned release date and so it is not applying credits. Which it should be applying credits to make sure that calculation comes out correctly so that is one of the other changes that needs to be applied. The third situation that I know about relates to –

SEN. PEDERSEN: I'm sorry before you go on to that I want to make sure that I'm following so in that case it is also about people that potentially would be getting out as early as they should.

MR. ARDIEL: Well the maximum expiration date isn't used to determine when they are released. It is used to determine the maximum length of the serve in confinement when they don't get good credits. So it shouldn't come into play for their earned release date unless they are serving all the way to the maximum which means they get no good credits so it shouldn't factor in is an issue for getting released early.

SEN. PEDERSEN: O.K. And I'm sorry I interrupted you. You were mentioning a third issue.

MR. ARDIEL: The third issue has to do with sentences where they only have getting community supervision, and they do not have confinement time on those the sentences, so there's also credits for jail time they go towards the statutory maximum value which is the maximum length of time that they are allowed to be served under law. And that credits are applying in the field situations and was something that the business didn't realize that offenders that only got committee supervision would only get credits for jail time. So that needs to still be applied.

SEN. PEDERSEN: O.K.

MR. ARDIEL: Those don't equate to getting out of prison early because these offenders are not in prison.

SEN. PEDERSEN: And obviously you haven't found out what damage the legislature is going to do to the whole system this session yet. Thank you.

MR. ARDIEL: That's, right.

SEN. PADDEN: O.K. Sen. Frockt?

SEN. FROCKT: Thank you, Mr. Chairman. I just have one question thank you again for taking the time to testify today. Mr. Feuer in his statement and you probably haven't read it, but just to give you a sense that he said, OMNI could've had an error detecting system which would've prevented it from calculating any earned release percentage above the 33 percent maximum, but that was never implemented. It wasn't thought of, or no one thought it was possible. I take that to mean that there could have been maybe something that could've been coded that would've been a flag to cause a second look.

MR. ARDIEL: Possibly. I'm not sure exactly what is he referring to but as it stands right now the system is not allowing another to go beyond the percentage, which may be what he was referring to.

SEN. FROCKT: I see. Is that a fairly complex fix in a system like this or is it fairly simple to put in something like that?

MR. ARDIEL: It is not that difficult when you break it down to the smaller pieces. The part that makes it complicated is when you have varying percentages and varying sentence elements running in different orders, but overall right now it is actually doing that. The change was put in with this credit application change.

SEN. FROCKT: Do you think- I mean obviously if you read your statement . . . you've read some of the press and so forth and you have a different perspective, of being in the middle of this, but just going back to when the King decision came out. Even [in] 2002, do you think if we had, if somebody had looked and said hey maybe we should put something in the system now to make sure we catch that, that might have been helpful to preventing the situation that we have today?

MR. ARDIEL: Possibly. I think the way was being applied before, the logic wouldn't have still probably caught that, because – well, it depends on how you implement the system I suppose, but that could've been something that would've been useful.

SEN. FROCKT: I'm not trying to lock you, I'm just curious based on your experience with this what you're –

MR. ARDIEL: Now that I've gone through and understood with the issue is and I have gone through and done it all, there is a fairly simple logic thing you could look at to say that, "[w]ell, the maximum goodtime they should be getting on these elements is X, how can it be more now when you're doing this."

SEN. FROCKT: O.K. Thank you very much.

SEN. PADDEN: Mr. Bartlett, you have a question? Oh, Sen. Darneille.

SEN. DARNEILLE: Thank you for being here it must've been quite a trip down. You certainly have an important role with this whole project from beginning to end. And you are being sorted in a remote location might be less because you guys are working online, but when you took your leave, how long was it and what effect do you think it had on just sort of that relationship with DOC and how often you had previously been communicating with them and how do you think that all unfolded?

MR. ARDIEL: So in my interpretation of my leave time, which was quite nice to me, I think that it didn't seem to me like it was an issue that I would be away. I would come back and we would pick up where we were, and that lack of time when I wasn't in daily conversations with the department wasn't going to be an issue.

SEN. DARNEILLE: At that point the epiphany had not been made, the sort of the – what was it described as, the "oh blank moment," had not been had –

MR. ARDIEL: As far as I was aware the time when this issue was in the system to be worked on, but it was no different priority than any other number two item that we had.

SEN. DARNEILLE: And your leave was how long?

MR. ARDIEL: My leave was six months.

SEN. DARNEILLE: It was paternity leave?

MR. ARDIEL: Yes.

SEN. DARNEILLE: And this is in Canada.

MR. ARDIEL: Yes.

SEN. DARNEILLE: This is amazing.

SEN. PADDEN: This is another subject for another time, Sen. Darneille.

SEN. DARNEILLE: I Just wanted to get it in there.

SEN. PADDEN: Mr. Bartlett?

MR. BARTLETT: Just briefly, and thanks for coming down, Mark, you mentioned when you came off of paternity leave that you had kind of the to do list that came in periodically from DOC, correct?

MR. ARDIEL: Yes, there is a list we have for each maintenance released already predetermined as we get up to it from DOC setting priorities and setting up, so those things were in place when I came back.

MR. BARTLETT: And just to clarify the King fix had been on that kind of to do list for quite some time, correct? It had been put on just thinking back, it had been existing.

MR. ARDIEL: That's right.

MR. BARTLETT: And going back to before you went on paternity leave I think you indicated that you had worked approximately 80 to 100 hours, so it wasn't an insubstantial amount of time you spent too and a half weeks on it.

MR. ARDIEL: Yes.

MR. BARTLETT: And after spending two and a half weeks, can you explain why it was that – you know, that is a fair amount of time for you to spend on one fix – how was it that it kind of drops off the face for another, almost 8-9 months?

MR. ARDIEL: So it's the best of my recollection as to what happened there is there were some requirements given to me in a few scenarios of sentences to take a look at. So I went in and tried to code something up to make the scenarios work is expected based on the new requirements. And there was some complicated work I needed to do which took probably the majority of those hours that I had to just build internally the different sentence structure the way I refer to them is just trees of sentences because you can do consecutive trees and their different paths. Based on how to set up, I would just do that underlying work before I got to the point of applying and getting the outcomes and there was places where I would see sentence scenarios that didn't match the original scenario. And I wasn't sure how this calculation should work. So at some point I get to a place where I can't get these other scenarios to work or don't know what they should do so any more confirmation from the business as to how I proceed. It is sort of like a roadblock. And that is really when I get to the end of my time where I am sitting at where there are some scenarios that are doing with they need to do and I need business clarification as to how to proceed.

MR. BARTLETT: And just to clarify for the record, when you reached that point you spent 80 to 100 hours, you reached a point where you have questions that need to be answered from the business group, we are talking about approximately March of 2014 when we looked at the ClearQuest records?

MR. ARDIEL: I think so, yes. I believe so.

MR. BARTLETT: And you eventually go on paternity leave, in February 2015?

MR. ARDIEL: That's right.

MR. BARTLETT: And so there's a fair amount of time when it just sits.

MR. ARDIEL: Yeah, so there is time there where these questions are outstanding from my point of view and I need some answers to help. Then, in the meantime, there is other work that will be picked up and taken over from my resourcing,

MR. BARTLETT: Thank you.

SEN. PADDEN: All right. Thank you, we'll call Mr. Hoffer next. Thank you, Mr. Ardiel. If you could remain standing and please raise your right hand? Do you solemnly swear the testimony were about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. HOFFER: I do.

SEN. PADDEN: Please be seated. Sen. O'Ban?

SEN. O'BAN: Mr. Hoffer, just a few background questions first, when were you last employed at DOC?

MR. HOFFER: It would have been February 2014.

SEN. O'BAN: And what was your position at that time?

MR. HOFFER: CIO.

SEN. O'BAN: How long were you CIO?

MR. HOFFER: Three years.

SEN. O'BAN: From 2011 to 2014.

SEN. PADDEN: Could you get a little closer to the microphone please? Thank you.

SEN. O'BAN: We are a little short on time so I will cut to the chase. What is the project review board?

MR. HOFFER: The project review board was a group at the top of the organization, executive level on staff, and it was intended to prioritize, understand the status and of existing bigger projects, and then prioritize those bigger projects, which ones we needed to work on.

SEN. O'BAN: Did you establish the board?

MR. HOFFER: I did not. It was established prior to my coming aboard as CIO.

SEN. O'BAN: Did the board becomes also entirely focused on Secretary Warner's priority, the Strong-R project?

MR. HOFFER: It did. At some point, I don't think we referred to it as the project review board anymore. It was more focused on the project at hand.

SEN. O'BAN: And that sort of became the Strong-R board at one point?

MR. HOFFER: I'm not sure what it's called now.

SEN. O'BAN: But effectively. And Strong-R is the same thing as the Advance Corrections initiative, correct?

MR. HOFFER: I was asked that question, and I believe so, but I need absolute confirmation. It sounds like it was, yes.

SEN. O'BAN: And the Strong-R project or the Advance Corrections initiative, that drew resources away from routine maintenance, didn't it?

MR. HOFFER: I would, at the time it seemed I would characterize it as I was getting to the end point of when I was the CIO, it was trending in that direction, definitely we had IT staff that were involved in that effort without question.

SEN. O'BAN: What was Assessments.com?

MR. HOFFER: A company that we had a contract and application functionality that we had deployed in 2008, and that was a company that supported that software from that time and actually continued on and continues on today, I think.

SEN. O'BAN: So at one point, Assessments.com was hired to do a project other than Strong-R?

MR. HOFFER: Can you repeat that again?

SEN. O'BAN: Sure, during the time, but of course you were there, is your understanding that Assessments.com was brought on to work on a project other than Strong-R?

MR. HOFFER: Yes, so they were brought on in the very beginning, they had an application that we put in place that interfaced with the OMNI system and so we had that maintenance contract with them from that point on, and then a Strong-R got going, they were also involved in that.

SEN. O'BAN: O.K., so then it became time to find a contractor for Strong-R, explained to that process that DOC went through to determine who should build this Strong-R?

MR. HOFFER: So we did, we actually went through some RFI's, request for information to go and take a look at have various companies come in and take a look at what tools they had, and at some point, Assessments.com got into the mix to focus on the Strong-R initiative

SEN. O'BAN: Was there an open bidding process for wasn't a single source ultimately?

MR. HOFFER: At the time I was there was no open bidding process

SEN. O'BAN: So Assessments.com got the project they were single source arrangement.

MR. HOFFER: I don't know.

SEN. O'BAN: Who was the CEO of Assessments.com?

MR. HOFFER: Sean Hosman.

SEN. O'BAN: And was Secretary Warner a big fan of Sean Hosman?

MR. HOFFER: I would characterize it -- I believe they had they had worked together in a prior -- different state, so they had a working relationship.

SEN. O'BAN: What did you think of Assessments.com and their performance?

MR. HOFFER: They were at times not the greatest vendor to work with. They were not always able to fix defects as quickly as possible. They weren't always fixed right. Clearly there was a time when a company, I think is referred to before, but the company had some issues. Sean had some chemical dependency issues and at that time the company sort of went to the point that it was even difficult to get anybody to contact anybody when we had issues with the system, so it was not a good situation.

SEN. O'BAN: So this -- we will go a little more into the chemical dependency issues, but at the point where you became concerned with Assessments.com performance was that before or after it was awarded the Strong-R project?

MR. HOFFER: That would have been before.

SEN. O'BAN: So you have these reservations [and] concerns about Assessments.com and about Mr. Hosman before DOC awarded that Strong-R project, correct?

MR. HOFFER: Yes.

SEN. O'BAN: Did you voice those concerns to anyone?

MR. HOFFER: It was pretty clear. I mean we were very concerned about their ability at the time to support their software and it was [a] potentially significant impact. And we started to put measures in place to determine, can we support this code and what can we do? Because we had to. We had no option, so it was well known.

SEN. O'BAN: So you certainly made your concerns as CIO known to those above you?

MR. HOFFER: It was well known, absolutely.

SEN. O'BAN: And Mr. Warner knew of your concerns, didn't he?

MR. HOFFER: He would have, yeah.

SEN. O'BAN: And yet the project was still awarded to Assessments.com and Mr. Hosman, correct?

MR. HOFFER: Correct.

SEN. O'BAN: Can we have Mr. Hosman's picture up? This is Mr. Hosman isn't it, displayed on the board up there?

MR. HOFFER: It is, yes.

SEN. O'BAN: I believe this is his mug shot. Do you know how many times he was arrested for DUI?

MR. HOFFER: No, I don't. I have gone out at times and looked at it but I don't know the exact number. I've seen the picture before.

SEN. O'BAN: And you have an understanding he was arrested for cocaine possession?

MR. HOFFER: Yes.

SEN. O'BAN: Do you know whether those incidents with the law occurred before Strong-R was awarded to his company?

MR. HOFFER: I do not know specifically. No, I don't.

SEN. O'BAN: But you believe probably some of those were before, because you mentioned how there was a period of time when Assessments.com couldn't even be contacted in a reliable way, right?

MR. HOFFER: Yeah, if I had to speculate – which I know I shouldn't do – but if I were to speculate, it may have been during the time that we were struggling with the support of the software.

SEN. O'BAN: And I think from your statement indicated that this initiative, the Strong-R initiative took a lot of your time during the last eight months of your tenure?

MR. HOFFER: It did, yes.

SEN. O'BAN: And that drew you and your staff away from regular maintenance efforts, correct?

MR. HOFFER: It did, yes.

SEN. O'BAN: And you believe that was contributing cause to not fixing the King fix in a timely basis?

MR. HOFFER: I don't think I would characterize it like that especially after just hearing some of Mark's testimony. I think that work was continuing to go on during the time that I was there. In fact I left in

February and I know that they were continuing to work on the King decision at that time, so I'm not sure that I would characterize it at least at that period of time that that was a factor in that.

SEN. O'BAN: What period of time are you referring to?

MR. HOFFER: Can you rephrase? I want to make sure I'm tracking with –

SEN. O'BAN: So you have described the Strong-R project at least for the last 18 months you were there drew you away, your resources away from the other responsibilities that you had. I'm asking for that period of time, isn't it true that the Strong-R project drained your time and drained other IT people's time away that would've had an impact most likely on the King fix?

MR. HOFFER: O.K., so it is true that would've drained my time is for sure I spent most of my time focused on it. It would also be true that all other people in IT were very much focused on it. I was also kind of thinking though from a development perspective and where Mark was doing that work, at that time anyway it may not have been a big drag on the resources at that level. But it was definitely trending towards a large amount of IT resources.

SEN. O'BAN: At some point in time, did you want DOC and Sierra to do the programming work on Strong-R rather than Mr. Hosman's company?

MR. HOFFER: I did.

SEN. O'BAN: Why?

MR. HOFFER: I just felt we were better positioned to develop that code within the context of the OMNI application in the on the architecture. Often times these projects get very difficult when you have to deal with the interfaces and the interactions between different applications and I just felt like it would be a more efficient and wiser to build it within the context of what we had already built.

SEN. O'BAN: And part of your reason for wanting to do that project is your lack of confidence in Assessments.com?

MR. HOFFER: Yeah, I would say that too. I would also say that the major emphasis, from my perspective, was to build it into the existing OMNI architecture with the processes that we had in place at the time.

SEN. O'BAN: And you expressed your desire to Mr. Warner that you and DOC IT people do this project rather than Mr. Hosman's company?

MR. HOFFER: I did.

SEN. O'BAN: So he was aware of that and he overruled you, correct?

MR. HOFFER: He did, yes.

SEN. O'BAN: Why did you leave DOC?

MR. HOFFER: I left for a couple of reasons. One, I've been there a long time and it was time for a change, and definitely wanted to go and do different things, but also the Strong-R project and the responsibility that I had to try to facilitate that within the department was a very difficult thing and I was convinced that some point that it may not be successful or at least I wasn't willing to, I didn't want to continue doing that so started looking for a job elsewhere, and wanted to make sure that I got to the right place.

SEN. O'BAN: And you believe that the Strong-R project was going to succeed, correct?

MR. HOFFER: I would say that at least from my perspective and when I was trying to facilitate within the department I didn't think that we were going to be successful in doing that.

SEN. O'BAN: And we heard from Mr. Feuer just a few minutes ago that I think he shares those concerns and is looking for a way to maybe terminate that project?

MR. HOFFER: That doesn't surprise me. You know, it doesn't surprise me.

SEN. O'BAN: O.K. No further questions.

SEN. PADDEN: Sen. Pedersen?

SEN. PEDERSEN: Thank you, Mr. Chairman. Thank you, Mr. Hoffer for being here. I guess I was left a little confused by Sen. O'Ban's line of questioning. Did Assessments.com have anything to do with doing the coding for OMNI about this fix?

MR. HOFFER: No.

SEN. PEDERSEN: Did Sierra have anything to do with the outside vendor that Mr. Ardiel's employer did? Does that have anything to do with Strong-R?

MR. HOFFER: Well ultimately there would have been regardless of what we've built there were existing interfaces between OMNI and the application that Assessments.com had built for us and whatever we would be building in the future would also require interfaces so they both have to interact from a data perspective.

SEN. PEDERSEN: Did any of the project that delayed Mr. Ardiel's ability to complete this have to do with his getting diverted to STRONG-R related project?

MR. HOFFER: I don't believe while I was there that occurred. I don't know after that, but I don't believe that specifically with Mark's work that would've been impacted at that time.

SEN. PEDERSEN: O.K., and I guess the last thing that I wanted to – are you aware of whether the Strong-R project came out of Bernie Warner's head or was it in response to a legislative directive?

MR. HOFFER: I would say it definitely was Secretary Warner's priority. And I remember conversations where we would talk about various IT projects and he was definitely interested in this area within the corrections field. So it was one of Bernie's priorities, as well as other people on the executive staff – everybody was involved in it.

SEN. PEDERSEN: Were you aware that in 2009, the legislature passed Senate Bill 5288 which required DOC to use a risk assessment recommended to the department by the Washington State Institute for Public Policy as having the highest ability predictive accuracy for assessing an offender's risk of re-offense?

MR. HOFFER: Yeah, I remember the bill.

SEN. PEDERSEN: So was STRONG-R the department's attempt to respond to that legislative command?

MR. HOFFER: I don't know the answer to that, I didn't hear any context. I'm not sure.

SEN. PEDERSEN: Thank you.

SEN. PADDEN: Any other questions? If not, thank you very much. I will call Peter Jekel next. If you could raise your right hand? You solemnly swear that the testimony you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

SEN. PADDEN: Please be seated and thank you for coming today. Mr. Jekel. You worked at the Department of Corrections for a while didn't you?

MR. JEKEL: I did.

SEN. PADDEN: And what was your time there, from when the when?

MR. JEKEL: From 2000 to April 30, 2014.

SEN. PADDEN: All right. And for a while you were the acting CIO, were you not?

MR. JEKEL: I was. Your chart is incorrect though. I was the acting CIO from the March 1, 2014 to April 15, 2014.

SEN. PADDEN: So a short tenure.

MR. JEKEL: It was.

SEN. PADDEN: About six weeks. During that time or during any time that you were working at DOC, were you aware of the necessity on the so-called King fix?

MR. JEKEL: I was not.

SEN. PADDEN: All right. So you were promoted and you came after Mr. Hoffer just testified, is that correct?

MR. JEKEL: That is correct.

SEN. PADDEN: During that time, you, again like everyone else, gave a statement to our investigators and signed it, that was accurate and everything, is that correct?

MR. JEKEL: That is correct.

SEN. PADDEN: And in that statement you indicated you attended about five or six executive meetings with the secretary and top leaders, and at none of those meetings did the King fix ever come up?

MR. JEKEL: That is correct.

SEN. PADDEN: You indicated also that at that time your staff was generally fatigued and under pressure because of new work that had come down from Secretary Warner, is that correct?

MR. JEKEL: I did.

SEN. PADDEN: And the new work was what?

MR. JEKEL: It had to do what has been termed Strong-R, or later called STAR.

SEN. PADDEN: All right and you've heard mentioned the company Assessments.com, did you interact with them while you're CIO, the acting CIO?

MR. JEKEL: Just briefly. On two occasions that I can remember.

SEN. PADDEN: You are aware that there was an RFP in process for Assessments.com to become a sole-source contract?

MR. JEKEL: Yes, I am.

SEN. PADDEN: And you did not favor that, did you?

MR. JEKEL: I did not.

SEN. PADDEN: Why was that?

MR. JEKEL: Well, the RCW has a very particular definition of sole-source, I think it is very high bar. It is also out on the DES website, under their procurement rules for sole-source. The same definition is repeated again. And it really requires that this work cannot be done by anybody else. I think they use the word practicable, which means it is not feasible to do it another way. I did not think that the work that was described in this contract met that metric.

SEN. PADDEN: And you indicated to the investigators, although you are aware of Hosman, who was CEO of Assessments, his past substance abuse problems, those were not the reason that you objected to working with them?

MR. JEKEL: That is correct. And remember – well, you can't remember because I didn't tell you – I was, for most of my tenure at the department, the chief information security officer. So I wasn't really involved directly in the application side of the house in development. But naturally as an acting CIO, I went down and I inquired of my application managers and of my development staff what their opinions were, consulted with them, and they had a very negative opinion of this particular company. They asked

me to be sure to relay that to Secretary Warner. Particularly they said, well, I guess the easiest way to say it was that they wrote bad code. And that they didn't have a great deal of confidence in them. So I related that the Secretary Warner.

SEN. PADDEN: Well, there were repeated quality issues, I think that you related to the investigators.

MR. JEKEL: That is correct.

SEN. PADDEN: And also you told them that you wondered why Assessments.com was being considered for future work. You didn't have any particular knowledge why they were being considered but "it didn't smell right," and he said that if you were in a fish market you wouldn't buy that fish.

MR. JEKEL: I need a better filter what I am talking. But yes, I think that was my characterization.

SEN. PADDEN: All right. And in fact the one time of the quality work, you indicated that a DOC employee had to show an Assessment.com employee how to perform the work, is that correct?

MR. JEKEL: That's what I was informed. That's correct.

SEN. PADDEN: Now you described the investigators your time as the acting CIO was among the worst professional experiences you ever had.

MR. JEKEL: Again, probably not a good filter. I think a little bit of hyperbole, but yes, it was not what I remember is a good time.

SEN. PADDEN: And why was that?

MR. JEKEL: Just a lot of issues that probably weren't in my mind necessary. The communication was mainly given by directive. Where if I tried to consult Secretary Warner would listen politely, but pretty much the mind had already been made up on what he wanted to do. That made it very difficult to work with what I would call a highly complex information group.

SEN. PADDEN: You characterize Mr. Warner's involvement in the IT department as indifferent neglect. You said benign neglect is too nice.

MR. JEKEL: Again, I need a better filter.

SEN. PADDEN: Some people would say that is refreshingly candid.

MR. JEKEL: But I think that on almost every issue that I brought up, all I got was the polite listen and followed a while later by directive that pretty much didn't bring in – there was no indication as to why the directive was given, it was simply, "this is what we are going to do." And some of the issues I thought were significant in that I wanted to make sure that this is as healthy in IT outfit as I can possibly create. And so my impression was that that was indifference.

SEN. PADDEN: All right. You let Secretary Warner know that you objected to the sole-source contract?

MR. JEKEL: I'm not sure – yes, I did. That is correct. I believe it was at a project review board that I did that.

SEN. PADDEN: All right. Sen. Roach, do you have a question?

[inaudible]

SEN. PADDEN: If you could, yes. I'm just about done here on my questioning. Another characterization you had in the statement that was signed on February 22, you thought that Warner saw the Assessments.com as the A-Team and DOC employees as the B-Team, is that correct?

MR. JEKEL: Yes, that was my impression from one of the things that the application managers asked me to convey to him was the idea that we could incorporate this into OMNI and we could do it ourselves, and was communicated back very clearly that no, we have decided on Assessments.com. He felt very highly about their programming methods and he wanted us to begin adopting them.

SEN. PADDEN: All right. Thank you that is all the questions. Sen. O'Ban?

SEN. O'BAN: Just on your last phrase, you said that Secretary Warner had high confidence in assessment.com's coding ability? Do you have any understanding as to why he would have that opinion, when he wasn't an IT expert and wasn't directly dealing with Assessments.com?

MR. JEKEL: I don't have any idea.

SEN. O'BAN: He didn't share what the basis of his knowledge was?

MR. JEKEL: No, the communication was not very strong.

SEN. O'BAN: And to the sole-source contract issue, I think you said that it is a pretty high bar, and you have to show that it can be done by anyone else? Did you believe that Assessments.com was the only one who could possibly work on the Strong-R project? Did they have that capability?

MR. JEKEL: When actually I consulted with my development staff and my applications managers. That was their opinion. They explained to me what the issues was and what needed to be done, and so yes I agree, that was my opinion. I did not feel that they were the only people that could do that.

SEN. O'BAN: And in fact the time shown that they don't have the qualifications, they haven't been able to deliver, and were certainly not the only one capable of doing the project, would you agree?

MR. JEKEL: My experience with them was only that six-week period, right? And I didn't keep up on it afterwards, but I do know that the contract was posted on [the] Web, the one that we worked on with the sole-source, and it was challenged. So obviously there is somebody out there that felt they could do the work.

SEN. O'BAN: That would be Mr. Warner?

MR. JEKEL: Pardon?

SEN. O'BAN: I will withdraw. Go ahead.

SEN. PADDEN: It was challenged by another state department, is that right?

MR. JEKEL: It was challenged by another business. Another software coding business.

SEN. PADDEN: Another software business. All right. O.K., Thank you. Any other questions by committee members? All right. Thank you very much, Mr. Jekel for coming and all the witnesses for appearing voluntarily without subpoena. That will conclude our hearing for today. We do have another DOC investigation hearing scheduled for Monday at 8 AM. Meeting adjourned.

Senate Law and Justice Committee

February 29, 2016

Senate Hearing Room 4

SEN. PADDEN: [Recording begins.] ...formal hearing we have had in the Senate's investigation of the early release mistake by the Department of Corrections, releasing approximately 3,000 prisoners. So this morning the three individuals that will be coming before the committee are Kit Bail, who was the chief information officer from June 2006 to I believe February 2011, and then secondly Denise Doty who was the assistant secretary of the Department of Corrections administrative service administration from 2008 to January 2014, and then the current secretary of the Department of Corrections, Mr. Dan Pacholke, who has a 33 year history with the Department of Corrections and has been the secretary since October 2015. So with that I would ask Catherine "Kit" Bail to come forward.

Thank you very much. If you could remain standing and raise your right hand, do you solemnly swear the testimony that you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. BAIL: Yes I do.

SEN. PADDEN: And thank you for appearing, and thank you for appearing voluntarily without subpoena. Sen. O'Ban has some questions.

SEN. O'BAN: Good morning, Ms. Bail.

MS. BAIL: Good morning, senator.

SEN. O'BAN: I would just like to get a little bit of your background. It looks to me from your statement that you have quite an extensive background in the public safety area as well as in just state government. So you were chair at one point of the Washington State Parole Board, is that correct?

MS. BAIL: Yes, I was.

SEN. O'BAN: What were the years of service?

MS. BAIL: I was there for about 13 years. I am not really good with the dates.

SEN. O'BAN: That's all right. 13 years, close enough. And then you were the chief information officer with the DOC I believe from June of 2006 until when in 2011?

MS. BAIL: About February of 2011, when I left that role and did a six months' special project for Secretary Vail.

SEN. O'BAN: At DOC, of course.

MS. BAIL: At DOC.

SEN. O'BAN: And I just did want to talk to you about that period of time when you were with the DOC as CIO under Mr. Vail. Would you just tell the committee what his management style was, accessibility -- just other aspects that come to your mind when you think about his style of management, of leadership?

MS. BAIL: Well I'm a little bit biased in this area because I thought Eldon was one of the best directors the department has seen. One of the best bosses I've ever had. He was very committed. He was very connected to the people who work at the department. He had a great reputation and relationships up here, to my knowledge, anyway. He was -- he is very bright and very succinct. He was a terrific leader in my opinion.

SEN. O'BAN: And what was the morale like at the DOC?

MS. BAIL: Well, in the corrections department, there is always -- it is hard job, it is hard work, so there are peaks and valleys. Generally speaking, in my opinion, the morale of the department under Eldon was excellent.

SEN. O'BAN: In terms of the stability of the employees who worked there, let's say the management level, was there a fair amount of continuity? Were there a lot of retirements, departures, during the time you were there?

MS. BAIL: The normal number of retirements. There was not a lot of unusual turnover during Eldon's time.

SEN. O'BAN: What was the project review board?

MS. BAIL: The project review board was a body that we created along with the OMNI project to try to bring some governance, some standard governance to how decisions were made, how the agency utilized IT resources.

SEN. O'BAN: And did it fall to the board to also set up a system to track requests for updates or enhancements and make sure those were done in timely fashion?

MS. BAIL: They fall to the board. I think you could insinuate that. It would have been the responsibility of the CIO to have that system in place. And the CIO would report to the project review board at their request about the state of whatever issues were on the table.

SEN. O'BAN: Well, run through that for me, then. So you were the CIO --

MS. BAIL: I was.

SEN. O'BAN: Tell me what systems you had in place at the time that you were there, and I presume were intact when you left, that tracked projects, that made sure they were prioritized, and so if a new project

came forward that was more important than those that were already in the pipeline, that there was some system for prioritizing those over the older ones.

MS. BAIL: Well when we were doing the OMNI project at the same time, and it became clear that we needed a more formal type of governance over projects and the use of IT resources, and it was Secretary Vail, actually, asked me and a fellow worker from Sierra systems, if we together would set up the structure for a governance structure for not only the OMNI project but any future projects the organization would take on. And the governance structure essentially contained the executive team as decision-makers and then we had certain processes, standard processes and procedures in place that if they had been followed, form a governance structure for the major work of IT and the business with regard to major projects.

SEN. O'BAN: So we are obviously somewhat focused here on the King error. You're familiar with that, I'm sure.

MS. BAIL: I am.

SEN. O'BAN: You have read the newspapers, and of course, I think you both spoke to our investigators, but you also spoke to the investigators hired by the Governor, correct?

MS. BAIL: At their request. Yes, I did.

SEN. O'BAN: So take that project as an example. You have a ticket, a project established, it is urgent, I'm sure you have read that was given a two. Ms. Stigall thought it was urgent and put ASAP on it and so forth – walk through how that would've worked under your IT department. And if the ticket was issued but there were other outstanding projects, how that would have risen to the top and how you would've dealt with it to make sure that it was dealt with in a timely fashion.

MS. BAIL: Well, there's a difference between the process that you're talking about, which was defect tracking and decisions, and the project review board. They functioned at a higher level. The defect tracking process, when I was there, we had, and we went live with the OMNI program -- after that, we met probably two [times], sometimes even more often every week, with a group of people involved in IT, with the business team, and evaluated the defects we found and rated them. And in my opinion, and remember, I'm giving you my opinion, not facts, but this particular defect, if it were explained, would have been a level 3, because it affected liberty – people's liberty interest or public safety. And that would have risen. If an issue arose that was driven from a court decision or a piece of legislation, then those would rise to the top, because we had to abide by those of course. This particular one seems to me to be fairly complex. And the system we used, it was called ClearQuest – it was a software process. And I read the entries made on this defect when I was interviewed by the governor's interviewers. And reading the defect, you could not – the way was entered in – you could not have a sense of its impact, or the seriousness of it. It was a pretty technical description. Accurate, though.

SEN. O'BAN: O.K., so you mentioned if something, if a defect or update impacted liberty, as this one did, right, it would receive the highest rating?

MS. BAIL: Not the highest rating. The highest rating would be a sev -- oh no, I'm thinking of it backwards. It was rated as a sev 2, which was accurate. Sev 3 is sort of the run of everyday stuff.

SEN. O'BAN: O.K., so I guess a number one is a system breakdown.

MS. BAIL: Yes, when the system just will not work.

SEN. O'BAN: O.K., so that's not what we have here. So the next most serious rating is a two, and this was given a two.

MS. BAIL: Correct.

SEN. O'BAN: And you would've given it or understood to be a two, because it impacted liberty, because it dealt with a court decision?

MS. BAIL: Correct.

SEN. O'BAN: And you understand that it was so rated, but instead of it being changed in a timely fashion, it took three years, and that's why we're all here. What I'm trying to get at is what system did you have in place when you were the chief information officer that would have tracked this particular kind of updates that needed to be made, that impacted liberty and was a court decision?

MS. BAIL: Well, when I was there, we would have still --within the last year I was there we had gone live with OMNI and so we were very -- we watched very closely how it operated. We met two or three times a week, we being myself, the deputy CIOs, the developers and the business team. Two or three times a week to evaluate the defects that came out and reprioritize. And then we tracked those. And we tracked them by having just the decisions we made and why. And that went on for quite a while after we went live in 2011. Eventually we moved into a system where we did the same work and then slotted fixes into what we called an "M release." And the same people were essentially involved, probably few of them the farther away we got from going live, but they were tracked and they were tracked in ClearQuest and they were given a priority ranking in terms of when we would get to them, when they would be fixed.

SEN. O'BAN: O.K., so you leave as the chief information officer in about February of 2011.

MS. BAIL: Correct.

SEN. O'BAN: When you leave, in place you have this team that is meeting on a fairly frequent basis?

MS. BAIL: By the time I left they probably met, I don't remember exactly, but my guess would be about once a week.

SEN. O'BAN: And the purpose of that weekly meeting was again to assess what changes updates need to be made, which were the most important, which would rise to the top and get the most attention, correct?

MS. BAIL: Correct.

SEN. O'BAN: So when you left in February 2011, you had in place a system that would've identified this King fix, would've made sure it followed through and was correct in a timely fashion-- is that fair?

MS. BAIL: I believe so.

SEN. O'BAN: So when Mr. Warner came on later that year, you were still at DOC, you weren't the chief information officer but you were still working on DOC projects. Can you characterize sort of the change in leadership from Mr. Vail to Mr. Warner?

MS. BAIL: I overlapped with Mr. Warner only about a month.

SEN. O'BAN: Did you continue to have relationships though with folks in the DOC, in the IT department, after you left?

MS. BAIL: Definitely.

SEN. O'BAN: O.K. And based upon those relationships and what you learned about any changes, can you characterize those changes in management style, particularly as it impacted the IT department?

MS. BAIL: Yes, I can give you what I heard and my opinion, but I wasn't there.

SEN. O'BAN: Go ahead.

MS. BAIL: People felt, and this didn't apply to just IT, but I knew more of them. I mean I knew a lot of people at DOC, but I talked to the people in the IT department. They did not feel they were respected for their skills and they felt there was a great distance between them and what they did and the secretary.

SEN. O'BAN: Was there something of a brain drain during the time that Mr. Warner –

MS. BAIL: Definitely.

SEN. O'BAN: And what do you attribute that to, based upon the conversations you had with people at DOC?

MS. BAIL: I attribute that to the changing leadership style from Secretary Vail to Secretary Warner, and the impact that had on people. We lost lots and lots of people from the IT department.

SEN. O'BAN: And why was that?

MS. BAIL: Well, this is my opinion, all right? The department went into looking at work for another project, what was at that time what was called the STRONG-R project, and people in the executive team who were fairly recent to the department made quite a few comments about people in the IT department not being capable of doing the work, therefore they had to hire a private firm. And that was, in my opinion, absolutely untrue, number one, and it was very harmful to the morale of the people who worked there, and they felt very strongly that there wasn't much point in staying.

SEN. O'BAN: O.K., so let me see if I understand your testimony correctly. You are very familiar with the people in the IT department and you worked with them for a number of years as their chief information officer. And so they told you the impact that this STRONG-R or Advance Corrections project was having on them, and is it fair to say it was like a vote of no-confidence in the IT department that they could perform that work necessary to get the Assessments.com up to speed?

MS. BAIL: Yes, that was the message for sure.

SEN. O'BAN: O.K. And it was because in your understanding the Secretary Warner wanted to go with an outside contractor, didn't have confidence in his IT team that many of them left?

MS. BAIL: Yes.

SEN. O'BAN: And that was -- would you characterize that as some of the better people who left?

MS. BAIL: Yes. Well, no, there were good people who stayed, too, but we had a strong IT team and it is no longer a strong IT team in terms of having the loss of the people who had some tenure and some experience with the projects at hand.

SEN. O'BAN: And did you, you said you spoke with the Governor's investigators. Did you share with them your concerns about Mr. Warner and about the impact of this particular management style, wanting to bring in Assessments.com? Did you mention that to the investigators?

MS. BAIL: I did.

SEN. O'BAN: And did you mention that you thought that this had a lot to do with this brain drain?

MS. BAIL: I did.

SEN. O'BAN: In your view, the loss of all those people, the impact to the morale -- well, let me back up. We talked earlier about the system you had in place for tracking updates to OMNI and then the ability of that system to prioritize to make sure the important projects got done on a timely basis. Did that system continue, to your knowledge, after you left?

MS. BAIL: I don't think it did. And Doug testified last week that the project review board became only focused on the STRONG-R project. To my knowledge it pretty much evaporated, the governance processes in general pretty much evaporated.

SEN. O'BAN: And so would you say that a contributing cause to the delay in the King fix was the impact that this STRONG-R had on creating a brain drain and on changing the system of tracking updates to OMNI?

MS. BAIL: It's my opinion, and what I know from the people who worked there, that there was a great deal of pressure from the secretary, to focus IT's attention almost exclusively on STRONG-R. And the priorities for the people in IT were focused on meeting the needs of the secretary.

SEN. O'BAN: Do you think that was a contributing cause to the delay in updating --

MS. BAIL: I do.

SEN. O'BAN: Let me finish the question.

MS. BAIL: Excuse me.

SEN. O'BAN: That's all right. So you believe that was a contributing cause, then, to the delay in the fix of the King error?

MS. BAIL: I think it was a contributing cause, yes.

SEN. O'BAN: So have you had a chance to read the governor's report?

MS. BAIL: I have.

SEN. O'BAN: Did you find in the report that your concerns about Mr. Warner's management and its impact upon the IT department, the brain drain for example, the basically changing the project review board from what it was supposed to do to basically about implementing STRONG-R -- did you share those concerns with the governor's investigators?

MS. BAIL: I did.

SEN. O'BAN: Do you find that your comments were reflected in the governor's report?

MS. BAIL: No, I did not.

SEN. O'BAN: Were you surprised to see that your strong concerns about Bernie Warner were not reflected in that report?

MS. BAIL: No I was not.

SEN. O'BAN: Why not?

MS. BAIL: Well, frankly this -- it's hard to put a descriptive word on this whole thing. But it's highly political, as we all know. And not only with this investigation but with the Governor's investigation, and the report seemed to completely focus on people who do the day-to-day work, trying to focus blame on people who I believe don't deserve it, and not on a broader perspective.

SEN. O'BAN: So you agree there were mistakes made by some of the line people when it comes to Ms. Stigall and so forth, there were some errors made. But you think there was a larger problem, and if so, how do you characterize that?

MS. BAIL: Well, I think the problem was pervasive. I think people did not experience support or respect from the top levels of the organization. The top level of the organization. I'm not referring to Mr. Pacholke, because he was always very connected with his staff. I would think in the IT department they felt a significant morale problem as a result of a lack of support and respect. I think the issue is much larger than IT. And it drove a lot of, in my opinion, questionable decisions.

SEN. O'BAN: So you would not agree with the statement made in the Governor's report, "no one who had involvement with this particular problem whom we have spoken with suggested that his management style was a cause for the original error or its perpetuation over the years." Do you disagree with that?

MS. BAIL: I disagree with it to the extent that I know. I didn't sit in on all the interviews. I don't know what was said to them, but I certainly was pretty forthcoming.

SEN. O'BAN: And the statement is pretty broad. It doesn't say some. It says no one who they spoke with expressed a –

MS. BAIL: I don't believe that.

SEN. O'BAN: You believe that's an inaccurate statement?

MS. BAIL: I do.

SEN. O'BAN: I don't have any further questions. Thank you.

SEN. PADDEN: Any questions, Sen. Frockt or Sen. Pedersen?

SEN. FROCKT: Ms. Bail, thank you for being here this morning. I want to get some timelines straight. You were the CIO for how long?

MS. BAIL: I was the CIO from June 1 of 2006 until about February 1 of 2011.

SEN. FROCKT: In your statement that you have given to the investigators that you have signed -- and you got a chance to look at that statement, right?

MS. BAIL: Right.

SEN. FROCKT: And you indicated you were not around from 2012 to 2015 when the King fix for the OMNI fix languished, is that correct?

MS. BAIL: That is correct.

SEN. FROCKT: You only overlapped with Secretary Warner for about a month, is that right?

MS. BAIL: Yes.

SEN. FROCKT: And did you work with him prior to that time in the organization?

MS. BAIL: Yes.

SEN. FROCKT: And was your decision to leave because he had been appointed secretary, or was there some other reason you decided to leave?

MS. BAIL: Well, I was already planning to retire. But this would have solidified that.

SEN. FROCKT: But I guess I wanted to be clear. We sort of relay your views of what happened subsequent to your leaving, you are relying on information that other people gave to you, your general communications you may have had with them, is that right?

MS. BAIL: That is absolutely right, and I told your investigators and the Governor's investigators that I – there are some things that I knew about directly, because I was involved, some things I knew about because I was close to the people who continued to work there, and some things that were just my opinion. And I made it clear what bucket my responses went into.

SEN. FROCKT: So some of the responses you just gave to Sen. O'Ban was sort of hearsay type information, second or third hand, right?

MS. BAIL: Not third hand.

SEN. FROCKT: Secondhand?

MS. BAIL: Yes.

SEN. FROCKT: Now, did you – I want to ask you about the culture of the organization. When you are talking about STRONG-R and what was emphasized and what was not emphasized, were those emphases, STRONG-R in particular, were those occurring when you were CIO or were those subsequent to your being CIO?

MS. BAIL: Both, actually.

SEN. FROCKT: When was STRONG-R implemented? Or began, I should say?

MS. BAIL: Well, the issue that STRONG-R deals with is trying to get a better risk assessment instrument in place for case management. That has been in the works for some time. And it was in the works, it was being talked about, it was being researched when I was still there.

SEN. FROCKT: Do you think that is a legitimate policy objective for the Department of Corrections?

MS. BAIL: Absolutely.

SEN. FROCKT: All right. And who put that in place?

MS. BAIL: Well, it started – I mean it has been going on for years, as we have followed the research in risk assessment. I think more formally it was started with Eldon Vail.

SEN. FROCKT: Did Secretary Warner continue that?

MS. BAIL: I believe so.

SEN. FROCKT: Do you believe that was a reasonable policy objective for the Department of Corrections to pursue?

MS. BAIL: I do.

SEN. FROCKT: I understand your point, that you believe it was overemphasized in some ways, is that correct?

MS. BAIL: No, that is not what I said, I don't think.

SEN. FROCKT: O.K., please go ahead and tell me what.

MS. BAIL: The issue as I see it was not that we were pursuing developing a risk assessment tool and having it work with OMNI. The issue was that the vendor chosen to do that work had worked for us before, with quite a bit of failure. And to work with that vendor again was a questionable decision.

SEN. FROCKT: And that vendor was whom?

MS. BAIL: Assessments.com.

SEN. FROCKT: And I understand you say in your statement you fault Mr. Warner for bring in Sean Hosman and Assessments.com over Ms. Doty and Mr. Hoffer's objections. And again you raise the issue of Assessments.com's background and so forth. My question to you is, how is Assessments.com related directly to the King fix, if at all?

MS. BAIL: Well I don't know that Assessments.com is related to the King fix. I was asked earlier if there was a relationship between what was going on in the department and what happened with this fix. And I think there is.

SEN. FROCKT: In a general sense.

MS. BAIL: Yes. Well, I think it created an atmosphere that reduced the effectiveness of any governance that remained. And that governance would have been focused on making sure our work was done as it should have been.

SEN. FROCKT: But you weren't there when that work would have been taking place, so you're somewhat speculating about it, aren't you?

MS. BAIL: I am relying on my own experience with Assessments.com on that issue, and what the people I knew and worked with told me.

SEN. FROCKT: And you were working with – so I take it from your testimony then you were working with Assessments.com prior to your leaving in 2011, is that correct?

MS. BAIL: Correct.

SEN. FROCKT: So Assessments.com was brought in even before Secretary Warner took over, is that correct?

MS. BAIL: Yes. That is correct. But for a different project.

SEN. FROCKT: And that was under Secretary Vail, whom you have a high regard for?

MS. BAIL: No, it was under Secretary Clark.

SEN. FROCKT: When was Assessments.com brought in?

MS. BAIL: They were brought in at the beginning of the second phase of the OMNI project. And prior to the time that I went down to OMNI, they were hired by the then project manager, Kent Keel, to work on a community corrections case management system that would interface with OMNI.

SEN. FROCKT: So what year was that? As best you can recall?

MS. BAIL: I'm not good at this stuff. I can't remember exactly what year it was.

SEN. FROCKT: But the Department of Corrections was utilizing and working with Assessments.com for some projects even before Secretary Warner took [over]?

MS. BAIL: It was probably 05, maybe.

SEN. FROCKT: So for maybe six years before Secretary Warner came in?

MS. BAIL: Yes, however, that work had essentially finished when we launched OMNI in '08.

SEN. FROCKT: Were there any problems with Assessments.com between 2005 and 2011?

MS. BAIL: Yes.

SEN. FROCKT: And what were the nature of those problems?

MS. BAIL: The problems when I was there were that they were consistently over budget, under delivered and what they did deliver was of pretty poor quality.

SEN. FROCKT: Did you raise those issues with any of your superiors or Secretary Vail?

MS. BAIL: Absolutely.

SEN. FROCKT: And what was the decision that was made at that time?

MS. BAIL: Towards the end of OMNI, the work had essentially been completed, some of which we completed ourselves, and the organization Assessments.com was almost nonexistent. We would have great trouble getting a hold of them, answering the phones, etc. And so there was a maintenance contract in place, but when I was there, towards the end of this period, it was fairly useless.

SEN. FROCKT: I am curious. So you had this contractor from 2005 to 2011, and obviously from your standpoint it was not very effective in what they were doing. They were not providing [a] good product and services that you contracted for. What was your opinion of why Secretary Vail and the predecessors to Secretary Warner continued to use Assessments.com?

MS. BAIL: I don't think Secretary Vail knew too much about it, except what we told him at the end, which was that we had finished with them and the work was done and there was simply a maintenance

contract. We weren't in a position to – there was no contract really to end. It was a maintenance contract. But you know, it was inactive, is what I would say.

SEN. FROCKT: All right. Just a couple more questions. I want to ask you about something you say on page 5 of your statement. You say you recalled the King decision when it came out, but not how it affected sentence calculations and then you say, “it is not a problem with the system, it is how the issues were interpreted.” So my first question is, were you – the King decision came out in 2002, I believe. What was your role at that time?

MS. BAIL: In 2002, I think I was either the hearings manager for the department or – that is probably what I was doing at that time.

SEN. FROCKT: And you became CIO in 2006?

SEN. FROCKT: So between 2002 and 2006, did you have any reason to check if the department was interpreting and implementing the King fix correctly?

MS. BAIL: No.

SEN. FROCKT: Why not? It just wasn't within your job duties?

MS. BAIL: Well, in 2002, the department's system was OBTS. And to the best of -- I think pretty much everybody's knowledge, it was programmed into OBTS, the way they programmed things into OBTS at that time. I wasn't involved in IT at that time. There was no reason to believe it wasn't correct. That I don't think any of us knew that there was a reason to believe it wasn't correct.

SEN. FROCKT: And what strikes me is that it is similar to what Ms. Stigall said to us in her testimony the other day, that this was a matter of interpretation. So you agree with her?

MS. BAIL: I don't know.

SEN. FROCKT: I guess you didn't see it. That's an unfair question. Let me put it this way. In 2006, when you became CIO, did you take any steps to make sure the sentencing calculations were correct based on the King decision?

MS. BAIL: Not in 2006. But when we retired OBTS and built OMNI, we had very specific processes in place to move the guts of the sentencing process -- SSTA, it was called in OMNI -- and we were very careful with that, and we did reviews on a regular basis, we did reviews with the people who knew the sentencing calculations and knew them well, to make sure that what was programmed in OMNI was correct. And you heard Mark Ardiel tell you how that was done.

SEN. FROCKT: What year was that again, roughly?

MS. BAIL: well, that was between 2006 and 2008 when we went live.

SEN. FROCKT: Well, I guess, one of the things Mr. Feuer said in his testimony was that there could have been some sort of flag programmed into the system that would've raised basically a stop before anybody was given the 33 [percent] issue on their sentencing or on their release date.

MS. BAIL: That is not correct.

SEN. FROCKT: You don't agree with that?

MS. BAIL: Absolutely not.

SEN. FROCKT: Well, one of the things that is baffling to me about this whole situation is how everybody could have believed it was being interpreted correctly between 2002 and 2012 and that has been the testimony we've been given consistently. And that it is raised in 2012 when this gentleman realizes that his son's assailant is getting out and we don't – that's when all the red flags are raised. I'm just trying to understand, maybe you could just give us what your take is on that. I mean that is sort of an open question. But I would be interested to know why, from 2002 to 2012, that nobody in the department picked this up?

MS. BAIL: Well, I don't think that's – the system was programmed to work according to the law that was in place at the time, has the first people who testified before you explained. Sentence structure and time accounting is extremely complex.

SEN. FROCKT: Indeed.

MS. BAIL: Extremely complex. And we dealt with many, many, many, many specific situations of the complexity. We had every reason to believe that the code was working correctly. We would, as part of the process of developing OMNI, we would do test scenarios on specific SSTA processes, and then we would do hand calculations or ask the records staff to do hand calculations for comparison. So that we had a pretty strong sense of reliability, in terms of how the system was working. The fact that the algorithms were incorrect in OBTS and came over and were incorrect in OMNI was something that everybody missed. And my only explanation for that, senator, is the complexity of the system of sentencing.

SEN. FROCKT: Right, and you say you don't know if there was any documentation existing for how DOC personally interpreted the King decision and sentence calculations

MS. BAIL: I wouldn't have any idea of that.

SEN. FROCKT: But were you even aware, when you left, that this was a problem in 2011?

MS. BAIL: No, I was not.

SEN. FROCKT: So just two more short points and then I will go back. You state in your statement that Mr. Feuer does not have a strong reputation in the IT community in state government. I guess I'm a little confused by that, because he has only been in state government for a few months. So how do you – why would you say that?

MS. BAIL: That is not accurate. He was with DSHS, as he testified.

SEN. FROCKT: But he was with Miami-Dade County for a while, and then he came back.

MS. BAIL: For a while.

SEN. FROCKT: But you never met him directly?

MS. BAIL: That is correct.

SEN. FROCKT: Now, going back to the last thing I wanted to ask you. You made a couple of statements – there is a lot of discussion in your statement about other individuals in the Department of Corrections, but I wanted to just ask you about Secretary Pacholke. He stated that he tries to get what he wants and occasionally you went head-to-head with him at times, what did you mean by that?

MS. BAIL: I mean Danny and I did not always agree, and we would argue out issues. When I said in that statement is that he is a direct leader, he has strong opinions and I've never seen him do anything unethical.

SEN. FROCKT: Do you think it is a loss to the DOC that Secretary Pacholke is going to be leaving?

MS. BAIL: I don't agree with Dan's decision to leave.

SEN. FROCKT: And why not? Why don't you agree with it?

MS. BAIL: Because I don't think it will result in what he would like to see it result in, which is in his words, an end to the bloodletting. I don't think it is going to do it and I think Dan is a responsible leader.

SEN. FROCKT: Do you think it is unfortunate that the state is losing an effective manager and secretary, in light of this entire mess that we are dealing with?

MS. BAIL: It is what it is.

SEN. FROCKT: Thank you very much.

SEN. PADDEN: Do you have some questions, Sen. Pederson?

SEN. PEDERSEN. Thank you, Mr. Chair. I guess I would like to go back to the governor's report and your statements about the governor's report. Did you tell the governor's investigators who the people were who had given you the information within the Department of Corrections?

MS. BAIL: I am sorry. I'm not quite sure what you're asking.

SEN PEDERSEN: Well, as Sen. Frockt has noted, a lot of the testimony that you're giving us here today is what we would call hearsay, it is somebody else telling you about what happened inside the department after you had left. I'm wondering if you shared with the investigators who the people were that were the original sources of the information.

MS. BAIL: There were quite a few. I talked to a lot of people. I don't think they asked me that.

SEN PEDERSEN: Are the people who gave you the information still working within the Department of Corrections, at this point?

MS. BAIL: Some of them.

SEN PEDERSEN: And you know whether any of those people were interviewed by the governor's investigators?

MS. BAIL: I don't have that information.

SEN PEDERSEN: Do you know whether they were interviewed by the senate's investigators?

MS. BAIL: Neither the Governor's investigators nor the senate's investigators told me they were talking to.

SEN. PEDERSEN. O.K., well, would you like to share with us who the people were?

MS. BAIL: The people I talked to?

SEN PEDERSEN: The people you talked to who gave you the information about what was happening within the department.

MS. BAIL: Well, I talked to a lot of people. I talked to Denise Doty, I talked to Doug, I talked to people outside –

SEN PEDERSEN: So both of those people were talked to by the investigators.

MS. BAIL: I talked to people outside IT. I worked in the department for number of years, not just in IT, so I had have friends in various parts of the department.

SEN. PEDERSEN. O.K. that is not exactly what I asked you.

MS. BAIL: I am not going to give you a list of names, senator.

SEN PEDERSEN: Well, you stated, ma'am, fairly directly, that the governor's investigators ignored evidence about what had happened.

MS. BAIL: No, you're misstating what I said.

SEN. PEDERSEN. Well could you clarify for me what it is that you think that the –

MS. BAIL: I was asked if I thought that the Governor's report reflected my statements about what I thought about the leadership, and I said I did not find that in the report.

SEN PEDERSEN: O.K. Well, I guess there are a number of possibilities for that. One possibility is that the Governor's investigators might have talked to people who have more direct knowledge --

MS. BAIL: Absolutely.

SEN. PEDERSEN: -- And found that that was not consistent with what you are asking.

MS. BAIL: Certainly.

SEN. PEDERSEN. Thank you.

SEN. PADDEN: A couple of questions. I would say that we could look at the governor's report, I believe the question that Sen. O'Ban asked was that it said no one had said anything about the problems that you indicated with the leadership. Going back to the beginning of OMNI, originally DOC contracted with IBM, didn't they?

MS. BAIL: Yes.

SEN. PADDEN: And they paid them about \$25 million, was that right?

MS. BAIL: That was right.

SEN. PADDEN: And what did they get for that?

MS. BAIL: Not much.

SEN. PADDEN: And later, Sierra came in and they were supposed to do some fixes. They ended up being a pretty good company to work with and in your opinion they did good work is that correct?

MS. BAIL: That is correct.

SEN. PADDEN: And you indicated to Sen. O'Ban about the pretty rigorous governance process that you had when you were there, and also in your statement to the Senate investigators, you said all of that went down the tubes when Secretary Bernie Warner came aboard? Is that correct.

MS. BAIL: That is correct. That is my understanding in terms of what happened to the governance process we had in place.

SEN. PADDEN: I think you stated further that Mr. Warner didn't respect the rules and brought in personal friends to work in the department, is that correct?

MS. BAIL: Correct.

SEN. PADDEN: Can you tell me about Amy Seidlitz, what her role was?

MS. BAIL: I don't know what her title was. I think eventually she was an assistant secretary but I'm not sure. The comment around Amy was that she was work closely with Secretary Warner and she was very outspoken about the fact that the IT staff could not do the work. She said it frequently and often and it was a significant issue for IT people.

SEN. PADDEN: All right. And you feel it was a mistake for Mr. Warner to have brought back Sean Hosman and Assessments.com to do the work on STRONG-R and this risk assessment project?

MS. BAIL: I do.

SEN. PADDEN: In fact, you said here and I quote, "he's a crook and Bernie brought him back" Is that your statement?

MS. BAIL: Yes.

SEN. PADDEN: All right. That's all the questions I have.

SEN. O'BAN: I have a follow-up. Oh, I think Sen. Darneille had –

SEN. PADDEN: Sen. Darneille?

SEN. DARNEILLE. Thank you very much. So I have to ask, was IT – what was the \$25 million organization?

MS. BAIL: IBM.

SEN. DARNEILLE. Did you also think they were crooks?

MS. BAIL: Well, when I came to OMNI, the department had paid them quite a bit of money and when we fired them, we fired them because we couldn't see the result of that. When Sierra came in, we found big patches of empty code. Things that just didn't work. So instead of being able to pick up where IBM left off, at that time, Sierra had to start over. I did not call them a name. I did say and I think in my statement and I would say today that I was surprised the state didn't take legal action on that contract.

SEN. DARNEILLE: I wanted to go back to the Assessments.com organization. There some pretty strong feelings to have expressed. So the first contract that DOC had with that organization didn't it involve -- I'm trying to think back on my own memory to that time period – didn't it involve a risk assessment, something that could be used to determine whether or not someone needed extra community supervision when they left DOC and I wonder if you could describe the differences, or affirm that or not, and tell us about the differences were between the two projects that were given to this company. It sounds like there was one and then there was a break, and then there was another.

MS. BAIL: The one that you referred to as the first one, that contract was entered into before I went down into OMNI. But the purpose was to develop a case management tool that did include a component for risk assessment. I have not been directly involved, as you know, in the second, now called Advanced Corrections, but I know about it, and I know people working on it and that is based on a more refined and more current research into what works, and risk assessments and corrections, but I think essentially the goal of the project was to put a risk assessment instrument in place that was effective.

SEN. DARNEILLE. And thinking back to that first tool, can you comment to us, your background is as an MSW, you have a Masters in social work, correct? I never got to that level, but I worked in nonprofits

doing social work for many, many years, supervised many case managers, as a person with that kind of training, didn't you think or did you think -- I will tell you what I thought, I thought it was a little elementary, and I thought it didn't take rocket science to know that you should ask these kinds of questions to determine what someone's behavior might be. So I wonder if you shared any of those kind of feelings and that might be the basis of your sense that perhaps the company was crooked.

MS. BAIL: No. I do share those feelings to a certain extent. My comment about Mr. Hosman was my personal experience in attempting to negotiate with him and attempting to get that company to do the work that they were contracted to do. And he had a very definite pattern of how he proceeded, and it has, to my knowledge, been repeated a number of times, but it pretty much went like this. They would promise to deliver - they would deliver components or pieces that were incomplete. When you called them on that, then they would say, well we are not going to be able to do that unless -- we gave you kind of a lowball bid and we are going to need more money, and they never -- they didn't deliver, they didn't deliver on time, they didn't deliver a complete product, and it was a repeating cycle. It was a difficult organization to work with.

PADDEN: Sen. O'Ban.

SEN. O'BAN: Just a couple of follow-up points from the testimony you gave and questions from some of my colleagues. Many of the people you've spoken to over the years that DOC, who you developed an acquaintance even a friendship with, that had shared their concerns with you -- do you know if they felt that they could share their concerns about Mr. Warner's management style, the impact of Assessments.com and STRONG-R and so forth, that they would be comfortable sharing these concerns with upper management that DOC?

MS. BAIL: No. I don't think so.

SEN. O'BAN: Did they express why they felt they couldn't share those concerns with their direct reports?

MS. BAIL: Well, in my personal opinion, some of the upper management shared the same concerns. And most people didn't feel -- those people that I know -- didn't feel that there was much utility in sharing those concerns.

SEN. O'BAN: Were you someone who is safe that they could share their concerns with?

MS. BAIL: Yes.

SEN. O'BAN: You had an opportunity to review the statement that the Senate investigators prepared, correct?

MS. BAIL: Yes.

SEN. O'BAN: And you had a chance to make any corrections that you wanted to?

MS. BAIL: I did.

SEN. O'BAN: And then, once you had a chance to make sure your statement was accurate, was it at that point you signed that statement?

MS. BAIL: Correct.

SEN. O'BAN: And you didn't have that opportunity with the governor's investigators, did you?

MS. BAIL: I did not.

SEN. O'BAN: You would have wished that you had that opportunity to see if they got your statements correct and that they were accurately reflecting those in the Governor's report, wouldn't you?

MS. BAIL: I would have. And I would have expected that they would offer review.

SEN. O'BAN: But they never did?

MS. BAIL: No they didn't

SEN. O'BAN: And had they done so, you would have felt the report would be more accurate because it would more accurately reflect the statements that you gave them, correct?

MS. BAIL: I don't know. I would've liked to have seen their interpretation of what I said.

SEN. O'BAN: Because they didn't interpret your words correctly, did they?

MS. BAIL: I don't know how they interpreted them because it is not in evidence.

SEN. O'BAN: Well, that is my point. So they are not reflected in the report, and so to the extent that they have attempted to represent your concerns about Mr. Warner and about Assessments.com and about STRONG-R, those are not reflected in the statement, or in the report, are they?

MS. BAIL: Not that I saw.

SEN. PADDEN: Sen. Pearson?

SEN. PEARSON. Thank you, Mr. Chair, and thank you for being here. Just some things that are sticking out from your deposition. One thing that you did highlight -- you felt that there was a very big cultural change between Mr. Vail and Mr. Warner's leadership?

MS. BAIL: Yes.

SEN. PEARSON. And with that leadership, you believe that, after yourself, there were a number of CIOs who followed you. From one person's fabulous, one person's confident, one's blathering, and the last one -- the current one, I believe, does not have a STRONG-Reputation in IT. Does that contribute to your statement that you feel Mr. Warner decimated the department during his tenure? And the people you hired?

MS. BAIL: Yes, I expect so.

SEN. PEARSON. Thank you very much.

SEN. PADDEN: Final follow-ups, I want the committee to know that we can go beyond our 10 o'clock schedule that's why I have been pretty liberal in allowing questions. Sen. Darneille?

SEN. DARNEILLE. Thank you, Mr. Chair. I have asked this question to all the other people who have been before us who had a supervisory role, and I wonder if you could comment a little further on what you perceived as the staff turnover over this period of time, that either was -- when you said nothing was noticed, I think there was a 10 year length of time where this problem was not identified -- and then talk to us about what you think might've been a competency drain in the staffing of the IT department over this more crucial time, which was when the problem was identified, but not acted upon.

MS. BAIL: I'm not sure what you're asking me in the first part of your question.

SEN. DARNEILLE: About staff turnover rates and what kind of -- even though there are hundreds of FTEs in this department -- what happens when you lose project leads, or you know, sort of those folks that are sort of the watchdogs on process and implementation of goals?

MS. BAIL: Well, what I think happens is a disintegration of order. And the processes within a department or within a unit, a division like IT, there was a strong -- the change in CIOs over that time indicate that there was a lack of stability and not only did the CIOs change, but the strong staff in the department left. Lots and lots and lots of people left. I should be able to go back there now even this many years later and see a fair number of people that I know in IT. And I can't anymore. In the last year or so, and in the last four years, there's been a steady turnover. Which is pretty unusual in my opinion. This is my opinion.

SEN. PADDEN: Thank you very much. For being here today, coming voluntarily. So we appreciate it.

MS. BAIL: You're welcome.

SEN. PADDEN: Next I would like to ask Denise Doty to come forward. And if you could remain standing, raise your right hand, do you solemnly swear the testimony you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. DOTY: I do.

SEN. PADDEN: Please be seated. And Sen. O'Ban?

SEN. O'BAN: Thank you Ms. Doty for coming. You worked at DOC from 1982 to 2014, is that correct?

MS. DOTY: That is correct.

SEN. O'BAN: That's a long stretch of time.

SEN. PADDEN: If you can get just a little closer to the microphone that would help.

MS. DOTY: I'm sorry.

SEN. PADDEN: Thank you.

SEN. O'BAN: And was it in 2008 you were appointed as an assistant secretary of administrative services?

MS. DOTY: It was.

SEN. O'BAN: And who was the secretary at that time?

MS. DOTY: It was Secretary Vail.

SEN. O'BAN: And then you left in January 2014, is that correct?

MS. DOTY: That is correct.

SEN. O'BAN: So you were there during a number of different secretaries' tenure, and have quite a perspective. You heard of course Ms. Bail earlier talk about Mr. Vail. How would you characterize his management style?

MS. DOTY: I would describe him as a great leader, and I believe I did in my testimony with the investigations. So secretaries are there at different times. There are different circumstances. And we were there when he came back to corrections. We really were moving into the great recession and the focus became on really maintaining our core correctional responsibilities, and he was very good with laying out the vision for us. I can at least say for myself it was very clear what I needed to accomplish. He was very gifted with communicating both externally and also internally with the staff, and it was also my belief he was effective communicating here within the legislature as well.

SEN. O'BAN: And you also heard Ms. Bail's testimony about the governance she set up in the IT department to track different updates to OMNI and so forth, we will be going into that, but you heard the testimony, just to orient you to that subject. Would you agree with your characterization of the governance systems that were in place when she was the chief information officer?

MS. DOTY: I recall Secretary Vail and Kit Bail setting up the governance structure post-OMNI, and my involvement was with the large projects that is where I was involved.

SEN. O'BAN: O.K., so after Mr. Warner assumed responsibility as secretary, that's the point I want to focus you on now. How would you compare his management style against that of Mr. Vail's?

MS. DOTY: So I would start by saying it is a slightly different time. We are just starting to see just an uptick of improvement in resources, but management style was extremely different. [He was] certainly interested in the policy and the science. It was not as easy for me to see his vision. He was not as directly engaged with staff. He was somebody personally who was hard to read, what he was thinking, or to get that sense. He didn't feel as open and transparent to me. I would say it was extremely difficult to get decisions from Secretary Warner. And I would say, just even on a routine level of whether we are hiring or trying to get communications, sharing information out with our staff. It was very hard to get that. I tried a lot of different processes to try to get timely decisions and it was without success.

SEN. O'BAN: Are you finished?

MS. DOTY: O.K., I would say that one of the noticeable things was maybe not management style, but it was just in my direct involvement in my one-on-ones with Bernie. There would be a time where he could easily get distracted with his cell phone or just start working on his computer – and you were done. It was just a different style.

SEN. O'BAN: O.K., you mentioned in your statement that – and there's been quite a bit of talk today about Assessments.com and the Advance Corrections project. So let's talk about the project itself, Advance Corrections. Was that an important project for Mr. Warner?

MS. DOTY: Absolutely.

SEN. O'BAN: And I'm quoting directly from your statement here. You said, "It didn't happen overnight, but our process became solely about Advance Corrections. It became completely about this policy initiative." Can you elaborate further on that statement?

MS. DOTY: I was referring specifically to our governance structure for major projects. While he continued the same approach [as] under Secretary Vail, the governance structure was made up of the secretary and his direct reports. And under Secretary Warner, that same structure was in place, but what happened, and I just say it wasn't like an immediate change, but over some period of time, and I can't give you any kind of estimate there, our focus became only the one project. It wasn't like we were looking at other issues as far as major projects with IT. We were – I would estimate that we were actually meeting more often than we were when we were just looking at the totality of projects. But the subject matter was all Advance Corrections. Well, at the time it was STRONG-R for me. It became Advance Corrections.

SEN. O'BAN: And are you familiar with Assessments.com?

MS. DOTY: I have some familiarity, yes.

SEN. O'BAN: And so during the time you were there -- and I realize you were up maybe a rung or two up on the hierarchy -- but were you familiar with the quality of their work for the project that they were initially hired to do?

MS. DOTY: My exposure will at that point was very limited. I remember hearing that there were some challenges getting the support that we needed, but that was all it was.

SEN. O'BAN: And did Assessments.com come to be the prime contractor on the STRONG-R project?

MS. DOTY: I am only hesitating because we also were working with – so there were two elements of the project. One had to do with the research, so we were also contracting with Washington State University and also then on the programming side. And they were on the programming side.

SEN. O'BAN: Well, maybe the prime contractor is not the term. But they became the principal contractor other than the institution school was hired outside DOC, correct?

MS. DOTY: Correct.

SEN. O'BAN: Did you agree with that decision and give them that significant role in the STRONG-R project?

MS. DOTY: Well, I had spoken to Secretary Warner on several occasions, suggesting that we instead build that important functionality into the mission-critical system for offender information, which is the OMNI system. But that wasn't an option for Bernie. So –

SEN. O'BAN: So with that decision then, he – well, do you know the process that was used to try to determine who should have that contract? Was it a sole-source or was it an open-ended – what's the word I'm looking for -- a bid process?

MS. DOTY: O.K., so I will give you the best of my recollection. That's a little fuzzy. I believe we were in discussions with Assessments.com and they came to some of our meetings, and then I believe, if I'm recalling correctly, that we did have this existing license with Assessments.com, and then looked at, I have worked with our contract votes to see if we legitimately could contract with them. One of the challenges was that at some point there had been a bit of a break up with the company. I don't know if that is exactly the right terminology, but I believe that a lot of the programmers had left the company and formed a rival company, and we had to look at who owns the license, you know the license that we own for the product. We had to look at what organization had that license.

SEN. O'BAN: So given the turmoil you knew about in Assessments.com that you've described, were you surprised to see that they had been hired to do the STRONG-R project?

MS. DOTY: Yes.

SEN. O'BAN: And did you think that they were effective at their role in building the STRONG-R project, or do you have an opinion on that?

MS. DOTY: I would say that was past my time. We just got it started. I wouldn't know.

SEN. O'BAN: Turning to the King fix and the matters that perhaps you can speak to a little more directly. This is the first opportunity we've had to have you here, Ms. Doty, to talk about this and we have your statement and so forth, but my question to you is, what do you think was the problem and your role in it and the roles of some of those others that the governor's report has identified?

MS. DOTY: Well, first I would tell you I haven't read the governor's report. But I can certainly speak to you with my awareness of the issue.

SEN. O'BAN: That's fine.

MS. DOTY: I recall that there was -- in my mind it wasn't the King fix, but it had to do with jail credits. And so that's what I recall. My memory is not so specific that I could tell you who was in a meeting and what was said that kind of thing. But I definitely have a knowledge that I knew about the issue. And I

would say certainly was aware of the legal advice that we had received from the attorney general's office.

SEN. O'BAN: Would that be Ms. Larson's memo that you're referring to?

MS. DOTY: Yes.

SEN. O'BAN: O.K., go ahead.

MS. DOTY: The normal practice for us was to hand calculate sentences and get the IT fix in. We wouldn't have even contemplated not hand calculating without that advice. And we certainly would not have taken that approach had we not believed that the fix would be put in in a timely manner.

SEN. O'BAN: What was your expectation? Now we're kind of in the time frame of December 2012, January 2013. What was your expectation about when the King fix would take place?

MS. DOTY: I believed at the time it would be a matter of months. But [I] certainly wouldn't have believed a matter of years.

SEN. O'BAN: And do you have an opinion here, sitting here today, about why that fix wasn't done in a matter of months, but took three years?

MS. DOTY: I couldn't say. And I was gone for two years, so I certainly couldn't comment on that.

SEN. O'BAN: So I was reading your statement as you looked back and thought about that period of time where you are in that position and you are describing what you thought were the factors that contribute towards the delay in the fix, so the period from obviously December 2012 to about 2015, and you indicated in your statement you thought there were sort of four factors. One, was the decision not to hand calculate. You just talked about that- that that was something you realize should've been done, but you were relying somewhat on that opinion. You also indicated there were internal problems with IT governance and process and impact. And the impact on the emphasis on the Advance Corrections initiative. You said that in your statement. Could you elaborate on what you meant by that?

MS. DOTY: What I meant was that was basically just kind of what we have spoken about just a few minutes ago, is the notion that the focus in the department had really shifted not exclusively but to a large degree certainly at the management level the executive level on to Advance Corrections and we were actually looking at other projects.

SEN. O'BAN: O.K., so that wasn't perhaps the cause but it was a cause in your review of the delay in the King fix.

MS. DOTY: In my mind, yes.

SEN. O'BAN: And you also mentioned in your statement the third factor was the brain drain in the IT department, correct?

MS. DOTY: Correct.

SEN. O'BAN: Well you just heard from Ms. Bail that based upon the conversation she was having with people at DOC and she mentioned you were one of them that she thought that brain drain out had to do with STRONG-R and the lack of confidence that Secretary Warner had in the IT department. Would you concur with that view?

MS. DOTY: I would put it in a slightly different way. I think there's a slightly different timing involved. So when we are talking about the decisions or whether or not there was a willingness to do the programming in OMNI, I think that was earlier than when the really serious turnover started occurring. And I believed that started, and you would have to look at HR records to know for sure, but it really started occurring in 2014 and on. And the parts that I mean directly was, I would go to a meeting in the building like where the Department of Enterprise Services or Consolidated Technology Services would be and I would see all sorts of staff that used to work for the Department of Corrections and now work for . . . work over there. I would see them downtown when I was heading out to lunch and that kind of thing.

SEN. O'BAN: So just why extend your testimony correctly, so Ms. Bail indicated she believed that the diversion of the work on the project from people existing at IT to Advanced.com that that had an impact on morale. Could you speak at all to that issue? Where did that happen below you and you weren't is directly involved?

MS. DOTY: I think so, and I'm not sure that the timing was exactly when I was there, too.

SEN. O'BAN: O.K. Now when you mentioned, I know you haven't had a chance to read the governor's report, but did you share with the governor's investigators that you thought a factor in the delay of the King fix was this internal problems with IT governance and process and the impact of the Advance Corrections initiative? Did you share that with the Governor's investigators?

MS. DOTY: I certainly talked at length about the impact of the shift in IT governance.

SEN. O'BAN: O.K., and did you tell them that you attributed that to at least in part to Mr. Warner?

MS. DOTY: I believe it's directly to Mr. Warner.

SEN. O'BAN: So you shared with the governor's investigators that this change in governance was directly related to Mr. Warner's management style?

MS. DOTY: I did.

SEN. O'BAN: If I were to tell you, well I will just quote from the investigation, where they said "no one who had involvement with this particular problem whom we have spoken with suggested that Mr. Warner's management style was a cause for the original error or its perpetuation over the years" -- would you disagree with that statement?

MS. DOTY: I would.

SEN. O'BAN: So in that respect the governor's investigation doesn't accurately reflect some of the matters that you shared with the investigators, correct?

MS. DOTY: I would agree with that.

SEN. O'BAN: O.K., and you had an opportunity to meet with the senate investigator, and have a statement prepared that you had a chance to review, is that correct?

MS. DOTY: That's accurate.

SEN. O'BAN: And did you have a chance to make any corrections to that statement?

MS. DOTY: Yes and I made quite a few. They did very well, but there were still errors.

SEN. O'BAN: And were those changes incorporated into your final statement?

MS. DOTY: Yes.

SEN. O'BAN: And it is only then that you signed the statement?

MS. DOTY: That is correct.

SEN. O'BAN: All right. So the statement that you were able to review, make changes to, ultimately signed – that is a more accurate reflection of your testimony about Bernard Warner than what is reflected in the Governor's report?

MS. DOTY: I know that what I signed for the Senate investigator was an accurate reflection.

SEN. O'BAN: Right. As to what I read you earlier, though, about the fact that the investigators found that no one who they spoke with believed that Mr. Warner's management style was a cause of the perpetuation of the King fix over the years, that doesn't accurately reflect – is not accurate as to at least with the information that you shared with the investigators, is that correct?

MS. DOTY: I would agree with that.

SEN. O'BAN: Thank you.

SEN. PADDEN: Any other questions? Sen. Frockt?

SEN. FROCKT: Thank you, Mr. Chairman. Ms. Doty, first of all, you joined state government in 1992, is that correct?

MS. DOTY: That is correct.

SEN. FROCKT: And I know you are recently with OFM. My understanding is that you are not with them anymore.

MS. DOTY: I am not.

SEN. FROCKT: Well, first of all I would like to thank you for your service and your 22 years of public service to the state.

MS. DOTY: 31.

SEN. FROCKT: 31. There you go. What's 28 plus 16? Well, O.K., right, I am not good at calculations. For that, probably a good thing I was not working in corrections. So – but what I wanted to say is, I know this is probably difficult situation to be in but I appreciate you being here and giving us your testimony, and I think we do need to and knowledge that while there certainly were mistakes made in this whole thing, there are a lot of good people that are trying to do their best and obviously people, it is a difficult situation. That said I want to ask you a few questions and I think I will be as quiet as long as I was before. You indicated that there was certainly a difference in style between Mr. Vail and Mr. Warner and I take it from your statement, you know, you preferred your work with Mr. Vail, he brought in as the assistant secretary and you had a good working relationship with him, is that correct?

MS. DOTY: That is correct.

SEN. FROCKT: Did you not have a good working relationship with Secretary Warner, or was it just different styles?

MS. DOTY: Well, they were definitely very different styles. I wouldn't say it wasn't like we were unfriendly, we were. And I believe I testified to that. It was harder.

SEN. FROCKT: Sure, we've all had bosses that we liked better than other bosses. And so it certainly happens. You stated on the second page of your testimony that Mr. Warner's heart was on the policy side of corrections, not the day-to-day management. Then you go on to discuss Advanced Corrections and you say, "what he was doing made a lot of sense to me." You described Advanced Corrections as a better tool to better assess risk factors for offenders through custody. Some of those included education and chemical dependency, etc., and Advanced Corrections attempted to use data to identify the timing and frequency is of the most effective treatments to apply to offenders individually would allow you to potentially direct resources to the highest risk people. Is that what he told investigators?

MS. DOTY: Absolutely. I do agree with – it's not that I disagree with the policy and the project. I think it would really help the state use our resources effectively. It was more in how we were executing it.

SEN. FROCKT: And that's a policy question that you sort of laid out here in your statement, a point of emphasis. Was that Advance Corrections initiative beginning or in beginning to be in place under Secretary Vail?

MS. DOTY: I can't really tell you. It's kind of fuzzy for me about who was where, especially now that I've been gone for a couple of years.

SEN. FROCKT: When Secretary Warner was initially appointed by Governor Gregoire – am I correct?

MS. DOTY: Yes.

SEN. FROCKT: So that was in 2011, right? That he came in?

MS. DOTY: I don't recall the date, but it was Governor Gregoire.

SEN. FROCKT: Do you think from a policy standpoint a Governor is entitled to make a decision with her appointments about points of emphasis that they think are necessary?

MS. DOTY: Absolutely.

SEN. FROCKT: Do you think reducing recidivism is an important function of the Department of Corrections?

MS. DOTY: Absolutely and it is one of our, I would say, strategic goals. It is something we look at.

SEN. FROCKT: You agree if Governor Inslee decided to hold over a secretary who held those views that would be a legitimate thing for a governor to do?

MS. DOTY: Absolutely.

SEN. FROCKT: Now, you stated a little bit later in your statement that you didn't know if, this is talking about Assessments.com, if DOC needed to have Sierra Cedar contractors work on the Assessments.com project. This is on page 3.

MS. DOTY: Thank you.

SEN. FROCKT: About two thirds of the way down there. This was a little confusing to me. I was just hoping you could clarify.

MS. DOTY: I think what Mr. Bartlett was trying to get at was, and I could be wrong, trying to understand what the impact could have been on the King fix versus the other work – I just didn't know who had to work. At my level I wouldn't know whether it was department staff doing the work or if it was contractor staff.

SEN. FROCKT: So Assessments.com was working on this STRONG-R thing. Correct?

MS. DOTY: Separate, yes.

SEN. FROCKT: And that was separate from what Sierra Cedar was working on? To your knowledge?

MS. DOTY: Yes, to best of my knowledge.

SEN. FROCKT: Who was responsible for implementing the King fix? Was it Assessments.com or was it Sierra Cedar?

MS. DOTY: It was not Assessments.com.

SEN. FROCKT: So there is discussion about the focus on the Assessments.com has in so far as taking up resources or time or attention but in terms of the core work of fixing the King fix, that had to do with the IT department and the Sierra Cedar contractors? Is that a fair statement?

MS. DOTY: That's correct.

SEN. FROCKT: Now, I want to ask you a little bit about subsequent to when all of this came to light in December 2012. Let me ask you one thing before that. Before December 2012, what was your position in the department before December 2012?

MS. DOTY: I was, starting in 2008, I was the assistant secretary.

SEN. FROCKT: And had the issue about the calculation of sentences under the King decision ever come to your attention prior to 2012?

MS. DOTY: No.

SEN. FROCKT: So it had been brought up by an assistant attorney general or any of the other many, many people that you work with and had contact with over that time?

MS. DOTY: No.

SEN. FROCKT: All right. And between 2002 and 2008, what was your role at the department?

MS. DOTY: I was the comptroller, so it was in the fiscal field, the business side.

SEN. FROCKT: That would not have even been in your orbit of things that you would have been looking at or advised about?

MS. DOTY: Not in my orbit.

SEN. FROCKT: All right. So between 2002 and 2012, you are not in that – it was never brought to your attention, you were not in that loop relating to sentencing calculations, correct?

MS. DOTY: Very correct.

SEN. FROCKT: So you go on here to say, towards the end, and there is a lot of discussion. You said the decision, this is on page 5, you can refer to those three points. Let me just see if I can restate these, and then I want to ask you a couple of questions. You state that there were three factors contributing to or exacerbating the early release problem. The decision not to hand calculate sentences after the King issue was raised. Ms. Doty said hand calculating was the norm when sentencing calculating concerns arose. The second thing you said was the internal problems with IT governance and its processes and the emphasis placed on the Advanced Corrections initiative. The third bullet point says the turnover in the IT department and a little more discussion about that. I want to ask you about the first point here. Were there times when sentences were recalculated related to other issues by hand if there was some question that arose about whether a prisoner was being released too late or too early?

MS. DOTY: Yes, there were.

SEN. FROCKT: In what kind of circumstances did those take place, to the best of your recollection?

MS. DOTY: Yeah, I believe that there would be court decisions and the like. That is mostly what I would recall.

SEN. FROCKT: So it is fair to say that occasionally this thing of recalculating sentences would come up in the course of your duties and in fact at times there were hand calculations that were done?

MS. DOTY: Yes.

SEN. FROCKT: Even outside of this whole fiasco with the King decision in this discovery that we now have?

MS. DOTY: Yes.

SEN. FROCKT: Now, would it be fair to say that had hand calculations taken place, once the gentleman came forward and said my sentenced assailant is being released early, if the hand calculations had taken place and if a red flag had been placed in the department by someone, and I'm not saying who, but if the system had caught this problem, that the other two issues would not have been a relevant factor? That is, the governance team and the Advanced Corrections focus, and the turnover, because they calculations would've been done correctly as they had been done in other situations?

MS. DOTY: So I might put it slightly differently.

SEN. FROCKT: O.K., how would you put it?

MS. DOTY: I would say that the hand calculations, if I had the opportunity to go back, I regret that. Had the hand calculations been put in place, then people releasing would have been releasing at the correct time. I think, though, that the timeliness of the IT fix would still have been impacted by these other factors.

SEN. FROCKT: Certainly. But if we again had been hand calculating from that point in time that the people got their hair on fire about early releases, even with the other systemic issues in the IT department and the other cultural issues that we've been discussing here for several days, we would not have been releasing prisoners early? Is that a fair statement?

MS. DOTY: It is.

SEN. FROCKT: So the last thing I want to ask you about is this question about who, how far up this went, just to put it bluntly. You state on page 6 that you don't know if the King issue was raised at an executive team meeting. You see that? It's about the middle of the page there.

MS. DOTY: I see it.

SEN. FROCKT: And then you say something like it is a big table. Tell me what you mean in that paragraph what you're getting at, because I think that is important. There's been a lot of innuendo and accusation about who knew what when. Tell me what you are getting out there.

MS. DOTY: On a weekly basis, at corrections, at least at that time, there would be a meeting of a group called executive staff, and so it would be the secretary, his direct reports, it would be also include our lead attorney general, risk management, IT, HR, legislative session some additional folks. I don't

remember everybody at the table. That pretty much every week, there is going to be issues come up through the attorney general's office, regarding it be during legislative session could be issues coming up that way, it would be what's going on in the court system or issues like this. I just have no recollection if this would have come up. What would normally would happen is that would come up, there would be a short discussion on what to do and move on.

SEN. FROCKT: So were you at any meeting with Secretary Warner where this was raised directly to his attention?

MS. DOTY: I have no specific recollection of that.

SEN. FROCKT: In this August 15 meeting, you state that you and Mr. Warner attended a meet and greet portion of a day long presentation. Was the issue raised at that point to Secretary Warner? That you are aware of?

MS. DOTY: I would say no. What we did is we brought the records folks together. They are a group that really operate kind of in the background they are really important to the overall functioning of the department. And this was a big deal to bring them together. I got permission from Mr. Pacholke to get the prisons records managers authority to actually get to travel to Olympia to the meeting, and Mr. Warner and I would have gone down at the beginning of the meeting and just recognized some of the important work that they've done and then we both would have left.

SEN. FROCKT: And Ms. Doty, I am going to ask you this question, and this might be a difficult question but I think it is important, it needs to be asked. Did you at any point raise this directly with Secretary Warner yourself since you became aware of the issue generally in the 2012 – 2013 timeframe?

MS. DOTY: What I could tell you is that was my practice to keep the secretary and both secretaries that I served aware of the importance important issues going on in the administrative services division. But I do not have a specific recollection over that time over 5 1/2 years, I told secretaries hundreds of things. I couldn't pull out any individual item that I shared with either Secretary Vail or Secretary Warner at this point. And there are no records of those meetings. So I don't have a specific recollection. But it was certainly my practice. I wouldn't have any reason not to.

SEN. FROCKT: Did he ever – did you have any recollection of him following up with you on this issue? Like saying, you know, Denise what is going on with this thing? Just so I'm clear, you don't recall specifically saying it, you're not saying it didn't happen, you just don't know?

MS. DOTY: That's correct.

SEN. FROCKT: Thank you, Mr. Chairman.

SEN. PADDEN: Any questions? Sen. Pedersen? Thank you, Ms. Doty, for coming here and coming here voluntarily. I know you indicated you did not read the governor's report, but I believe we have the list of exhibits in front of her, is that correct, staff? And exhibit number 15 is the governor's report. So if you wouldn't mind looking at Exhibit 15 and turning to page 5B. It says there, and I will just read it, it says

“Denise Doty, assistant secretary of the administrative services division, learned of the problem from Wendy Stigall and did not notify the DOC secretary or other assistant secretaries. She did not discuss the matter with the chief information technology officer, Doug Hoffer, who reported to her, nor did she direct Ms. Stigall to hand calculate release dates pending the effects of the program error.” From what you just said in response to the question in response to Sen. Froct as I took it was that it normally would've been your policy and procedure to share this information, but you don't have the specific recollection of doing that. Does that seem different than the statements that you did not notify the DOC secretary?

MS. DOTY: What I can tell you is that what I shared here for related to your question was exactly what I told the investigator as well.

SEN. PADDEN: Oh, you're feeling than is that they did not accurately put down with you I told them, is that correct?

MS. DOTY: I would have to agree with that.

SEN. PADDEN: All right, that is all the questions – Sen. O'Ban?

SEN. O'BAN: Sen. Froct asked you whether it was appropriate for the governor to hold Bernie Warner over with his desire to reduce recidivism, and you thought it was a laudable goal, and for that reason you agreed with the Inslee decision. I somewhat paraphrased it. Why don't you go ahead and clarify or state it with you would like to.

MS. DOTY: Well I would say it is certainly the governor's purview to appoint who they want.

SEN. O'BAN: If you were the governor, would you –

MS. DOTY: Oh my gosh . . .

SEN. O'BAN: All right.

MS. DOTY: No thank you.

SEN. O'BAN: I'm with you there.

SEN. [inaudible]: That's a question for us.

SEN. O'BAN: Well, if you had the power, will not focus on being governor, to reappoint Mr. Warner, knowing what you knew about his management style, knowing what he knew about the brain drain, knowing what you knew about hiring Assessments.com and so forth, would you have appointed Bernie Warner to be the secretary of DOC?

MS. DOTY: I think the timing of those things are different. I think for, to be fair, when Bernie was reappointed, or Secretary Warner was reappointed, I think there were a number of things that hadn't occurred yet.

SEN. O'BAN: That's a great point. What was the point at which those things were known enough concern had collected about his management approach and is its impact on DOC? What's the period of time that stands out in your mind then?

MS. DOTY: I think it's like with any leader, the impact, you see the impact over time, it is not an immediate line in the sand. It takes time and culture changes and individuals change and focus changes. I wouldn't say it was an immediate line in the sand.

SEN. O'BAN: Sure. Well, he came in 2011, so at what point did you reach the conclusion that there was maybe someone better to have that job?

MS. DOTY: I don't know that I would say that – you would be putting words in my mouth to say that I had reached the conclusion that there would be somebody better.

SEN. O'BAN: So that was not something you ever thought about one way or another. Fair enough. All right, thanks. I don't think I have any other questions.

SEN. PADDEN: Other questions, if not, thank you again for coming forward and testifying this morning.

MS. DOTY: Thank you.

SEN. PADDEN: We will next call Mr. Dan Pacholke. Mr. Pacholke, if you could remain standing and raise your right hand while I put you under oath? Do you solemnly swear the testimony that you're about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

SEC. PACHOLKE: I do.

SEN. PADDEN: Please be seated. Again, like with the other witnesses, we thank you for coming here voluntarily and also giving a statement to our investigator. On that statement, we have asked this of other folks. You had an opportunity to review the statement, is that correct?

SEC. PACHOLKE: Yes, I did.

SEN. PADDEN: And did you make some corrections to it?

SEC. PACHOLKE: I did.

SEN. PADDEN: All right. And then that was retyped, corrected, sent back to you, and The version you signed included the corrections you made – is that correct?

SEC. PACHOLKE: Yes.

SEN. PADDEN: All Right. In that process was different than the investigation that the governor's investigators did? Didn't have an opportunity sign anything that the governor's investigators wrote?

SEC. PACHOLKE: That's correct.

SEN. PADDEN: All right. You have worked for DOC for 33 years, is that correct?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And most of that on the prison side?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And also the deputy secretary under Bernie Warner for 18 months or how long? About 18 months?

SEC. PACHOLKE: Yes, about 18 months.

SEN. PADDEN: And when you were the deputy, did you report solely to Secretary Warner?

SEC. PACHOLKE: Yes. I was his direct report.

SEN. PADDEN: And were there any like cabinet meetings for DOC where you would be there and the administrative side would be there, other officials?

SEC. PACHOLKE: Yeah, he had to specific meetings, one was the exec staff meeting which routinely occurred on Tuesday mornings, and he also had his senior leadership meeting which was primarily composed of assistant secretaries, myself, the Chief of Staff and Bernie Warner.

SEN. PADDEN: And then when you became secretary on October 16, 2015, how did things change as far as who you reported to?

SEC. PACHOLKE: Well, I became secretary of the Department of Corrections, and I was reporting to the Governor's office.

SEN. PADDEN: Who did you report to at the governor's office? The governor, directly?

SEC. PACHOLKE: That's right.

SEN. PADDEN: Did he have cabinet meetings or was this a regular thing?

SEC. PACHOLKE: No, he had cabinet meetings that I would attend with other agency heads and some of his executive team and there were also conference calls that occurred and there would be some independent meetings with some of his staff as well.

SEN. PADDEN: O.K. He didn't have a regular one-on-one meeting with him on a certain times once a month or anything like that?

SEC. PACHOLKE: No, I mean, I was in the job two months before this incident occurred, and so from that point forward it has been focused more on the management of this event.

SEN. PADDEN: All right. You have worked with Mr. Warner previously in your career?

SEC. PACHOLKE: Yes, not closely, but certainly we were in the department at the same time.

SEN. PADDEN: And what was your position, what was his position? This was before you became deputy and before he was head.

SEC. PACHOLKE: Well it had to be somewhere in the mid-90s, and I was the captain at Clallam Bay Correction Center, and I believe he was over our policy office, in the sense of internal department policy.

SEN. PADDEN: And then really you served under him again when he was secretary and you were a deputy?

SEC. PACHOLKE: I started working with him again in October 2010 when he came in originally as the director of prisons and I was deputy director of command A and that was when I started working with him. He spent nine or 10 months director of prisons before he became secretary.

SEN. PADDEN: And you had previously worked with Secretary Vail? Is that true?

SEC. PACHOLKE: Correct.

SEN. PADDEN: And how would you describe him?

SEC. PACHOLKE: He is a master communicator. He's a very skilled administrator. He had tons of relationships in the department, whether it was with staff or with advocates or families or, you know, elected officials or law enforcement. A very skilled administrator.

SEN. PADDEN: And Mr. Vail resigned somewhat abruptly, didn't he?

SEC. PACHOLKE: He did, on what I want to say July 1, 2011.

SEN. PADDEN: And Mr. Warner was appointed to replace him?

SEC. PACHOLKE: Correct.

SEN. PADDEN: And then so Mr. Warner actually picked you as the deputy then?

SEC. PACHOLKE: At that time I was the director of prisons. There was no deputy in the department, so there were assistant secretaries and they all reported directly to Bernie.

SEN. PADDEN: How would you contrast Mr. Warner's management style and Mr. Vail's?

SEC. PACHOLKE: Well, once again, Eldon was a very strong communicator internally to the agency and externally with all staff and certainly even people outside the agency, had a strong grasp of the agency and its role, he had spent a lot of years in the agency. He knew a lot of people. He was familiar with the issues. Very accessible in the sense of asking questions or answering e-mails. A very hard worker. Bernie on the other hand was more distant and aloof. He deliberated on decisions for much greater length of time. Not as easily accessible. And not quite as clear – it was more difficult understand what he wanted where the direction that he wanted to set.

SEN. PADDEN: In fact in a statement to our investigators, he said the conversations didn't lead to closure. We talked all the time. Do you recall that?

SEC. PACHOLKE: That's a very accurate statement. He would go along with conversations for great lengths of time and sometimes being a pretty direct person I would think that we drew a closure to it only to understand that we had not.

SEN. PADDEN: Was there any coordination between the prison side and the administrative side under Mr. Warner?

SEC. PACHOLKE: Certainly in the beginning, when he first took over as secretary and all the operating divisions reported to him it was much more sided in the sense that it felt like divisions were operating a little bit more autonomously and not as much direct coordination.

SEN. PADDEN: Now, when you took over in October you made some changes fairly rapidly in those areas?

SEC. PACHOLKE: I certainly made, yeah, I made changes really quickly. Within my first week I replaced the chief of staff with a new deputy, I began to organize and look at the administrative services function in the department. In two basic areas, one was expanded control it felt like expanded control was too large and managers weren't being seen or heard enough and the second was on functional alignment, so within my first week I started down that path.

SEN. PADDEN: Did you say your investigators you believed there was quite a bit of dysfunction in the administrative service division anyway?

SEC. PACHOLKE: Yes, I did.

SEN. PADDEN: And you are aware of the turnover?

SEC. PACHOLKE: I mean, part of the reason to me that spoke to the dysfunction is that there was just a lot of exodus coming off the third floor certainly in the IT arena alone there was this this huge amounts of turnover, very key staff, very tenured staff that had spent lots and lots of time there. It was career people leaving in that volume was unusual, and our agency cut so it was a concern that I had.

SEN. PADDEN: And in fact you had that concern when you were working under Secretary Warner as a deputy didn't you?

SEC. PACHOLKE: Yes, I did.

SEN. PADDEN: And you expressed that to Secretary Warner?

SEC. PACHOLKE: On more than one occasion.

SEN. PADDEN: And what was his reaction to that?

SEC. PACHOLKE: You know, at first it is just kind of – he is a little bit distant. He really didn't have the time for the discussion, would remind me that it was in somebody else's operating area, an area I wasn't responsible for, and to a certain degree, and he dismissed the conversation and moved on.

SEN. PADDEN: And nothing changed really.

SEC. PACHOLKE: No.

SEN. PADDEN: All right. And you indicated here the statement that Brian Tinney's departure as assistant secretary for administrative services was kind of a tipping point you felt?

SEC. PACHOLKE: Once again Brian was in the neighborhood of a 25 year employee, who had involved himself in lots of activities around the department, not only administrative services but he would've involved himself in other activities in the operating area. He seemed like a very long-term employee, a good kind of person who does a full career with the department and like I said in my experience people like Brian Tinney don't leave. And it was just like the last straw, so to speak, when he left.

SEN. PADDEN: And that had followed Denise Doty, Peter Jekyll, Doug Hoffer and Jibu Jacobs all leaving, is that correct?

SEC. PACHOLKE: Correct, and all those are pretty hallmark departures from our agency. I mean, Denise had over 30 years and certainly Peter Jekel and Jibu had been there a very long time, so it was unusual to see them all leave and leave in great numbers.

SEN. PADDEN: You replaced Mr. Dawson and installed Jody Becker-Green as his replacement? Or was it a different position?

SEC. PACHOLKE: No, Jody became the deputy, she took over everything on the administrative services side but also on the operating side, so yes the deputy began to assume that responsibility plus additional responsibilities and operating.

SEN. PADDEN: And I remember when you showed Sen. Pedersen and I around at Walla Walla shortly after I think you had become secretary at that time you had told us that really you had been thinking of retirement. I guess you actually applied for retirement.

SEC. PACHOLKE: I had. I had announced my retirement in September.

SEN. PADDEN: And then it was just three weeks later that Secretary Warner resigned abruptly.

SEC. PACHOLKE: Correct.

SEN. PADDEN: And do you have any idea of why he resigned abruptly?

SEC. PACHOLKE: No I don't, but once again, I mean, when I gave my notice and gave three months' notice, or right around three months' notice to him that I was going to go, it kind of characterizes our relationship. By the same token he is contemplating resigning but I am unaware, I don't know, he doesn't share that with me. So he announced his retirement he told me maybe 5 minutes prior then we

walked into a staff meeting and he told a large group of people that he was going so it was not uncharacteristic of how he communicated in general. So it was a surprise.

SEN. PADDEN: Really? You gave three months and he gave three weeks. You felt an obligation to the department to give them more notice so that they could handle a transition a little better, I assume – was that part of it?

SEC. PACHOLKE: I was going to help Bernie find my replacement.

SEN. PADDEN: So you know I remember we had a hearing shortly thereafter on the Gary Ridgway matter. Do you have any believe that that whole situation with Ridgway being transferred to Colorado and then back I think you told our committee at a cost of \$40,000, do you think that had any factor at all in Mr. Warner's or do you know or not?

SEC. PACHOLKE: I don't know but I don't believe so either.

SEN. PADDEN: All right. Is it your understanding that the governor was not aware of that transfer, is that correct?

SEC. PACHOLKE: That is correct.

SEN. PADDEN: So in any event, you reconsidered your retirement plans and took this job. This was never a job that you dreamed about or sought, was it? Or not?

SEC. PACHOLKE: No, I've told people I never had a life plan or career plan about what I would do the agency. I just kind of took one job at a time, but I was thrilled when I was asked to assume this role. It is a good agency, it is a strong agency in corrections nationally.

SEN. PADDEN: And you are familiar with the Advance Corrections initiative?

SEC. PACHOLKE: I am.

SEN. PADDEN: And Mr. Warner talked to senior leadership. It was a major priority of his, wasn't it?

SEC. PACHOLKE: Correct.

SEN. PADDEN: I think you were here our first day here, you heard Mr. Feuer indicate that that project blocked out the sun I think was the words he used. Do you have any reason to doubt that statement that Mr. Feuer made?

SEC. PACHOLKE: I don't.

SEN. PADDEN: And who was this Amy and I'm not sure if I'm pronouncing her name, Seidlitz, was she the primary person that Mr. Warner had promoting that program?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And how was she received by the IT department, and any comments you have on her approach?

SEC. PACHOLKE: Amy was difficult to say the least, with both the IT department and other departments that she interacted with. So yeah, it was problematic from the beginning.

SEN. PADDEN: And she was actually one of the first hires that Mr. Warner had when he became head of DOC, wasn't she?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And she indicated she had worked previously with Mr. Warner in Arizona and I think you're quoted here as saying "she is really understanding of risk assessment tools, but exceptionally unskilled at implementing those tools. She is difficult to work with and created trouble almost everywhere she went."

SEC. PACHOLKE: Correct.

SEN. PADDEN: And in fact, when you took over you removed her, didn't you?

SEC. PACHOLKE: I ended her appointment.

SEN. PADDEN: And was that pretty immediately from when you took over?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And it seems kind of obvious, but could you tell us why you did that?

SEC. PACHOLKE: Well, the project is to do an integrated case management tool is good work and it is good work to do, it is not work that we have done successfully historically. We have had struggles trying to implement an integrated case management tool so I see it is very critical to finish it. I do see it as critical to finish it because we've got about half done now and really need to finish it we need good leadership, we need somebody who can work with the operating divisions and somebody was an eye toward implementation and that was not her skill set so put someone in place would be able to bring that leadership to the project.

SEN. PADDEN: But you were not in the loop originally on a contract with Assessments.com, were you?

SEC. PACHOLKE: No.

SEN. PADDEN: And you weren't anybody who recommended a sole-source contract or anything like that?

SEC. PACHOLKE: No.

SEN. PADDEN: What was Mr. Warner's attitude towards the IT department?

SEC. PACHOLKE: Well, I mean it is like I said, when we began down this path on the STRONG-R project we probably talked about it for a couple of years. Early on, before much of anything occurred, looking at different models and different ways in which to accomplish the work. He was not in favor of doing it internally, and I think that opinion was known.

SEN. PADDEN: All right. Well, getting to the King fix – in looking back at this, looking at Ronda Larson's advice which apparently was relied upon by members of the department. What is your understanding of the AG's rule in giving advice or recommendations to the department, as to the department's obligations to follow or not follow that advice?

SEC. PACHOLKE: Well certainly when it comes to advice from the AG's in general, I mean it is just that. It is advice. It is something that we can weigh from the policy side and we can choose to implement that advice or to modify that advice, and certainly interact with the assistant attorney general that is involved in the case. In this particular instance though, the advice, you know, certainly went to a lower level of manager as a beginning point. And I think as you work your way down in the agency, people find AG advice more as direction versus advice. So I don't know if it was not given enough vetting to have more deliberation, where more senior staff could have taken a look at it and weighted it. In hindsight, I wish it had risen higher.

SEN. PADDEN: Right. And the core mission of DOC is really public safety, isn't it?

SEC. PACHOLKE: Correct.

SEN. PADDEN: And if somebody escaped from prison what would you guys do?

SEC. PACHOLKE: We would lock it down, we would do notifications, we would put response teams on alert, we would notify local law enforcement and send out crew teams. We would go through a lot of activity.

SEN. PADDEN: So in your mind if one prisoner was let out early, that would be a major problem, wouldn't it?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And here we had, as it turned out – I guess we don't have an exact number yet, I know the media has been looking into it – and it seems somewhere around 3000 or maybe a little less does that sound right at this point?

SEC. PACHOLKE: Yes, it is in the neighborhood of 3,000.

SEN. PADDEN: And you have called that sentencing calculation error now and delayed fix altogether as a systems failure, not just an algorithm problem, but a real systems failure. Is that your view today?

SEC. PACHOLKE: Yes.

SEN. PADDEN: And why do you say that?

SEC. PACHOLKE: Well I mean there are a number of issues, and your committee has hit on some of them, as have other people that have testified before me. We broke down in IT governance. We didn't have good systems that gave us high acuity around those projects that most impacted public safety, as an example. Another one would be on advice that we get from attorney generals – that it should rise to the most senior levels in the department, so that people that are understanding of the impacts of those decisions have a chance to weight them and have further discussion, and maybe create actions around those. I mean, those are the two most striking examples to me, where at a very senior level we didn't have the systems in place to boldly attack the IT issues that existed, and on top of that to respond to advice that we are getting on very serious public safety issues as it relates to the early release of offenders.

SEN. PADDEN: I think you also indicated there was no prioritization of projects, or recognition that some are more important than others.

SEC. PACHOLKE: Correct.

SEN. PADDEN: On this advice, you know, I don't know you real well and obviously we have had some disagreements, I guess, but I believe you would, if you had gotten that advice – you wouldn't have bought it, would you?

SEC. PACHOLKE: No. I mean, certainly when we got the advice on December 15, you know, we tried to verify the assumptions, we tried to go out and do a search, the numbers sounded really, really huge because there were 3,000 people impacted that were still in prison, approximately, over 3,000 people in the community, so the initial numbers come in at over 6,000. It took us about a day or so to verify that, and then we went in full response mode. I mean, we had many of the people work seven days a week including holidays, weekends and evenings, starting on December 15 through February. I mean, we had teams of people working around the clock for two months.

SEN. PADDEN: Right. And obviously you have said it is an extremely serious problem. The governor has. The Senate wouldn't be having this rather unprecedented investigation if it wasn't that case. We have the two individuals who are deceased, other crimes. In fact, I'm sure you're aware last Thursday after our meeting that the Medina family filed a \$5 million claim with the state. So right now you believe that the fix has been made and that things are running. You were here when Mr. Ardiel testified, he indicated some possibility that some people may be staying in too long right now but any sort of corrected himself. Are you confident that people are serving their correct length of sentences, not getting out too early, not staying too long at the current time?

SEC. PACHOLKE: Yes I am.

SEN. PADDEN: All right. You have [inaudible] and are hoping that there will be some enhancements to DOC's processes as a result of all this, some changes, and at this point do you have anything or do you expect to make recommendations to this committee and the legislature as to –

SEC. PACHOLKE: Well I'm about running out of time. I mean, as March 10 approaches. But here are three things that I think we have learned through the process of this event and follow-up, and many of the things, almost all the things that the governor's staff recommended, as far as follow-up actions to the report are things they found internal to the Department of Corrections, recommendations that we put forward. So first and foremost, I mean record staffing in general probably is worthy of a study, that we are going to add five more staff to the headquarters records unit in order to just address some issues over expanded control, complexity training etc. Now we are going to that internally within our own budget and we're moving forward with that today. But it feels like it is something we need to study overall, because the impacts of sentencing and sentencing calculations for records staff – they don't have to know what happens today. They have to know what happens 10 years ago. They have to know what happens post-July 1, 2005. I mean there are many, many subtle implications what they do. So I don't know if we've spent enough time to really study the importance of that work and are we staffed appropriately. So records staffing overall I think is worthy of pause and study. IT staff in state government – I mean clearly it is pretty easy to move around. There is a fair amount of turnover, it is really difficult to retain quality staff. We saw a huge exodus in less than two years that resulted – that helped set the stage, I suppose, for a fairly catastrophic error in the sense of this early release, so how do we begin to beef up those two back-office functions in a sense to records and IT. Overall it really feels like the Sentencing Guidelines Commission should be reenacted or put back into place in the sense of having a body of people that year-round pay attention to the issues of sentencing. Whether it is time for a sentencing overall or whether it is time to look at the complexity of issues that come down the road and our ability to just internalize and intimate those. So at least those three areas to me are all significant areas.

SEN. PADDEN: Thank you for that. Going back over a couple of other things here. In the report, the Governor's report which you've indicated you have read and it's there under Exhibit 15. If you might turn to third page 35, they've got a couple of events right after you found out on December 18, it indicates that you met with the governor, that the governor was quite upset and asked you a number of questions. Including how the problem occurred, why it went undetected for years, how many offenders had been erroneously released. It also asked you about the culture at DOC, you indicated you were not able to provide all the information which led to even more frustration on the governor's part. And at that time you ordered a manual calculation of sentences of all affected offenders. Is that accurate statement as to what happened, or what you told the governor's investigators?

SEC. PACHOLKE: Yes. I certainly understand his frustration. In the sense of how could we be notified by the victim's family 2012 and not taken action on that. I didn't have answers those very questions myself and I think the governor was rightfully frustrated as well as myself.

SEN. PADDEN: All right. Then there was a meeting on Sunday, December 20 at 7 PM [with] Governor Inslee and members of his staff including David Postman, Nick Brown, Joby Shimomura, Kelly Wicker, David Schumacher. Joby – why was she there? She was no longer the Chief of Staff, was she?

SEC. PACHOLKE: Not to my knowledge, she was not.

SEN. PADDEN: Do you know why she was there?

SEC. PACHOLKE: I do not.

SEN. PADDEN: And I don't know Mr. Wicker. What is – or I don't even know if Kelly, that is a Mr. or a Ms. Wicker?

SEC. PACHOLKE: Ms. Wicker. She's deputy chief of staff.

SEN. PADDEN: She's deputy chief of staff. And then a number of your employees. Did Joby participate in the meeting? Did she participate in the meeting?

SEC. PACHOLKE: Maybe a comment or two, but it was more so the governor.

SEN. PADDEN: O.K. Well, turning your attention to page 48 of the report. You indicated – or at least this again is the governor's folks making the report – maybe you are familiar with this page, in which in you indicate you did not have any recollection of the problem coming to your attention in December 2012, although at that time you were on the prison side, right?

SEC. PACHOLKE: Correct.

SEN. PADDEN: So it probably would have come on the administrative side, and normally – did it strike you as unusual that you did not find out about it?

SEC. PACHOLKE: In hindsight, I would say yes, but on a daily routine basis I would not have heard about records errors unless it was some of you got out early in the wanted us to apprehend him.

SEN. PADDEN: In hindsight you say yes – why?

SEC. PACHOLKE: Just because of the scaling, the problem was that large, it warrants a much larger agency wide response.

SEN. PADDEN: And at that time you said that there was a sense of apathy within the department brought about by your predecessor, Bernie Warner, is that correct?

SEC. PACHOLKE: Correct. That is what I said. Once again though, what it ties back to so much of was a lot of people leaving out of the IT department, a lot of dissatisfaction coming off the third floor or out of administrative services, so in that regard to me it was a lot of apathy or just disgruntlement or people feeling disenfranchised on the third floor.

SEN. PADDEN: O.K. And again you didn't have a chance with the governor's report to read any statement or make any corrections. Where there additions subtractions, things that you thought maybe were wrong in the governor's report concerning what you had told them?

SEC. PACHOLKE: Most importantly to me, there were some things that were characterized in a different way, if I'd had a chance to weigh in I would've framed it up differently, some of them lacked context. Probably most importantly to me was that there is some of the stuff for that is referenced around Dave

Dunnington where he's presented evidence that would dispute and certainly go directly in the face of what the report says. He has presented evidence that would indicate that major sections of the comments on him are just inaccurate.

SEN. PADDEN: And you know Mr. Dunnington pretty well?

SEC. PACHOLKE: I do.

SEN. PADDEN: What's your opinion of him and his character and work experience? Or what you know about him?

SEC. PACHOLKE: He has had a stellar 25 year career and he came in and presented a lot of information that just simply shows the report is not completely accurate.

SEN. PADDEN: So your view, you being more likely to believe Mr. Dunnington and believe that the investigators just got it wrong with all the work they are doing everything, then?

SEC. PACHOLKE: I think the governor's investigators were trying to do a good job, and I think they need to publish a report. I think the public wants to know. I think you want to know. I think in this particular area with Dunnington, he has presented new information showing that there are simple inaccuracies with the report. I'm optimistic that they will go back and make those adjustments.

SEN. PADDEN: All right. And then they quoted it anonymously some folks who indicated that they felt there was a toxic atmosphere at DOC about employees being able to speak up and they blamed you on that and they gave antidotes. Again this isn't attributed to anybody, but you probably read that on page 48. Do you have any comment or response to that?

SEC. PACHOLKE: Well the comment would be that the lead-in line would be that at least one employee has made that statement about me. So I would tell you I'm pretty direct, as you have experienced with me, and I tend to try to focus on issues and resolve those. In the time that I was leading prisons, I mean, I had the murder of a correctional officer. Three months later I closed McNeil Island. Three months later I had a hostage-taking and a double high risk escape attempt out of Clallam Bay. Yeah, I was pretty direct with people and I was pretty focused in on what I was trying to accomplish. Do I please everybody in doing that? No. Do I think that statement lacks context and bearing? I'm sure they got at least one compliment about me as well, but it tended to me that they wanted to stick with this one comment in a negative light. So I don't think that's fair, but then again I'm sure I'm sure they got the comment. And they could get two if they looked, I'm sure.

SEN. PADDEN: I think some of the legislators have said life is not always fair, in the past. So when Mr. Feuer was here, he indicated once you took over, you had an open door. Was that a new policy, or did you feel you had an open door previously in your –

SEC. PACHOLKE: No, I've always had an open door. I know a lot of people around the agency and I try and keep the door open and keep people coming through it.

SEN. PADDEN: O.K., I just have one or two items left. We heard a constant number of comments in our FixDOC website, where people could call in and give us tips or whatever, and it was to the effect that people are reluctant to come forward and voice concerns and complaints for fear of retaliation. These concerns appear to have come primarily from DOC employees at individual institutions, but there may be some relevant set the headquarters level too. Do you have any thoughts about that overall?

SEC. PACHOLKE: I don't know that I do. I think it is challenging work. I think correction is challenging work when you put lots of staff members inside a fence line with thousands of convicted felons that have impulse control issues. That have anger problems where they see violence and suicides and different things occur. The volume to me seems relatively low in the sense of people that hold those opinions. We do investigated, we do follow up, we are a good system but we are not perfect. I hope that everybody feels like they can speak up. I get e-mails from staff all of the state, union officials calling me, constituents calling me advocates calling me, but I think we are pretty opened in that regard, but once again we are not perfect.

SEN. PADDEN: There was an incident back in 2014, and Mr. Schrader wrote an article about it – I think we have copies of that, if staff could pass them out. I assume you were aware of this, the researchers Teri Herold-Prayer and her boss Michael Evans of Olympia, are you aware of that incident?

SEC. PACHOLKE: I am.

SEN. PADDEN: In my understanding today is that their lawsuit is still pending here in Thurston [County] court, but they said they felt that they faced retaliation for questioning some of the research, and the article indicates that corrections officers were trained to give out verbal praise and give out short-term rewards and swift consistent and consequences according to a corrections blog post on the program. And again, this is a program at Airway Heights and I think at Coyote Ridge. And they could earn coupons, the prisoners could, small rewards such as preferential haircut appointments, photographs and other things. But they claimed they were demoted because they said this research didn't work. And the legislature gave \$1.8 million, apparently, to the department about that. If you could comment about that and I guess this took place about in 2014, some of this time, if that me be contributing at least to the perception or maybe the reality that you would suffer some retaliation if you went against leadership.

SEC. PACHOLKE: I am not familiar with the details of this case. I mean, once again, this was two staff out of the planning and research function. They were on the third floor. This is an administrative services section. I'm not intimately familiar with the case. It wasn't under my chain of command at the time. I am aware of it though.

SEN. PADDEN: You are aware of it, and you are aware that the lawsuit is still pending, I guess.

SEC. PACHOLKE: Correct.

SEN. PADDEN: All right. Sen. O'Ban?

SEN. O'BAN: Mr. Pacholke, thank you. Just a couple of follow-ups. So you felt that the characterization of Mr. Dunnington in the governor's report was not as accurate as it could be. Could you tell us what those inaccuracies are and what you think is the best description of Mr. Dunnington?

SEC. PACHOLKE: Well he certainly provided lots of information. Let me give you one example. One example is that there's been a lot of discussion or relevance placed on the report on the fact that he downgraded the priority of this IT fix. Well he can show you in writing where he was directed to downgrade all enhancements to a level 3 by a deputy CIO. So he was complying with a directive given to him and he did not make that decision independently. That is one example. And he certainly has other material that would suggest there are other areas just like that, where he was, for the most part, following the directives that were given him by more senior staff.

SEN. O'BAN: Any others that you are aware of?

SEC. PACHOLKE: I can't quote them off the top of my head. I mean this was from last Thursday. But he did have a very thick stack of information.

SEN. O'BAN: Any understanding as to why that particular material context about the downgrade – it seems like an important one if he was instructed – that that did not make its way into the governor's report?

SEC. PACHOLKE: He was fairly upset in the sense that he felt like it wasn't that the report didn't characterize the testimony that he had given him. He also [said] it would have been different if he could have seen and signed for the testimony that he provided.

SEN. O'BAN: As he did with the Senate's investigation.

SEC. PACHOLKE: Correct.

SEN. O'BAN: And sort of a similar question to the characterization about you, and the anonymous sources. Were you given a chance to respond to these anonymous sources by the governor's investigators?

SEC. PACHOLKE: No.

SEN. O'BAN: And had you been given that opportunity to respond to these anonymous sources, do you think you could have provided a little bit more context and a more accurate description of your reputation?

SEC. PACHOLKE: Well, to me it is not so much as responding to a one-off statement that they cited in the report, but my statement would be you represent all one-off statements positive or negative about me or anybody else in the report. It really felt like they were reaching for a way to say something about me.

SEN. O'BAN: I'm not sure why and I don't want to speculate either. Thanks very much. I have no further questions.

SEN. PADDEN: Sen. Frockt or Sen. Pedersen did you have any questions? Sen. Frockt?

SEN. FROCKT: I'm just a little bit confused about one thing. First of all, thank you for being here, Mr. Secretary and my question is -- so overall, do you think that the governors, that the investigation the investigation report by Yarmuth Wilsdon, the two federal prosecutors, do you think it portrays accurately what you think happened and transpired in this situation? And what is your overall assessment?

SEC. PACHOLKE: I think it provides a pretty accurate portrayal. I'm somewhat concerned that it gives undue weight and focus to lower-level managers. Wendy Stigall for all intents and purposes blew the whistle on this problem, and it feels like she's being punished. I think with Mr. Dunnington, I think there's a fair amount of inaccuracies. I only learned about this last Thursday, so I wasn't there when he talked to the governor's investigators, but he does have evidence that contradicts more than one aspect of the testimony that was given to him.

SEN. FROCKT: And I think that is one of the reasons we are having these [hearings], and the benefit of having that report before us now we can actually dive into this. I hope we will have an opportunity to have the investigators before us themselves. My question was, one question I have is who gave Mr. Dunnington that directive to lower the priority, as you testified a moment ago?

SEC. PACHOLKE: Deputy CIO.

SEN. FROCKT: Who is that?

SEC. PACHOLKE: I can't give you -- there were multiple deputy CIOs during that timeframe but I looked at a document and the title on the person was Deputy CIO.

SEN. FROCKT: And then you state in your statement that the unforgivable part of the error came with, and this is on the very last page of your statement that you gave to this investigation, came with DOC identifying the problem but failing to respond appropriately. What did you mean by that statement?

SEC. PACHOLKE: Well, it is one thing to have a problem out there that you don't know about, but certainly in December 2012 when we learned that we had a problem that resulted in the release of hundreds of inmates, that provide a direct threat public safety we should have done precisely what we did in December 2015, we should've stopped, we should have mobilized the command center. We should've routed the resources of the department regardless of weekends and holidays, after hours, whatever the case may be, and we simply didn't do that.

SEN. FROCKT: And those activities that took place when this all came to light in December -- at whose direction did those things take place? The command center, the certainty of the response, as you have just described?

SEC. PACHOLKE: Well, my background is crisis management, and I've managed sentinel events in this department as long as I've been here, but I can't say anybody told us to do it. I mean we mobilized around it. We operationalized around it, it was right before the Christmas holiday we did cancel peoples

vacations, they did work long hours we certainly share that with the governor's office and they were in support and understanding of those directions, but it took considerable effort to do that over the Christmas holiday and tons and tons, lots of lots of line level staff put in tens of hours to try to figure this problem out and was complicated legally for the first week. Complicated legal issue.

SEN. FROCKT: There's been some sort of implication as the questions that have been asked up here about the Governor's report or the first investigation report not being full or missing certain things etc. I do want to direct you to page 46 of it. I don't know if you have before you, where the report states and I am looking at subparagraph H, other IT priorities, inordinately high turnover in DOC management, and the IT group and DOC budget concerns may have compounded the delays in addressing the King decision request. But it does note that the STRONG-R push was primarily centered in the early months of 2014, long after the King decision change request had been submitted. I am just wondering, how does that fit into your to frame of the systems error versus the cultural issues which I think you and the IT advice. That was three points that I think you have made. Is this an accurate portrayal from your standpoint or is it missing something?

SEC. PACHOLKE: Well, on the one hand, I recognize from the moment that Bernie became secretary of the Department of Corrections we were talking about moving away from a current static risk tool and moving to a fourth generation static dynamic risk tool, and an integrated case plan, so from the moment he became secretary, we talked about it for a couple of years and researched for models, so as far back as 2011, so on the one hand there was always discussion, there was always emphasis, there was always research. The second I would say that the system protocols broke down around IT governance, around historic acuity, around AG opinions and IT governance and these serious public safety breaches overall. It is hard for me to point out one simple thing and say that this is the cause. It is more a convergence of issues, but certainly those three factors were huge in this incident.

SEN. FROCKT: That is often the case with complex problems there are multiple reasons for. The simple solution isn't always the obvious one. It is sort of a range of things. Do you agree though that the way it was portrayed in the Governor's report is accurate or inaccurate, I mean do you have any big qualms with it?

SEC. PACHOLKE: Once again, it probably lacks a little context. If it was me personally I would probably add a little more context into it.

SEN. FROCKT: Fair enough. Now one thing that you were asked about was that public safety is the core mission. Do you think that, you know, in your long experience in the department, is reducing recidivism and additional crimes once a prisoner has come out, is that part of the public safety mission of Department of Corrections?

SEC. PACHOLKE: Yes. Yes, it is.

SEN. FROCKT: Well, give me some context then on the emphasis on STRONG-R and Assessments.com and all the things that went into this. I keep coming back to, is that a legitimate policy objective for

corrections to pursue, versus this other issue that we have been focusing on, meaning the early release of prisoners? I mean how do we put those in context?

SEC. PACHOLKE: Well, certainly the core mission of the Department of Corrections, at a strategic level, reduction of recidivism will always be a strategic goal, in the sense of reducing the likelihood that when people get out that they harm more people, reduce victimization, so I think that is our strategic goal. But tactically at the same time, I mean, we are charged with incapacitation, in keeping people inside the perimeter, consistent with the terms and conditions of the court. So you have to do these things in tandem. Right? I mean, on the one hand you have to maintain good operations, keep people inside while you are looking toward recidivism reduction. In the area of recidivism reduction, a fourth-generation tool is certainly helpful but it's also important that you have good programs that you are implementing programs with fidelity that you are providing staff training, I mean there are many more aspects to recidivism reduction other than just a tool. And I've been quoted as saying that more often than not about this very project in the early years, that it was just a tool.

SEN. FROCKT: Well first of all thank you again for being here and I want to thank you for your service and I'm personally sorry that you are leaving but I certainly understand, and it sounds like you are considering retirement anyway before all these events took place, from a few years ago. So thank you again for your service.

SEC. PACHOLKE: Thank you.

SEN. PADDEN: Any other questions? Sen. Pedersen? I just have – oh, Sen. O'Ban?

SEN. O'BAN: No, go ahead.

SEN. PADDEN: Well, I'm just wondering here if you could describe how OFM and the governor's office interact with DOC management in identifying problems and some of these resource allocation issues within the agency?

SEC. PACHOLKE: Well, certainly on the resource side, I mean, you know, it has been tough coming out of the great recession and going into current days. And you know, probably during the recession era we probably cut a little deeper than we should have, you know, if I was to be perfectly honest with you. Our interactions with OFM and the governor's office are well described. I mean, we create you know, annual budget requests, we create supplemental budget requests, and biennial budgets. We try and interact with the Governor's office and OFM to share with them our challenges whether it's work release beds or problems with IT systems, so I think it has been collaborative but there are resource challenges everywhere.

SEN. PADDEN: When you say collaborative, so that means that OFM and the governor's office, they will also tell you their thoughts on how things are going and reactions they have to some of your initiatives, would that be a fair statement?

SEC. PACHOLKE: Yes, it would.

SEN. PADDEN: Do you feel that they have any responsibility at all in this failure to not discover this issue earlier?

SEC. PACHOLKE: No, I don't.

SEN. PADDEN: Sen. O'Ban?

SEN. O'BAN: Just to follow up on the comment you made in response to Sen. Frockt's question, you said you thought the report the Governor's report gave undue weight against lower-level employees, and specifically take Ms. Stigall for example, do you think the report accurately describes her role and her causal connection to the perpetuation of the King fix?

SEC. PACHOLKE: As an example, Wendy Stigall was the person that told multiple people that there was a problem. Whether it was her immediate supervisor, the assistant secretary, whether it was the risk manager, whether it was people in the IT department, it really feels like to me that she was pretty extensive than what she tried to accomplish there, and a relatively low level managers so I don't know that I could see her doing much more. She is the one that surfaced it and surfaced it in multiple arenas.

SEN. O'BAN: Would you attribute the greater context, the greater problem to the lack of this governance component that was apparently there when Ms. Bail was there but ceased to exist or ceased to be effective at some point during Mr. Warner's tenure?

SEC. PACHOLKE: Certainly there was problems with governance. There were problems with how we reviewed and received the AG opinion and they were problems at the executive level because executives were aware. So I find it difficult to hold Wendy Stigall responsible.

SEN. O'BAN: So you agree then that at least a contributing cause to the delay in the King fix was Mr. Warner's impact on governance, the brain drain and other management aspects of his tenure?

SEC. PACHOLKE: I think Mr. Warner did several things to set the context in which this error could occur, and go undetected for some time.

SEN. O'BAN: In what ways?

SEC. PACHOLKE: Whether it is the turnover in the IT department, whether it is the lack of governance, whether it is the lack of internal focus on operating procedures.

SEN. O'BAN: Those are at least two elements in Mr. Warner's mismanagement that impacted the King fix problem, is that correct?

SEC. PACHOLKE: Correct.

SEN. O'BAN: Would you also attribute the overemphasis, at least with the IT department, on the STRONG-R? We know that was an important goal, but your opinion the overemphasis of the IT department that project, would that be a contributing cause?

SEC. PACHOLKE: It certainly contributed to the loss of a lot of legacy talent in our IT department and the turnover a lot of senior employees, at a minimum.

SEN. O'BAN: Do you agree with Bernie Warner's hiring of Assessments.com to do the STRONG-R project?

SEC. PACHOLKE: Actually, they are very experienced. They've done a lot of work in risk assessment. I did not have much involvement with them in '06, '07 and '08, as I was out operating prisons at the time. They seem like sharp people. I don't know about their back story. I don't know about their back history.

SEN. O'BAN: You have heard Ms. Dody's testimony today, and Ms. Vail's testimony as well, about STRONG-R or about Assessments.com. Do you have any reason to doubt their concerns about the quality of work of Assessments.com?

SEC. PACHOLKE: The only thing I would say about their testimony is that to a certain degree their testimony is dated. And I haven't heard those kinds of challenges around their work as of late.

SEN. O'BAN: I'm not sure I caught it correctly, but you said something about at the executive level, that they were aware of this issue. What were you referring to?

SEC. PACHOLKE: Well, certainly we had an assistant secretary, we had the head of risk management, we had people in the AG's office, so I mean the folks that you know about.

SEN. O'BAN: Very good. Thank you.

SEN. PADDEN: Any other questions? If not, thank you very much for coming. And is March 10 the final date or not?

SEC. PACHOLKE: Oh, it is the final date.

SEN. PADDEN: All right. With that we are adjourned.

SEC. PACHOLKE: Thank you.

Senate Law and Justice Committee

March 16, 2016

Senate Hearing Room 4

SEN. PADDEN: We will go ahead and get started with the meeting of the Senate Law and Justice committee for March 16, 2016. Just a short preliminary statement here and then will get going. We do know that on Thursday, February 25, the governor released a report from Mr. Westinghouse on the early release of almost 3,000 prisoners over a 13-year period. On March 1, 2016 there was a supplemental report that was issued and the reports provided a valuable factual recitation of numerous things that have happened and indicated responsibility and culpability on some mid-level and front-line individuals that contributed to the mistake, the very significant mistake of the release of these almost 3,000 prisoners. We do know that there is a first-degree murder trial that is going to go on the summer in Spokane and also a vehicular homicide trial in July in King County. And those are the two most significant mistakes, but there are a number of other felonies and a whole host of gross misdemeanors that were committed by individuals that should have been incarcerated, but were let out early.

I think as a result of the last hearing, there certainly is some indication that, in addition to the mid-level and front-line folks, that there was some additional culpability and factors, especially with former DOC Secretary Warner that contributed to this mistake. So today we are very fortunate to have Clela Steelhammer and David Dunnington as our witnesses.

And we will get started with Ms. Steelhammer. If you would come forward, and please remain standing and raise your right hand. Do you solemnly swear that the testimony you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. STEELHAMMER: I do.

SEN. PADDEN: Please be seated and again, thank you for appearing voluntarily at the hearing today. As I understand it, you were interviewed both by the governor's investigators and by the senate investigators, is that correct?

MS. STEELHAMMER: That is correct.

SEN. PADDEN: And how many times did the governor's investigators meet with you?

MS. STEELHAMMER: Once.

SEN. PADDEN: And one time for the senate investigators.

MS. STEELHAMMER: That is correct.

SEN. PADDEN: And you did sign a statement to Mr. Bartlett back on February 17 that you had reviewed the memorandum and had been giving an opportunity to revise it for accuracy and agreed it correctly summarized your statement to him, is that correct?

MS. STEELHAMMER: That is correct.

SEN. PADDEN: Did you make some corrections?

MS. STEELHAMMER: I made some minor corrections, yes.

SEN. PADDEN: All right. As I understand it, you personally went to school down in Centralia at least for community college, is that correct?

MS. STEELHAMMER: That is correct.

SEN. PADDEN: Was that your home area?

MS. STEELHAMMER: Rochester, yes.

SEN. PADDEN: O.K. And you started work for the Department of Corrections back in 2002, is that correct?

MS. STEELHAMMER: It is, yes.

SEN. PADDEN: And you also had some time at the Sentencing Guidelines Commission.

MS. STEELHAMMER: I did, yes.

SEN. PADDEN: And what is your official title right now?

MS. STEELHAMMER: Legislative policy manager.

SEN. PADDEN: And how long have you held that position?

MS. STEELHAMMER: Since 2008.

SEN. PADDEN: 2008, and during that time have you reported to different individuals?

MS. STEELHAMMER: Yes, I have.

SEN. PADDEN: Could you kind of go over the list of who you have reported to?

MS. STEELHAMMER: When I was first hired I reported directly to an assistant secretary, then I reported to the executive director of policy office and then –

SEN. PADDEN: What time frame are we looking at? Why we make a little easier, reframe the why don't we just go back to say 2012 – 2013 who are you reporting to at that time?

MS. STEELHAMMER: I was reporting to the director of executive analysis who reported through the chain of the administrative services division.

SEN. PADDEN: And what was the name of that individual?

MS. STEELHAMMER: Anna Mossadegh [phoenetic].

SEN. PADDEN: How long did that last?

MS. STEELHAMMER: I believe that lasted until he left and then I reported to his successor, Alex MacBain. And he was during his time when the deputy secretary was hired, reported the deputy secretary rather than the assistant secretary of the administrative services division.

SEN. PADDEN: And who was that?

MS. STEELHAMMER: Alex MacBain.

SEN. PADDEN: So you never reported to Mr. Lane or to Sandy Mullins?

MS. STEELHAMMER: I reported to Sandy Mullins prior to Anna Mossadegh [phonetic].

SEN. PADDEN: And you reported to Alex with the legislature previously?

MS. STEELHAMMER: Yes.

SEN. PADDEN: He had a position in the House, right?

MS. STEELHAMMER: Yes.

SEN. PADDEN: On the sort of issues . . .

MS. STEELHAMMER: Sentencing issues and bills, yes.

SEN. PADDEN: Okay, so could you tell us a little bit about as the legislative policy manager what exactly your job duties are?

MS. STEELHAMMER: Well, during session it is pretty active, I review all bills that have been introduced to a unified any that may impact the department. I manage our bill tracking system so I signed out bill analysis as to subject matter experts, I create the hearing schedule for the week. I work with legislative staff with questions about bills and how they might impact the department if there are any bills that are written incorrectly, I work with legislative staff to discuss that with them. Then off session I manage the reports to the legislature, we do tours, we get started on agency request legislation soon after session and so that is an ongoing process with stakeholder work

SEN. PADDEN: There is a request of legislation for DOC you would interact with individual legislators or talk to them about legislation perhaps ask –

MS. STEELHAMMER: Primarily I work with legislative staff other than legislators, but I have interacted with legislators

SEN. PADDEN: So all right, well, when the king issue was first raised in December 2012, you would have been the legislative policy manager at that time?

MS. STEELHAMMER: That's correct.

SEN. PADDEN: And during that time did you have administrative services meetings?

MS. STEELHAMMER: I did not attend those meetings. My boss, my supervisor did.

SEN. PADDEN: O.K., you stated in your statement there on page 2 to our investigators that she only attended weekly administrative services meetings and Mr. Aasby's absence correct. So you did go occasionally?

MS. STEELHAMMER: I did go occasionally, yes.

SEN. PADDEN: So in any event, the news I guess broke. When did you first find out about the problems with the early releases?

MS. STEELHAMMER: Probably around the third week of December, the third or fourth the last week.

SEN. PADDEN: And at that time you thought you had never previously heard about it before then?

MS. STEELHAMMER: That is correct.

SEN. PADDEN: But According to your statement, you went through your old e-mails and you found a January 2, 2013 e-mail that Wendy Stigall had sent you concerning and containing Ronda Larson and her e-mail exchange regarding the King fix?

MS. STEELHAMMER: Yes, that's correct.

SEN. PADDEN: So when you reviewed that e-mail, did that refresh your recollection a little bit as to having seen it previously

MS. STEELHAMMER: No, I don't believe I read that e-mail.

SEN. PADDEN: It was sent to you.

MS. STEELHAMMER: It was sent to me. The introductory to me looked a little more like an FYI when I looked at it. It looked like something that was being addressed through the administrative services division management team and the other thing that I noticed is that the e-mail was sent from the AG directly to our records manager and I wasn't included. It was, for the AG to actually address legislation or address e-mails to me that had to do with legislation or changes she was seeking for me to help with.

SEN. PADDEN: We have I think the e-mail there was part of I think the governor's report and also, in any event – I have it as Exhibit 29 in the governor's report. We have it up on the screen. So you can see it is

from Wendy Stigall, it was sent Wednesday, January 2, 2013 at 2:06 PM to you, with the heading, should DOC reprogram OMNI to run jail time off base rather than off enhancement? What did you think when you reviewed and saw that again?

MS. STEELHAMMER: To me it sounds like a programming issue and not an issue with statutes. And it was a forward and looking at the beginning, my only assumption is that I thought it was more of an FYI and I didn't read it. With the intention of probably going back and doing so but I didn't get to it.

SEN. PADDEN: Didn't you recognize it is kind of a serious issue of releasing prisoners early?

MS. STEELHAMMER: If I looked at it today, you know, whose be something to catch my attention, but I don't know that would've been something that I've been concerned about because it was an OMNI program and I would've assumed through the e-mail that I got that it was being addressed to the administrative services division that is over IT and records.

SEN. PADDEN: There wasn't any action that you took as a result of that e-mail that you recall or discuss it with anybody?

MS. STEELHAMMER: No.

SEN. PADDEN: You understand the governor's report there are a lot of comments about that e-mail and –

MS. STEELHAMMER: Correct.

SEN. PADDEN: And your response or – but so did you ever attend any executive board meetings with Mr. Warner, head of DOC.

MS. STEELHAMMER: Yes, the executive staff meetings that were weekly, I did attend those.

SEN. PADDEN: All right. And also, do you remember meeting with Wendy Stigall about this issue in general?

MS. STEELHAMMER: No. I had, when I was talking to the investigators I recalled meeting with Wendy talking about math calculation issue, afterwards I went back and look through my files I found a legislative inquiry from a house staffer about an incident in Kitsap County in which an offender had questions about the earned time calculation that the prosecutor had done. It was just at the jail time it had nothing to do about flat time, it was just a mathematical calculation about how it was based and so I had been talking with our records manager to determine how to respond to the legislative staffer.

SEN. PADDEN: The - I mean you are aware that we had the Robinson case where his family contacted DOC and indicated the calculations were incorrect and that was the basis here for this e-mail the Ronda Larson sent and everything. Do you ever hear of Mr. Robinson or his father or anything?

MS. STEELHAMMER: Not that I remember, no.

SEN. PADDEN: Well there are some specific things on Exhibit number 15 of the governor's report. There it talks about Denise's direct reporting report meeting. Is that . . .

MS. STEELHAMMER: Is it on the screen, is it in this book or this big book? I am sorry, where is Exhibit 15? Is it in the tabs here?

SEN. PADDEN: Let me see. Under our Tab 9, page 3 it said in a footnote there on the governor's report that Ms. Steelhammer apparently provided a brief synopsis of the problems that either DOC executive staff or senior leadership meetings, but suggested that the problem was limited to only one or a small number of offenders and have been corrected. Do you recall giving that statement to the governor's investigators?

MS. STEELHAMMER: I do not.

SEN. PADDEN: You don't know where they came up with that conclusion?

MS. STEELHAMMER: No.

SEN. PADDEN: That conclusion is wrong?

MS. STEELHAMMER: I do.

SEN. PADDEN: It's page 3 of the governor's report. You have not talked to anybody else that would have told the governor's reporters/investigators that?

MS. STEELHAMMER: Well at one point in the report it says that Sandy Mullins said she may have been briefed by me before or after an executive staff meeting. I don't know if that's where they got the conclusion or not.

SEN. PADDEN: Do you remember that, talking to Sandy Mullins about this?

MS. STEELHAMMER: No, I do not.

SEN. PADDEN: Is it possible that you're just having a memory lapse, I mean that these folks are telling the investigators and Ms. Mullins seems to recall this meeting – I think you –

MS. STEELHAMMER: I think it is doubtful because if this had been an issue I would have gone through my direct supervisor and I would have forwarded the e-mail to him. Before discussing it at the senior leadership level and also it states that I said it was limited to a small number and it had been fixed. I wouldn't have had either of those pieces of information to report.

SEN. PADDEN: Well, the conclusion on page 5 of the governor's investigators had is that you were of course notified of the issue by e-mail and were provided a copy of Ms. Larson's memorandum. She took no action beyond providing a cursory report at a subsequent senior leadership meeting and you claim to have no recollection of this issue being raised. And basically you're just disagreeing with all of that and saying either you don't recall or it didn't happen.

MS. STEELHAMMER: I don't believe it happened.

SEN. PADDEN: O.K., so you think Sandy Mullins is wrong.

MS. STEELHAMMER: I just know that I don't believe that I reported on this.

SEN. PADDEN: So on page 22 of the governor's report, it indicates that Ms. Stigall attended a weekly ASD management team meeting on January 2, and there was a question there, the Governor's investigators are asking whether or not she had raised that issue there. And the next paragraph says we do believe that Ms. Stigall did in fact raise the issue during the meeting, because on January 2, 2013 – again this email, she sent an e-mail to Clela Steelhammer, the legislative policy director, stating "I was talking about this program being changed at Denise's direct report meeting, and Sarian asked if I shared it with you. Please review it and give me your input." Do you recall if you did review it and give input?

MS. STEELHAMMER: No, I don't believe I read the email.

SEN. PADDEN: But you do believe that that e-mail was sent and you received it?

MS. STEELHAMMER: Correct. Yes.

SEN. PADDEN: It's just that you didn't respond to it at all.

MS. STEELHAMMER: Yeah, I don't believe I read it, correct.

SEN. PADDEN: You didn't read it. Normally wouldn't you read e-mails?

MS. STEELHAMMER: Well, as I said earlier I think that this would be the way that the email was sent to me, I believe I would've thought it was like an FYI and the issue is being taken care of. I received this email the week before the legislative session started. I would've been heavily involved with agency request legislation, and I am sure my intention was to go back and read it, and I just never got to doing that.

SEN. PADDEN: Now the first part of it, before you even get into Ronda Larson, is right up there, it doesn't say FYI or anything, it just says talking about "this programming change at Denise's direct report meeting and Sarian asked if I had shared with you. Please review and give me your input." So that's the very first part. It is not like buried in the e-mail or anything.

MS. STEELHAMMER: No, I realize that, but it is a programming change. That is not something that's normally my job duties is programming changes. And it is brought up at an assistant secretary level meeting.

SEN. PADDEN: Okay, well – again, on page 43 of the governor's report [it] says "Ms. Steelhammer was DOC's primary liaison with the state legislature. It is reasonable to conclude she would [have] given particular attention to a systematic failure to comply with a statutory mandate regarding early release. One possible explanation of why this issue did not make more of an impression on Ms. Steelhammer and others in senior management is the reaction of Sandy Mullins to Ms. Steelhammer's mention of the

problem in one of the regular senior management meetings. According to Ms. Mullins, she concluded from Ms. Steelhammer report that the problem was narrow in scope and had been corrected. Although Ms. Steelhammer has been sent in a copy of Ms. Larsen's memorandum, the seriousness of the matter apparently did not register with her and was not conveyed by her to senior management." I guess you would take issue with the whole paragraph? Is that correct?

MS. STEELHAMMER: That's correct.

SEN. PADDEN: And what would your issue be?

MS. STEELHAMMER: Well, the senior leadership meetings number one, I would attend for 5 min. of those meetings to give a brief out on legislative issues at that time I most likely would've been reporting out onto agency request legislation and I don't stay for the rest of the meeting. I leave. So I wouldn't have reported out and wouldn't have been my role to do so. It would've been my supervisors if it were a concern.

SEN. PADDEN: All right. So after all this in 2013, you said you were tied up with legislative matters. And do you recall anything specific during the legislative session that would have dealt with this issue?

MS. STEELHAMMER: With this issue, no.

SEN. PADDEN: Do you recall dealing with Representative Ross Hunter on House Bill 2050?

MS. STEELHAMMER: No, I don't. What is -

SEN. PADDEN: Okay, that was a bill dealing with being able to retroactively change release times by DOC?

MS. STEELHAMMER: Was that the jail credit, the amount of earned time that could be awarded for jail?

SEN. PADDEN: It dealt with that and would've allowed retroactive changing of the release time by DOC. You recall that? It came up very late in the session apparently. It was later made part of a senate bill, was included in the senate bill. Maybe we could pass out those bills.

MS. STEELHAMMER: It was the portion that was in 5892, then yes I do. I didn't remember that it was first a house bill. Sorry, I didn't remember that.

SEN. PADDEN: Yeah, it became incorporated in 5892 and it appears to at least to some degree relates to some of the issues with the King fix, and it was a couple months after you got the e-mail in January of 2013.

MS. STEELHAMMER: I do recall this change. I don't see the connection with the King. What it did was allow consistent application of rates of earned time. Jails had the statute that they could go up to a third and some counties would give 10 percent for presentence time and some would give 33 percent, so for offenders coming to DOC there wasn't an equal application of how much credit they got. And so it made

it consistent. Whatever they would've received while at the department is what the calculation they got to the jail and it did allow retroactive application of that.

SEN. PADDEN: And do you recall talking to Mr. Hunter and any of the senators about that bill?

MS. STEELHAMMER: No, I don't.

SEN. PADDEN: Would you have been involved with the bill in your position?

MS. STEELHAMMER: At that time because I reported to the executive director most likely he would've been the one talking to them about it. It's possible I did, I don't recall doing so.

SEN. PADDEN: Your testimony here today is that it didn't have anything to do with the King fix at all.

MS. STEELHAMMER: I don't believe it does. I don't know. I don't know if, how it applies to King.

SEN. PADDEN: During your time there with DOC, you obviously interacted with Mr. Warner a fair amount, right?

MS. STEELHAMMER: During the legislative session more so, yes.

SEN. PADDEN: And you heard or maybe you didn't, but were you aware that Mr. Pacholke indicated that Mr. Warner was gone a lot at conferences and had a somewhat hands-off management style I guess you could say. Were you aware that he testified to that?

MS. STEELHAMMER: I don't remember him saying that.

SEN. PADDEN: What was your opinion of Mr. Warner's management style?

MS. STEELHAMMER: I didn't have close interaction with him. You know during exec staff meetings we would discuss issues that came up, I wasn't ever managed by him so it is hard for me to report on that.

SEN. PADDEN: He didn't discuss legislative initiatives by DOC with you?

MS. STEELHAMMER: He did.

SEN. PADDEN: Well, did he make decisions quickly or did he take a long time to make decisions?

MS. STEELHAMMER: He did not make decisions quickly in general.

SEN. PADDEN: [Inaudible] things quite a bit?

MS. STEELHAMMER: Yes.

SEN. PADDEN: All right. Where was your office physically located? Was it with the other DOC employees?

MS. STEELHAMMER: Yeah, I was on the third floor of the headquarters building.

SEN. PADDEN: And there had been some testimony earlier – did you, well let me ask you this. Did you interact with the IT department?

MS. STEELHAMMER: Not very often. I put in requests or need help with my computer.

SEN. PADDEN: Were you aware of a number of folks in the IT department leaving the department over a period of time?

MS. STEELHAMMER: Yes.

SEN. PADDEN: Were you aware of any impact that might have had on the IT department?

MS. STEELHAMMER: Since I didn't work closely I couldn't say. It might have impacted morale, I don't know.

SEN. PADDEN: Were they were contracting out some of the IT functions with another company?

MS. STEELHAMMER: No.

SEN. PADDEN: You weren't aware of that. And even though the governor's report was somewhat I guess you would say critical of you, you don't agree with that, but would you agree that the report was somewhat critical of you?

MS. STEELHAMMER: Yes.

SEN. PADDEN: But you have not face any disciplinary action, have you, from –

MS. STEELHAMMER: No, I have not.

SEN. PADDEN: All right, that's all the questions I have this time. Sen. Pedersen?

SEN. PEDERSEN: Thank you, Mr. Chair. Thank you very much for being here this morning. I guess I would just be curious to get a little bit of context. You have been in this role for how many years dealing with the legislature?

MS. STEELHAMMER: Since 2008.

SEN. PEDERSEN: 2008. And has the legislature changed during that time enhancements that are required for sentences or done other things that affected the release time for offenders?

MS. STEELHAMMER: There's been many changes over that time period, yes.

SEN. PEDERSEN: How often and can you can you give some examples of some of those changes?

MS. STEELHAMMER: There have been some enhancements added. There's been changes to who supervise. There is new crimes added every time. It's hard to summarize but lots of changes every time.

SEN. PEDERSEN: So typically in every legislative session we have more than one change to at least some offender's length to the amount of time they might have to stay?

MS. STEELHAMMER: Or supervision times, yes.

SEN. PEDERSEN: And all those I presume would have some effect on how the sentences would end up needing to be served and therefore on the IT systems.

MS. STEELHAMMER: Correct.

SEN. PEDERSEN: And I presume in addition to that you would a regular have court decisions the, you are trying to monitor and figure out. Is that part of your world at all?

MS. STEELHAMMER: Not very often. The court decisions really don't deal with the statutes unless we are trying to do a correction after court decision comes out and we need a legislative change. Then that would be something that I would be involved in.

SEN. PEDERSEN: And so the attorney general's office would be helping folks to understand when there was an issue with a court decision?

MS. STEELHAMMER: Correct.

SEN. PEDERSEN: And so would you normally, we see this e-mail that is up here, but would you normally have much role in trying to figure out how to implement?

MS. STEELHAMMER: It would depend on what change would be. It was a legislative change, the attorney general often would suggest changes based on court cases that they were defending and think of ways to make some statute stronger or if there are some inconsistencies after laws of been passed between different statutes so they would come forward with those types of things to me. But not to things that would change program calculations that would normally go to the program manager.

SEN. PEDERSEN: And then would your role normally be trying to work with the legislature to fix inconsistencies or sort of more proactive or to help interpret the work of the legislature back into the department? Or do you do both?

MS. STEELHAMMER: I would say do both, look at bills as they pass and what the impacts are, I mean the subject matter experts are more the once they do that part of it. I just kind of make sure that it's assigned to them to look at when bills pass. But when there are questions that they, and they say I don't understand how this works, I might be the one that asks the attorney general the question.

SEN. PEDERSEN: So just to give a little context I guess also for folks who are looking at this e-mail. This would have been a week and a half or so before a long legislative session started. What kinds of things would you typically be working on, going into a budget year?

MS. STEELHAMMER: It's a very busy time of the year. We would have been working on agency request legislation probably looking for sponsors we generally when we do agency request we introduce it in

both the house and the senate so it proposal has two separate pieces may be going through any prefilled bills looking at fiscal impacts of anything that we are aware of from any other agencies going forward, looking forward to the schedule to see if there would be work sessions scheduled in the beginning of the sessions and I help with those too.

SEN. PEDERSEN: And you know I wouldn't expect you to remember a particular day from more than three years ago, but as you reviewed your records, did you see whether you happened to receive any other e-mails that day?

MS. STEELHAMMER: I'm sure I did.

SEN. PEDERSEN: On a typical day how many e-mails might you receive?

MS. STEELHAMMER: 40 to 50 during legislative session.

SEN. PEDERSEN: And I guess the last thing that we had some discussion previously as you were talking with Sen. Padden about your view of the governor's report. I guess I just want to clarify. You – it seemed to me that the Governor's report stated – what the governor's report said about what you said was consistent. It said you had no recollection of having made report. They talk to some other people and evidently concluded that you might've made report that you didn't remember. So you just have no recollection of that, but it's nothing you found that they misconstrued what you had to say. Right?

MS. STEELHAMMER: I don't believe I said anything.

SEN. PEDERSEN: O.K., thank you.

PADDEN: Sen. Frockt?

SEN. FROCKT: Thank you, Mr. Chairman. Ms. Steelhammer, you indicated that you felt that the governor's report was critical of you? Do you think it was critical of other people in the Department of Corrections?

MS. STEELHAMMER: Yes.

SEN. FROCKT: And you think the criticism of you was unfair?

MS. STEELHAMMER: I don't feel – I don't agree with the assumption that this would've been something that I should've taken to senior leadership.

SEN. FROCKT: I understand. And the e-mail on January 2, you're not cc'd on it, it's directly to you, isn't it?

MS. STEELHAMMER: That's correct.

SEN. FROCKT: And it says right here at the very beginning, do you have it right in front of you?

MS. STEELHAMMER: Yes, I do.

SEN. FROCKT: So it says this is from Wendy Stigall to you. "Please review and give your input." Did you review it and give her your input?

MS. STEELHAMMER: No I don't believe I did.

SEN. FROCKT: Did you read the whole e-mail at the time you received it?

MS. STEELHAMMER: I don't believe, I did.

SEN. FROCKT: When was the first time you actually read the whole e-mail?

MS. STEELHAMMER: In December.

SEN. FROCKT: Of what?

MS. STEELHAMMER: Of 2015.

SEN. FROCKT: So you never read the entire e-mail at the time?

MS. STEELHAMMER: I don't believe I did. I have no memory of doing so.

SEN. FROCKT: And so I assume then that you didn't read all the way to the end, which was the attachment from Ms. Larson, which said there is no need to do the hand calculations?

MS. STEELHAMMER: That is correct.

SEN. FROCKT: You didn't conclude that until or find that until December of 2015?

MS. STEELHAMMER: That is correct.

SEN. FROCKT: In hindsight, do you wish you had read it?

MS. STEELHAMMER: Yes.

SEN. FROCKT: Do you think that this whole thing could've been avoided if somebody had raised a flag and began doing hand calculations at the time it was realized there was an error, and the whole thing being the early release of prisoners?

MS. STEELHAMMER: Would hand calculations have fixed the problem? Yes.

SEN. FROCKT: And could that have been done as early as January of 2013 when you were advised, or when this e-mail was sent to you?

MS. STEELHAMMER: I don't work for records, but I assume so, yes.

SEN. FROCKT: So there was a legal opinion that was provided in this e-mail it wasn't flagged by you, were apparently by anybody else at the time?

MS. STEELHAMMER: Correct.

SEN. FROCKT: Did you ever have any discussions with Wendy Stigall between January of 2013 and December of 2015 about this issue?

MS. STEELHAMMER: No, I don't believe I did.

SEN. FROCKT: Why do you think – I mean, since we are having a lot of hearsay in these hearings, I would just ask you to speculate. What you think she sent it to you?

MS. STEELHAMMER: It was like somebody else, a new staff member had mentioned that she should share it with me.

SEN. FROCKT: But why would Wendy Stigall share it with you? I mean, I'm trying to understand.

MS. STEELHAMMER: Well, the person who suggested she said to me had only worked for the agency for a few months. Maybe she was just assuming that everybody should be in the know. I don't know. I can speculate.

SEN. FROCKT: Is it possible that was a policy issue, there was some concern about this policy issue that had been addressed for 10 years?

MS. STEELHAMMER: I don't know.

SEN. FROCKT: So looking at the entire governor's report, which seems to be the focus of these hearings, you know, what's wrong with [what] the governor's investigators missed. Besides this assessment of you that you disagree with, what else in the governor's report do you disagree with?

MS. STEELHAMMER: I don't know. Nothing comes to mind.

SEN. FROCKT: Did you read it?

MS. STEELHAMMER: I did read it.

SEN. PADDEN: I just have a follow up. Going back to the work on those bills, we have an e-mail in the governor's supplemental report from Wendy Stigall indicating and I was talking to Clela this morning and it looks like they are going to incorporate this. I think they are talking about 2010 in 5892 for DOC cost savings measures. Do you know what she was talking about on cost-saving measures?

MS. STEELHAMMER: I think the title of 5892 had something to do with cost savings, cost reductions or we had a couple of other changes that had impacted DOC's population at least one other that I know.

SEN. PADDEN: In 2050, there was an emergency clause and also it was retroactive. You know why the emergency clause and why was retroactive?

MS. STEELHAMMER: Well, it would've reduced ADP in some cases for offenders that were possibly getting 10 percent in the jails before coming into DOC and then at DOC getting 33 percent. The bill allowed the calculation to be recalculated at 33 percent.

SEN. PADDEN: Oh, so folks would be getting out earlier.

MS. STEELHAMMER: Yes, additional earned time.

SEN. PADDEN: And during all this, you're saying that this had nothing to do with the King fix?

MS. STEELHAMMER: I don't know how this would apply to the King fix. I'm not that familiar with the court case, the King. I thought it had to do with how –

SEN. PADDEN: There wasn't anything when all this came to light in December 2015 when there was a look at this legislation to see if it impacted the King fix?

MS. STEELHAMMER: Not by me. I don't know.

SEN. PADDEN: Nobody asked you about it?

MS. STEELHAMMER: No.

SEN. PADDEN: You don't recall talking to former representative Hunter about this?

MS. STEELHAMMER: I don't.

SEN. PADDEN: So how - well talking to Wendy Stigall and talking to her about DOC cost-saving measures on this Bill? E-mail and the Governor's supplemental report has Wendy saying she talked to you this morning and it looks like they are going to incorporate this talking about the House Bill 2050 into the Senate Bill 5892 for DOC cost-saving measures. Do you remember talking to Wendy Stigall about that?

MS. STEELHAMMER: I don't specifically remember talking to her about that because the record staff would have to be the ones that would do the recalculation and I would've spoken to her about how quickly it could be done.

SEN. PADDEN: Well why was there a big push for this bill? It came up late in the session, it was added and I don't know maybe some of the members remember the bill. But do you recall dealing with the bill at all?

MS. STEELHAMMER: Not specifically, no, I mean I remember the bill I remember a couple of the changes that were in it, but I don't remember the day-to-day dealings of who I spoke to in what I did with it, no.

SEN. PADDEN: Well anyway the bill 5892 did pass. You are aware of that. Did DOC do recalculations as a result of the bill passing?

MS. STEELHAMMER: Yes, they did.

SEN. PADDEN: So there were some folks that were let out earlier than they would've been otherwise if the bill hadn't passed?

MS. STEELHAMMER: Some release dates changed based on the greater amount of earned time credit, yes.

SEN. PADDEN: And why did those re-calculations not deal with the King fix? It didn't seem to limit who the re-calculations could be for.

MS. STEELHAMMER: That was a records function. I don't know. I wasn't involved in that. I don't know what it takes the difference between this and the other situation.

SEN. PADDEN: So how would the process work? I mean you're the legislative person, if you are not dealing with the legislators, who would've been dealing with the legislators?

MS. STEELHAMMER: My supervisor, Adam Mossadegh [phonetic].

SEN. PADDEN: Okay. And did you ever go with him?

MS. STEELHAMMER: On some occasions I would and sometimes I wouldn't. It depends on schedules and how many people he was meeting with and whether it worked.

SEN. PADDEN: All right. Sen. Darneille?

SEN. DARNEILLE: Thank you very much, Mr. Chair. I thank you for coming today. I wanted to look back at those bills in 2012 as well. As you may recall it was my first year here in the senate that we had worked together when I was still in the house for a few years on bills relating to corrections and during that time would you confirm that a lot of our conversations had to do with how we would could cut expenses in the Department of Corrections?

MS. STEELHAMMER: Yes, I think from probably 2011 through 2012 for several years, yes.

SEN. DARNEILLE: I think as I recall we spoke about those kinds of things quite often because DOC is the largest general government agency in the state of Washington and it is a big piece of those general government dollars and so we were trying to see how we could effectively cut the budget without impacting negatively public safety. So I wanted to bring two bills forward and see if you have any recollection of those. You asked me I think you and Bernie and met with me and you asked me to prime sponsor 5835 which had the title earned release time for felony convictions involving deadly weapons enhancements.

MS. STEELHAMMER: Correct.

SEN. DARNEILLE: This bill would have allowed a change in the current statute that would have allowed for an offender to actually earn credit toward an early release or credits towards, or credits, goodtime credits for the time that they were serving on a deadly weapons enhancement which was under the existing statute they could earn good time on that piece of their time in prison. Would you typically look at a bill like that as something that maybe had come from a WSIPP study or that was evidenced based in some way?

MS. STEELHAMMER: Yes. I mean what we're doing is just looking at any bills or any bills that could be introduced that could possibly reduce our population without impacting public safety and is relative to others.

SEN. DARNEILLE: And just for public enjoyment here the bill did not receive a hearing in this committee. There was another bill that you asked me to prime sponsor which I did which had to do with changing the seriousness level for possession of a controlled substance and these would be drug offenses and there were some categories that the department felt could be changed and that would also reduce length of sentence. A piece of that had to do with possession of nonnarcotic schedule one through five substances. Now, tell us how you would come up with an idea like that - for reducing expenses?

MS. STEELHAMMER: What we ended up doing a lot of times was just doing brainstorming. What would be the way we could reduce our population with the least impact? So that was one of the ones that came forward as a drug low-level offense, whether or not they had to be serving a sentence in prison or not, would they be more suited to a stay in a county jail. Basically those ideas just came up with brainstorming all the different – mean we had lots of ideas that we had come up with that a lot of them didn't move anywhere.

SEN. DARNEILLE: So are there a lot of people in prison today that have low-level drug offenses? Is there a reason for being there?

MS. STEELHAMMER: You know I would have to get back to you on that. I know our average daily population for drug offenders in general is about 9 percent, but they are only call our charters they come in and out so there is relatively short stays for those offenders. For position themselves I would guess a couple of thousand.

SEN. DARNEILLE: So there are 1 to 2,000 people then typically.

MS. STEELHAMMER: But I would have to clarify those numbers.

SEN. DARNEILLE: But that would've saved the department some money as well. And just for again historical significance or noting, that bill also did not receive a hearing in this committee, is that correct?

MS. STEELHAMMER: I assume so.

SEN. DARNEILLE: And I guess I wanted to ask generally about your role in doing that. We met several times. And I just – is a comfortable for you to talk about how you promote legislation like this typically? With a legislator like me?

MS. STEELHAMMER: Generally I work more in line with legislative staff. When I was first hired I would report directly to a secretary, and then I would go to the meetings with this assistant secretary but when they added and basically another layer it was more up to them, but if were really complicated sentencing things they were not comfortable with they would have usually bring me along to explain with the current process was and what the proposed was.

SEN. PADDEN: Okay, Just a follow-up in response to some of Sen. Darneille's questions. You indicated you would sit around and brainstorm ways for cost savings which for the department and to try to reduce your population?

MS. STEELHAMMER: Well that was in reference to when the governor had a 15 percent reduction when he had to reduce the budgets, but for DOC to really reduce their budget by that amount you would have to impact ADP. So we were trying to come up with ideas and how to reduce our ADP.

SEN. PADDEN: But you followed up with House Bill 2050 and I got added to 5892 and those were cost-cutting. And you said you tried to do that to take into account to some extent public safety. How did you analyze the impact on public safety?

MS. STEELHAMMER: It was more relevant to what would be the impact of lowering sentence levels for more serious – it was more impacting public safety it seem to do at least than the others. If that makes sense.

SEN. PADDEN: Of course realize that there is a recidivism rate that Secretary Pacholke talked about that happens and if there is at least is there going to be some additional criminal activity of people are let out early, then if they are confined. I mean obviously they are confined presumably they're not able to commit criminal activity if they get out earlier a certain percentage has happened in this commit crimes.

MS. STEELHAMMER: Correct and they may have committed them at the time they are released also.

SEN. PADDEN: All right. Are any other questions? Sen. Frockt?

SEN. FROCKT: I'm just trying to – I'm not sure I'm making sense of all this related to 2050 and 5892 and what the significance is related here, but two things I noticed. One thing is these bills were introduced in April of 2013 that would've been late in our session. Do you recall that?

MS. STEELHAMMER: I don't recall when they were introduced.

SEN. FROCKT: Was there any discussion with you by legislative leaders, I noticed that 5892 was introduced by Sen. Hargrove and Sen. Kline, who was the ranking member of this committee. You recall any discussion with them in April about this? Did you work with them?

MS. STEELHAMMER: I don't specifically remember, no.

SEN. FROCKT: Do you think they might've been introduced because we were dealing with a budget crisis at that time?

MS. STEELHAMMER: Considering the title, certainly, yes.

SEN. FROCKT: And in fact we went into several special sessions all the way to June 30 – it is not really an uncommon thing these days in 2015 and 16, but at that time we were looking at special sessions because of the budget impasse. Would that have been why these bills were introduced?

MS. STEELHAMMER: I would think so, yes.

SEN. FROCKT: They didn't come from DOC prior to April as request legislation did they?

MS. STEELHAMMER: Not that I'm aware of, 2050 it sounds like was incorporated in that and the history of that, I don't remember it.

SEN. FROCKT: I'm just looking at 2050 it looks like it was introduced it was read the first time on 4 /18/13 so that would've been very late in the 105 day session

MS. STEELHAMMER: It would be, yes.

SEN. FROCKT: All right, thanks.

SEN. PADDEN: Did DOC ask you to be involved with this legislation? It doesn't say DOC request. But was it a DOC bill?

MS. STEELHAMMER: I don't recall.

SEN. PADDEN: But you do recall working on it and you do recall talking to Ms. Stigall about it.

MS. STEELHAMMER: Yes I do.

SEN. PADDEN: Thank you.

SEN. DARNEILLE: Just for the record, at any time over all these years, of being a person who works with legislators, if you ever initiated legislation yourself on your own? Just as your decision?

MS. STEELHAMMER: No.

SEN. PADDEN: Then how do you decide to get involved in legislation? Does that come from the head of DOC; is there a policy group that gives you direction?

MS. STEELHAMMER: Now what I will do over the course of the year as issues, like from the attorney general's office, if they have a suggested change to statute, I will keep them in a file. If we have conflicts or something that we want to improve, somebody comes up with an idea that might be a way they want to improve what we do currently that takes a legislative change, we keep them in a file and then I would take them forward to executive staff and say here are the ones that I have, is there anything further? And then they would probably do some analysis and some preliminary work on which ones that they would like to go forward to and it's a different in a short session versus long session

SEN. PADDEN: And you are aware that Bernie Warner would meet with legislators and lobby them on bills? Right?

MS. STEELHAMMER: Yes.

SEN. PADDEN: Did you ever go with him when that took place?

MS. STEELHAMMER: I must have, yes, occasionally.

SEN. PADDEN: Thank you very much. I think that will conclude your testimony. We would like to call up David Dunnington next. If you would remain standing, and raise your right hand please? Do you

solemnly swear that the testimony you are about to give in the matter pending shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. DUNNINGTON: Yes.

SEN. PADDEN: Please be seated. Also, Mr. Dunnington, thank you for coming voluntarily here today. Sen. O'Ban?

SEN. O'BAN: Thank you, Mr. Dunnington, a few questions. Now, you have been interviewed by several different investigators in connection to this King fix issue, correct?

MR. DUNNINGTON: Correct.

SEN. O'BAN: You met with the governor's investigators. How many times did you meet with the governor's investigators?

MR. DUNNINGTON: Twice.

SEN. O'BAN: And did they ever ask you to prepare a statement to try to memorialize or record the testimony that you provided to them?

MR. DUNNINGTON: No.

SEN. O'BAN: Did they ever ask you to review their notes or information that they collected of your interview, to see if you agreed with their recording of that interview?

MR. DUNNINGTON: No.

SEN. O'BAN: O.K., so the first opportunity you had to see how they were representing your testimony, which is rather key in this whole endeavor, was when you saw their report?

MR. DUNNINGTON: Correct.

SEN. O'BAN: Now, in the case of the senate's investigation, did you meet with investigators from the senate?

MR. DUNNINGTON: Yes.

SEN. O'BAN: And how many times did you meet with the Senate investigators?

MR. DUNNINGTON: One time.

SEN. O'BAN: Were you asked to review a statement, and make corrections to that statement? And did you in fact make changes to the statement they gave you?

MR. DUNNINGTON: Yes, I was.

SEN. O'BAN: Were those corrections incorporated into that statement?

MR. DUNNINGTON: Yes.

SEN. O'BAN: And then did you get a chance to sign that statement?

MR. DUNNINGTON: Yes.

SEN. O'BAN: All right. Would you say, sitting here today, that the statement you provided is a more accurate representation of the information that you provided to all the investigators than what is in the governor's report?

MR. DUNNINGTON: Which statement? Could you clarify?

SEN. O'BAN: So the statement which you were allowed to review and make corrections to and ultimately sign – is that a more accurate representation of your testimony than what is depicted in the governor's report?

MR. DUNNINGTON: Yes.

SEN. O'BAN: O.K. How long have you worked with DOC?

MR. DUNNINGTON: Since May 16, 1991.

SEN. O'BAN: And then I think you went to the headquarters at that level around 2003? Is that correct?

MR. DUNNINGTON: Correct.

SEN. O'BAN: And how long have you worked for the IT department?

MR. DUNNINGTON: Probably since about [inaudible] – when I went to headquarters in 2003, I worked indirectly with the IT department, because it was the OMNI project still, way back then. But I actually didn't become part of officially IT, I would say, until about 2005, 2006 -- somewhere in that timeframe.

SEN. O'BAN: And that is where you've worked since that time, continuously until today?

MR. DUNNINGTON: Correct.

SEN. O'BAN: What was your title as of January of this year?

MR. DUNNINGTON: Assistant secretary, or temporary or acting deputy CIO.

SEN. O'BAN: What was it just before you were the acting deputy?

MR. DUNNINGTON: IT business manager.

SEN. O'BAN: What is your position now?

MR. DUNNINGTON: Acting deputy CIO.

SEN. O'BAN: Were you demoted in any way?

MR. DUNNINGTON: Yes. It just has not taken effect yet.

SEN. O'BAN: I see. What do you understand that demotion will be, when it takes effect?

MR. DUNNINGTON: I've been demoted to an IT S5, position F477.

SEN. O'BAN: Is that lower than a business manager?

MR. DUNNINGTON: Yes.

SEN. O'BAN: That also resulted in a reduction of pay?

MR. DUNNINGTON: Yes.

SEN. O'BAN: When Mr. Pacholke was here, and [he] still [was] the acting DOC's secretary last time he appeared here, he was rather complimentary of your services and your performance. Did you have a chance to review that testimony at all?

MR. DUNNINGTON: Yes.

SEN. O'BAN: Would you agree with his statement about your abilities?

MR. DUNNINGTON: Yes.

SEN. O'BAN: In fact, he expressed some concern about the governor's report and its depiction of your role in this case, didn't he?

MR. DUNNINGTON: Yes, he did.

SEN. O'BAN: And you would agree with his view that the governor's report is not accurate in the way it depicts your role?

MR. DUNNINGTON: I would agree.

SEN. O'BAN: We will have a chance to talk about some of the exceptions you take with the governor's report and your role in this whole affair. But before we jump into that part, let's talk just a little bit of background here about the IT request system. By the way, the King fix, as we refer to it -- is that properly categorized as an enhancement?

MR. DUNNINGTON: Yes.

SEN. O'BAN: So walk us through the process for an enhancement. There is a ticket that is prepared and turned in to the help desk, right?

MR. DUNNINGTON: Correct.

SEN. O'BAN: That is true for enhancements as well?

MR. DUNNINGTON: Correct.

SEN. O'BAN: Walk through the process then, of a ticket.

MR. DUNNINGTON: A submitter, anybody in DOC, can submit an IT request, or at the time, could have submitted an IT request, to have a part of the system changed. And they would do it through the SDE application, and it would go to the gatekeeper, [a] DOC gatekeeper, who would then input it, and then it would be sent. At that time, there were different routings for different requests. I don't recall where everything went, but for application changes it would've went to a triage team at that time. Then would have looked at it and directed it and would have sent it off in the right direction.

SEN. O'BAN: And were you part of the triage team?

MR. DUNNINGTON: I was.

SEN. O'BAN: [Were] Michael Pearson, Mark Quimby, Rochela Consano, Luann Kawata, Marianne Arnold [and] Rob Baird members of that team?

MR. DUNNINGTON: Yes.

SEN. O'BAN: And were they members of the team at the time of the King fix?

MR. DUNNINGTON: Yes.

SEN. O'BAN: So they would have reviewed, along with you, as the triage team, the King fix ticket?

MR. DUNNINGTON: Yes.

SEN. O'BAN: And what determination is made at that stage?

MR. DUNNINGTON: Basically, the only determination made at that stage is where to assign it and does it make sense? But really, where to assign it is the point of it.

SEN. O'BAN: In terms of this rating system, the severity one through five – is that numerical determination made by the triage team?

MR. DUNNINGTON: No.

SEN. O'BAN: Go ahead and keep going then, past the triage team.

MR. DUNNINGTON: Past the triage team, it would have been assigned out to a business group, a workgroup and that particular one was assigned to my team, to me – assigned a work order.

SEN. O'BAN: Who in 2013 would have been in your business group?

MR. DUNNINGTON: Oh boy. It would've been myself, Sue Schuler – who I know you are aware of – Karen Doranto, [phonetic] Ray Bushing, [phonetic] Sue Davis, Diane Gebhardt, [phonetic] Tonya Christian I believe –

SEN. O'BAN: I'm sorry, who was the last?

MR. DUNNINGTON: Tonya Christian, I think – maybe, maybe not at that time frame.

SEN. O'BAN: O.K.

MR. DUNNINGTON: That's what I recall; I might be missing somebody.

SEN. O'BAN: And what was the role of [the] business group?

MR. DUNNINGTON: Its role was to capture system requirements, triage and review help tickets – what we call tier 2 – that were turned in by system users reporting what they believed to be errors. And sometimes they were errors, and sometimes they were not. We facilitated user acceptance testing. We participated in special projects. We also led some small projects – changes to migrating OBTS functionality to OMNI. What else? We helped and assisted with legislative analysis and impacts that it might have to the system. I am sure there is more.

SEN. O'BAN: Did your group ever work on the STRONG-R project?

MR. DUNNINGTON: Yes.

SEN. O'BAN: Also known as Advanced Corrections, right?

MR. DUNNINGTON: Yeah, a little bit – yes.

SEN. O'BAN: O.K., so once your group makes its determination and assigned the 1-through-5 severity rating – was it 1 through 5?

MR. DUNNINGTON: One through 4.

SEN. O'BAN: One through 4 -- excuse me, severity rating – so on this particular project, the King fix, who assigned the initial severity rating of 2?

MR. DUNNINGTON: Sue Schuler did.

SEN. O'BAN: That, of course, that is one of the subjects of criticism in the report, the downgrading [of] it from a 2 to 3. So let's talk about that for a moment, walk us through the process, as far as you are aware, that that went from a 2 to 3 – the King fix.

MR. DUNNINGTON: I changed it to a 3, as a result of discussions over quite a long period of time that many people were involved in, to better reflect, or to better define severity 1 and 2 defects, especially severity 2 defects versus enhancements. And these discussions occurred at the OMNI architecture team meeting -- and they also occurred at the IT executive teams meetings at times and the OMNI meetings. But it was out of the architecture team meeting I was tasked with providing clear severity definitions and providing direction that all enhancements shall be assigned to severity level 3 and that was confirmed on 11/22 in the architecture minutes. When I went to my pre-disciplinary hearing I had little time to put together everything that you guys have now, and I missed that 11/22 hearing. I have another one that I provided there. But on 11/22, it was a done deal – at the architecture meeting – that all enhancements were to be severity level 3.

SEN. O'BAN: O.K., what I have, at least the documents that I have -- you have Tab six in front of you. If you open Tab six in that binder. And the first page is an e-mail dated August 18, 2015, do you have that?

MR. DUNNINGTON: It is.

SEN. O'BAN: O.K., we're going to skip that, because I'm not going to talk about that right now. But the third page in Tab Six is a document, OMNI project/architecture minute notes 11/8/2013. Do you have that in front of you?

MR. DUNNINGTON: I do.

SEN. O'BAN: But you mentioned earlier this architecture team. I don't think we have the 11/22 minutes but we have the 11/8 minutes, right?

MR. DUNNINGTON: Right.

SEN. O'BAN: So looking at the 11/8 minutes-- I'll get those in front of me -- meeting notes [for] 11/8/2013, and then there are attendees -- do you see the list of names there?

MR. DUNNINGTON: Yes.

SEN. O'BAN: I don't see your name listed there. Were you at the meeting?

MR. DUNNINGTON: I didn't notice that before.

SEN. PADDEN: I'm sorry. Could you speak into the microphone?

MR. DUNNINGTON: I didn't notice that before. I don't know.

SEN. O'BAN: Well, from your custom and practice at architectural meetings, was it typical that the effort was to record all the attendees at that meeting?

MR. DUNNINGTON: So I probably wasn't there. But -- I don't know.

SEN. O'BAN: So your understanding, having now just identified that issue, that all the attendees are listed but you are not, [is that] it was unlikely that you were at this meeting?

MR. DUNNINGTON: Yeah, I would have to say -- I would make that assumption.

SEN. O'BAN: O.K. And then we look under six, assignments follow-up, six, and then there are four bullets. The last bullet says, "assign to Dave" -- that was probably you, right?

MR. DUNNINGTON: Correct.

SEN. O'BAN: "Update severity criteria document. For enhancements, severity is always set to three." Right?

MR. DUNNINGTON: Yes.

SEN. O'BAN: So what do you understand that to mean? To me it suggests that this group -- and you perhaps weren't even there -- [decided] that enhancements, of which the King fix was one, were to be rated as a 3, not a 2. Is that your understanding?

MR. DUNNINGTON: Exactly.

SEN. O'BAN: So a decision was made, at this meeting [in] which you apparently were not involved -- at least at this meeting -- by others to grade all enhancements a three rather than a two, correct?

MR. DUNNINGTON: Correct.

SEN. O'BAN: O.K. And like often happens at meetings, the person who isn't there gets the responsibility. So you got the assignment?

MR. DUNNINGTON: Yes.

SEN. O'BAN: So you mentioned that there was a subsequent meeting of the same architecture group that we don't have the minutes -- which would be great to see -- but what is your understanding of what those minutes reflect?

MR. DUNNINGTON: They reflect, on 11/22, in the assignments follow-up, the first one on the list reflects the "update severity criteria document for enhancements severity always set to three." It says done.

SEN. O'BAN: So that's certainly consistent with the 11/8/2013 minutes isn't it?

MR. DUNNINGTON: Correct.

SEN. PADDEN: I don't know, do we have -- I will ask the staff, do we have that document?

SEN. O'BAN: 11/22?

SEN. PADDEN: If not, maybe we can make a copy from Mr. Dunnington.

SEN. O'BAN: Did you provide -- yes, it would be great if we could get a copy.

SEN. PADDEN: Do you have an extra copy? Or for some reason --

MR. DUNNINGTON: No, I don't have a copy with me here.

SEN. PADDEN: O.K., if you could provide that to staff, that would be very helpful. All right go ahead, Sen. O'Ban.

SEN. O'BAN: So as I read the governor's report, and there was a supplemental report that was pretty much devoted to you --

MR. DUNNINGTON: Yes.

SEN. O'BAN: The conclusions of that report were pretty much [that] you were the one who solely made the decision to downgrade the King fix as an enhancement and all other enhancements from a 2 to a 3, right?

MR. DUNNINGTON: That's how it read.

SEN. O'BAN: And you take exception to that, don't you?

MR. DUNNINGTON: I do.

SEN. O'BAN: Tell us why.

MR. DUNNINGTON: Because I informed the investigators of the process, and I gave them an e-mail I sent out. What I didn't do is provide this at the time, but I informed them of the process. I spelled it out for them. They didn't put that in the report.

SEN. O'BAN: Well, this document that we are just reading from, the 11/8/2013 minutes – maybe staff can help me. I could be mistaken, is this in the Governor's report?

Mr. FORD: It may be in the supplemental report.

SEN. O'BAN: So the governor's investigators did have at least the 11/8/2013 minutes that shows the architectural group, without Mr. Dunnington there, downgraded enhancements from a 2 to a 3. O.K., so they did have that. I'm sorry, I may have interrupted you. So let's assume that the investigators did have these minutes. Tell us more why you thought the decision to downgrade from a 2 to a 3 was not so your own? Do you want to add to that further?

MR. DUNNINGTON: Because you can see the list of attendees on 11/22 included a number of people that had a say in that and that I e-mailed it out for anyone to offer an opinion.

SEN. O'BAN: Did anyone offer an opinion on downgrading all enhancements from twos to threes?

MR. DUNNINGTON: No.

SEN. O'BAN: Did anyone say we should go through each enhancement and make sure that we shouldn't treat them all equally, that maybe some might still need to remain a 2?

MR. DUNNINGTON: No.

SEN. O'BAN: So describe for me your level of understanding of the nature of the King fix in 2013. What did you understand it to be, the extent of it or lack of extent of it?

MR. DUNNINGTON: My understanding was – it is difficult to – it was a request from Wendy Stigall and that it was a change to sentence structure. And as far as the magnitude and the degree that would affect what we know today, I didn't know. I didn't understand that at that time.

SEN. O'BAN: Did you have an understanding of whether it would result in -- looking at the future, not the past, but the future, prospectively -- that it might result in at least one person being released early?

MR. DUNNINGTON: There is a likelihood that I did think that, but I don't recall. I don't recall. It was processed.

SEN. O'BAN: O.K., explain sort of the environment. So you get this ticket, you do your triage, you assigned your business group. What else is going on at that time in 2013? How many other fixes is your group responsible for? What other assignments --?

MR. DUNNINGTON: There were hundreds, thousands of help tickets. Literally thousands. Many projects. RPM was a project we were -- Resource Program Management, let me clarify my acronym. And that was another moving something out of OBTS, another chunk of OBTS to OMNI that required Mark Ardiel's attention periodically. I need to look back to give you everything. I mean, to give you an answer.

SEN. O'BAN: So I've seen references to there being 300 fixes that needed to be made at one time, and you are constantly fixing them, but new ones would come up, right?

MR. DUNNINGTON: Correct. It is not uncommon to have 300 fixes in a maintenance release.

SEN. O'BAN: And one of the things that we've heard through the course of these hearings is that well prior to 2013, frankly, prior to Mr. Warner, there was a system set up to try to prioritize and determine when new changes or fixes came up, whether those should rise to the top over ones that had been outstanding or not -- that that there was a system for making that prioritization -- but at some point during Mr. Warner's tenure, that system broke down. Would you agree with that?

MR. DUNNINGTON: From what I would recall, I would say yes.

SEN. O'BAN: And I've seen a reference, and we've had a number of people testify to that, that the IT department there was a lot of changeover. A lot of good people left during Mr. Warner's tenure, would you agree with that?

MR. DUNNINGTON: Absolutely.

SEN. O'BAN: And did that contribute in your mind to this breakdown of the prioritization system?

MR. DUNNINGTON: I think so.

SEN. O'BAN: Do you have an opinion, sitting here today, as to why so many people left the IT department under Mr. Warner's tenure?

MR. DUNNINGTON: My opinion was that Mr. Warner did not have an appreciation for the IT department. And that was reiterated to IT executives, and it would just bleed down from the executive to the staff and through other direct and indirect messages.

SEN. O'BAN: Now, during this time, there was this STRONG-R/Advanced Corrections project. What impact, if any, did it have on the IT department, to your knowledge?

MR. DUNNINGTON: At different times it had different levels of impact, but it was classified as the agency's top priority.

SEN. O'BAN: Was it your understanding that was Mr. Warner's top priority as well?

MR. DUNNINGTON: Yes.

SEN. O'BAN: Do you have an opinion, sitting here today, that part of the reason for the morale problem was this overemphasis on the STRONG-R project?

MR. DUNNINGTON: Yes. Not to mention what little I know about the contract, and the fact that Mr. Warner didn't want DOC or Sierra systems to do the work. He didn't feel that we were capable of it.

SEN. O'BAN: Do you have an opinion about Mr. Hosman's company's capabilities?

MR. DUNNINGTON: We remain to have a number of open defects right now, let me put it that way, O.K. that are not corrected.

SEN. O'BAN: Did you know about Mr. Hosman's background -- had multiple DUIs, I think he had a felony. Were you aware of that at the time?

MR. DUNNINGTON: I became aware of that during the STRONG-R meetings. there was a big group of people on DOC staff, 40, that would meet to try and chart our plan -- what STRONG-R was going to be and what it was going to look like, how it was going to function, and that's when I became aware that.

SEN. O'BAN: So it's your understanding there were 40 people within the IT department --?

MR. DUNNINGTON: Not IT, from all over.

SEN. O'BAN: Oh? Tell me the different department categories that were represented by those 40 people.

MR. DUNNINGTON: All departmental categories of corrections - community corrections, prisons, health services, mental health, budget -- it touched everything.

SEN. O'BAN: So in this interdepartmental meeting, where roughly every department was represented, there were discussions about Mr. Hosman's criminal record and about the incompetence of his company?

MR. DUNNINGTON: I wouldn't say that. I wouldn't say that there were discussions about his criminal record or his incompetence, but what I would say is that at some point -- I want to say that Mr. Warner explained to the group about Mr. Hosman's background, and Mr. Hosman explained himself about his background.

SEN. O'BAN: Elaborate on that if you would, please. What did Mr. Warner say? What did Mr. Hosman say?

MR. DUNNINGTON: I don't remember exactly what was said, but they touched upon Mr. Hosman's background at one of the STRONG-R meetings was held in the Southwest region business office – or not that, training office.

SEN. O'BAN: What you mean by his background? His criminal background?

MR. DUNNINGTON: His criminal background.

SEN. O'BAN: So that was certainly mentioned, and that was known among all these different department representatives.

MR. DUNNINGTON: Correct.

SEN. O'BAN: How did that come up? Did Mr. Warner bring it up?

MR. DUNNINGTON: I know that some people knew about it. I can't tell you who because I don't remember exactly, and there was small discussions, sidebar discussions, and then at the meeting that came up, they presented it. I guess they were trying to get it out on the table before a lot of rumor, and whatever else you want to call it, started around that.

SEN. O'BAN: Did the knowledge that Mr. Hosman had this criminal background -- did that cause some discomfort level among folks in the IT department?

MR. DUNNINGTON: I can't say that. I don't know; I can't speak for everybody else.

SEN. O'BAN: Did it cause discomfort for you?

MR. DUNNINGTON: It was odd.

SEN. O'BAN: So in your statement on page 5 – I will just read it, and then I will ask if you want to make any changes to it. You said the IT department was negatively affected in DOC's Secretary Bernie Warner's tenure. "No doubt in my mind –"

MR. DUNNINGTON: Excuse me, where can I see that at?

SEN. O'BAN: I am looking at your statement, page 5.

MR. DUNNINGTON: Page 5. Do I have it? I have one, thank you.

SEN. O'BAN: I am on page 5 of Tab 1, and about a third of the way down, I'm looking at the paragraph that begins, "The IT department was negatively affected" – do you see that there?

MR. DUNNINGTON: Yes.

SEN. O'BAN: "The IT department was negatively affected under DOC's Secretary Bernie Warner's tenure. 'No doubt in my mind,' according to Mr. Dunnington. He described having heard of the time when Mr. Warner requested a meeting in his office with an employee, not Mr. Dunnington, and proceeded to play with his cell phone throughout the meeting without looking at the employee or acknowledging his

presence. Mr. Dunnington said there were multiple inefficiencies in the decision-making process under Mr. Warner and that sometimes he would not show up to meetings." Do see that?

MR. DUNNINGTON: Yes.

SEN. O'BAN: Is that an accurate statement?

MR. DUNNINGTON: Yes. I want to call that – that's my opinion and that the part about the decision-making process and would not show up to meetings was secondhand.

SEN. O'BAN: And I think that's reflected in that paragraph. Did you share your concerns about Mr. Warner and his tenure and that it negatively affected the IT department with the governor's investigators?

MR. DUNNINGTON: I don't think they asked me.

SEN. O'BAN: They didn't ask you about Mr. Warner's impact?

MR. DUNNINGTON: No, I don't think so.

SEN. O'BAN: Do you believe that Mr. Warner – and you talked about the management issues, the STRONG - R issues -- that those had an impact on the delay of the King fix?

MR. DUNNINGTON: Could you repeat that please?

SEN. O'BAN: So we've just talked about the morale of the IT department and that he decimated the IT department that a number of good people left, under Mr. Warner's tenure, his making the STRONG-R project of the primary focus of the IT department. Did those elements, did those have a causal effect or have any connection to the delay in the King fix?

MR. DUNNINGTON: I suppose they could have, but I can't say specifically if they did.

SEN. O'BAN: O.K., I would like to turn your attention to Tab six. Back to Tab six again. And that is the August 18, 2015 e-mail. Do you have that in front of you?

MR. DUNNINGTON: Yes, I do.

SEN. O'BAN: And what's this e-mail, what was the purpose of it?

MR. DUNNINGTON: Well, as it reads, "The intent of this message is to share current system enhancements under your area and request your review and assistance to identify your business priorities."

SEN. O'BAN: And who were the individuals in the two lines? I don't need you to read them, but is this a particular group?

MR. DUNNINGTON: They were the assistant secretaries.

SEN. O'BAN: And then I see you cc'd Mr. Pacholke. In August 2015, he wasn't the secretary of DOC, right? What was his position? Was he operations manager?

MR. DUNNINGTON: Deputy.

SEN. O'BAN: Deputy, excuse me.

MR. DUNNINGTON: Correct.

SEN. O'BAN: And the next one was Amy –

MR. DUNNINGTON: Amy Seidlitz.

SEN. O'BAN: And who was Amy Seidlitz?

MR. DUNNINGTON: She was the director –

SEN. O'BAN: Was she Mr. Warner's chief of staff?

MR. DUNNINGTON: No, she was in charge of the STRONG-R – she was in charge of Advance Corrections.

SEN. O'BAN: Did she have any other – did you know what her title was?

MR. DUNNINGTON: I want to say director of Advance Corrections.

SEN. O'BAN: O.K. And then, why did you include those individuals, Mr. Pacholke and Ms. Seidlitz?

MR. DUNNINGTON: Because they wanted me to – they played a part in me sending this out. I had a meeting with them to discuss this.

SEN. O'BAN: Tell me about this meeting.

MR. DUNNINGTON: It was just to review the system enhancements. There was a concern that with the Advance Corrections initiative and all the work that was going to be scheduled or to be done, that some of these enhancements may have an impact on Advance Corrections, meaning that they may not need to be done, or they may need to be done sooner rather than later, or that the impact may be contrary to the direction of Advance Corrections.

SEN. O'BAN: And then you sent -- I think I see the last paragraph of this e-mail you said "please review this attached spreadsheet and update the priority column rating from 1 to 5, with 1 being the most important, and provide your priorities back to me by Tuesday 9/11/15," see that? So you were expecting the recipients of this e-mail to open up the attachment, review each of the items in the attachment and get back to you on this rating issue?

MR. DUNNINGTON: Right.

SEN. O'BAN: And in that attachment on –

MR. DUNNINGTON: I should clarify, the people on the “to” line to respond.

SEN. O’BAN: So did you – and in that “to “ line – excuse me, in that attachment, there was a mention of the King fix, right?

MR. DUNNINGTON: Yes.

SEN. O’BAN: Did you get any -- did you expect those individuals in the “to” line to review and become familiar with that particular King fix that was on the spreadsheet here?

MR. DUNNINGTON: What I expected was a response from everyone telling me what their priorities were.

SEN. O’BAN: Did anybody get back to you about their priorities, and especially the King fix?

MR. DUNNINGTON: The only person that responded was Steve Sinclair, from the prisons division.

SEN. O’BAN: Did you get a response back from anybody in the cc line?

MR. DUNNINGTON: No, I don't believe so.

SEN. O’BAN: O.K. I want to try to take you through the governor's report and some of your other concerns with the governor's report. We talked about the claim in the governor's report that you were the one solely responsible for the downgrade from 2 to 3. I think there were a couple of other criticisms. So one I think had to do with the must-fix –

MR. DUNNINGTON: Correct.

SEN. O’BAN: So the claim being, I think, that you -- on three separate occasions, you changed it from must fix and removed that, which resulted in the delay.

MR. DUNNINGTON: I think it read that I deleted it. And I would like to clarify that I never, never deleted the must-fix.

SEN. O’BAN: But the governor’s report says you did.

MR. DUNNINGTON: I know it does.

SEN. O’BAN: In fact, I think that the governor's supplemental report says that you deleted it.

MR. DUNNINGTON: I know it does.

SEN. O’BAN: So could you explain how we have such a huge discrepancy on such an important issue?

MR. DUNNINGTON: Because they didn't understand what they were reading, the investigators. And frankly I should have caught it, too. But I didn't. I didn't until just recently. But I did not delete the must-fix. And I think they even indicated that Deepak Sandanadan may have deleted it, too, and he did not.

SEN. O'BAN: Did you ever share that with the investigators, that you did not delete the must-fix?

MR. DUNNINGTON: I don't know if I argued that or not. I am not sure.

SEN. O'BAN: O.K.

MR. DUNNINGTON: I probably did, but I'm not positive about that right now.

SEN. O'BAN: O.K. Well, give that some thought, and let us know after you have had a chance to, having had that question posed to you perhaps for the first time. But I see that in that supplemental report, dated March 1 of 2016, that it says Mr. Dunnington's removal of the must-fix designation cannot be attributed to standard policy or practice. So it is a pretty prominent claim they make, that you deleted it.

MR. DUNNINGTON: I didn't delete it. It stands throughout the entire record. You just can't see it unless you understand how the ClearQuest system works.

SEN. O'BAN: Well, they reached that conclusion, apparently on their own, that you deleted it. Explain to us how that they were mistaken and how that could not have happened.

MR. DUNNINGTON: So the must-fix -- bear with me here.

SEN. O'BAN: Go slow for us IT-challenged people.

MR. DUNNINGTON: The must-fix designation was done in a section where it was captured as a custom required field. And once it was there, it was manually put there, or entered there, it would remain there. But as changes were done, through that ClearQuest item 24910, only the changes are reflected. So if the must-fix was never changed, it was never reflected. Does that make sense? Until the change was made to it, that would show up. But otherwise it would never display. So you could go through and have eight changes to 24910, but until you changed that must-fix it didn't display.

SEN. O'BAN: So it wouldn't display, so that it would sort of put somebody on notice that they should remove it -- is that what you're saying?

MR. DUNNINGTON: No, that's not what I'm saying. What I'm trying to say -- I'm not doing a very good job of it, I apologize -- is that the item is opened, the ClearQuest item is started and initiated by Sue Schuler. It goes through some progression. At some point in time it is identified as a must-fix. Until that must-fix is changed, there could be other changes to that ClearQuest item, but it is not going to continue to display the must-fix column and custom field. So it looks like it is not there. It looks like it has been deleted. And it never was.

SEN. O'BAN: It never was? So if you were --

MR. DUNNINGTON: In fact, if you look at that last entry - Tonya Christian, makes it an M49 must-fix. The previous [entry] has must-fix in it to.

SEN. O'BAN: And how recent is that? What is the date of that last entry you're talking about?

MR. DUNNINGTON: October 7, maybe something like that.

SEN. O'BAN: What year?

MR. DUNNINGTON: October 7, 2015.

SEN. O'BAN: So as recently as October 2015, the must-fix would appear in this custom field?

MR. DUNNINGTON: Correct.

SEN. O'BAN: Did you walk the investigators through this? What you just told us about?

MR. DUNNINGTON: Not exactly like I just explained it to you.

SEN. O'BAN: Well, there are sort of two factual issues. One is the removal of the must-fix, which you just explained never happened.

MR. DUNNINGTON: Never happened.

SEN. O'BAN: And the second is that you were the one to remove it. So –

MR. DUNNINGTON: Exactly, and Deepak.

SEN. O'BAN: And Deepak. So do you know how the investigators came to that conclusion that not just that was removed but that you and depart removed it?

MR. DUNNINGTON: No.

SEN. O'BAN: Did they ever in your conversations with them, of course we don't have your testimony because they never recorded it, in your conversations with them if they ask you, did you, Mr. Dunnington, remove the must fix?

MR. DUNNINGTON: I don't think so. I don't think they asked me that.

SEN. O'BAN: Do you have any idea how they could reach such a conclusion when they didn't even ask you about it?

MR. DUNNINGTON: Reading the paper copy, reading the paper print out.

SEN. O'BAN: They never actually put that question to you?

MR. DUNNINGTON: I don't think so.

SEN. O'BAN: How about Deepak, did they ever put that question to him?

MR. DUNNINGTON: I don't know.

SEN. O'BAN: Would you agree with me, that's a pretty important inference to make and never actually try to confirm it by putting/posing the question to the actual person they are accusing it of?

MR. DUNNINGTON: Yes.

SEN. O'BAN: O.K., so we have talked about two major items of criticism that the governor's report makes of you, downgrading from a two to a three. You have elaborated on that and provided real context for that through the architectural group. We just talked about the must fix issue, that that appears to be an error in the governor's report. The third item is the delay of the King fix, and, you know, the various planned M33 – M34 and so forth.

MR. DUNNINGTON: Yes.

SEN. O'BAN: Take us through that criticism. They say that you repeatedly delayed the fix, and other enhancements and fixes got higher priority.

MR. DUNNINGTON: What I could say is our process was for the business analysts to work with the business owners in those areas to identify and prioritize their enhancements and defects that they wanted fixed. And the business analysts would then provide me with what those fixes should be. Sue Schuler did provide me with 24910 on a number of occasions and on a number of occasions it was not provided and I know that she had meetings with Ms. Stigall. I know that there are e-mails that indicate that they should that it should be there and I also know that there is e-mails from the developer indicating that he could not get it done during some maintenance releases. And it wasn't until, and then the developer was, it took let me back up, I know that we didn't have complete requirements for until September or October of 2013. And I know that Mark Ardiel tried to fix it but for whatever reason it didn't get fixed and I don't recall specifically why. And then he went on paternity leave and we didn't target it again until October. 2015.

SEN. O'BAN: Well, I think that is something probably the committee wants to understand. How from 2013 to 15 it didn't finally then, late 2013 to '15, it didn't finally make its way into one of these regular upgrades?

MR. DUNNINGTON: What I would say is that it was targeted on a number of occasions, and for whatever reason, whether coding started or stopped, it did not get – or it didn't even start – it did not get completed. And unfortunately, I can't remember all the specifics around why that occurred.

SEN. O'BAN: So are you saying that that was the fact that it wasn't – the coding wasn't completed – that that was what delayed it quarter after quarter?

MR. DUNNINGTON: I guess what I'm trying to say is that if it had been targeted, if it didn't get worked on, it didn't get coded.

SEN. O'BAN: Who would be the one to say to those who are doing the coding, this is those who are doing the coding, this is really important this is a priority, complete the coding so that we can get it into the upgrade?

MR. DUNNINGTON: Any number. It could have been myself. It could have been other participants in the OMNI meeting. Several of us could have said that. I was not responsible for the OMNI contract.

SEN. O'BAN: Who was? Who would've been the one to actually follow up and make sure that the OMNI people, I guess that is what we are talking about here, that they were actually timely doing the coding?

MR. DUNNINGTON: At that time, I am not sure. I am not sure who was responsible during that time period.

SEN. O'BAN: But it wasn't you.

MR. DUNNINGTON: It was not me.

SEN. O'BAN: So on that third criticism, while you may have been part of the decision-making process and discussions, it was several of the IT folks that would have been talking about what is being delayed and what should not be in the next release?

MR. DUNNINGTON: What should be, well will be in the current release, yes.

SEN. O'BAN: Current release, yes. And as far as following up on the delay in coding, whose responsibility was that?

MR. DUNNINGTON: It probably falls back to a number of folks who participated in that OMNI meeting.

SEN. O'BAN: Do you feel that you have been made kind of a scapegoat in the governor's report?

MR. DUNNINGTON: Yes.

SEN. O'BAN: And that has been unfair?

MR. DUNNINGTON: Yes.

SEN. O'BAN: Why?

MR. DUNNINGTON: Because I think they came in and I didn't – it was intimidating, being interviewed. There were two of them. There was only me. I think they probably saw little bit of a weakness at some point and they tried to expose it. And it was me.

SEN. O'BAN: What do you mean, they saw a weakness and they tried to expose it?

MR. DUNNINGTON: I mean, that I didn't interview well. That may be at times I didn't explain myself well. And that, because I was a business manager, they targeted me.

SEN. PADDEN: Any other questions? Sen. Frockt?

SEN. FROCKT: So Mr. Dunnington, it was a long testimony there, and I will need to ask you some things. I'm a little bit confused by a few things. So first of all, you just said you felt you are being unfairly scapegoated in this report, and there are three areas Sen. O'Ban indicated that you were, that were part of that. What other areas of the governor's report you disagree with, if any?

MR. DUNNINGTON: Well, I think in the governor's report, they indicated that I led the OMNI meeting. And I clarified that not until 5:15 did I lead it. Before that it was someone else. I don't have my rebuttal, whatever you want to call it, my pre-disciplinary hearing documents, in front of me. But I'm sure there is probably something else in there too.

SEN. FROCKT: What is the status of your disciplinary situation at this point?

MR. DUNNINGTON: What do you mean, the status?

SEN. FROCKT: Has it been formalized, the demotion?

MR. DUNNINGTON: As of the 21st.

SEN. FROCKT: Did you raise the concerns you had about this unfair scapegoating in your disciplinary meeting?

MR. DUNNINGTON: No, not terminology.

SEN. FROCKT: Why not.

MR. DUNNINGTON: Because it targeted on the facts and I only had a short period of time to collect all the facts to make my argument.

SEN. FROCKT: Well, who were you arguing to?

MR. DUNNINGTON: The hearing – the people that I went to the hearing with.

SEN. FROCKT: And they – so you didn't relay this, even though you feel that you have been unfairly scapegoated in this report?

MR. DUNNINGTON: Correct.

SEN. FROCKT: Now, if the governor's investigators, who seem to be on trial in this hearing -- you know, that they have somehow unfairly scapegoated you and there are all sorts of holes in their report -- do you think it might be useful for us to hear from those investigators, if they have some difference of opinion in the way that they analyze this entire situation?

MR. MR. DUNNINGTON: That's at your discretion.

SEN. FROCKT: Well, you have been asked some opinions yourself about things that went on in the thing. I am asking you for your opinion. Do you think it would be useful for us to hear from them?

MR. MR. DUNNINGTON: I don't care if you talk to them or not.

SEN. FROCKT: All right. Let me ask you a question. You said you can't say specifically that Strong R or other priorities had an impact on the IT department. You testified that a few minutes ago. Do you recall that?

MR. DUNNINGTON: Yes.

SEN. FROCKT: Now, in the conclusions that the governor's investigators made, have you had a chance to review that? The entire report, the governor's report – did you read it?

MR. DUNNINGTON: Yes, I did.

SEN. FROCKT: All right. Do you have it in front of you? I want to make sure that you have in front of you

MR. DUNNINGTON: No, I don't.

SEN. FROCKT: Well, let me just – I will read this to you. This is on page 6. Point 8. Other –

SEN. PADDEN: Sen. Frockt, just a second. I understand your rebuttal [inaudible]. Go ahead, Senator -

SEN. FROCKT: Sure. The other IT, I don't know, staff, I don't know if he could be provided this – do we have a copy of the governor's report? I just assume I'm going to ask him a question about it and I would be happy that he have it there in front of him.

SEN. PADDEN: Is it the original report or the supplemental?

SEN. FROCKT: The original report. Yeah, that's fine. It's on, if you turn to page 6.

MR. DUNNINGTON: O.K.

SEN. FROCKT: So it says on bullet point 8 – “other IT priorities, inordinately high turnover in DOC management and the IT group and DOC budget concerns may have compounded delays in addressing the early release programming error.” Do you see that?

MR. DUNNINGTON: Yes.

SEN. FROCKT: O.K., you said before you couldn't specifically say if those kinds of things had an impact in the delay of the programming fix. Right?

MR. DUNNINGTON: Yes.

SEN. FROCKT: So you didn't have any qualms with that statement in the governor's report, do you? That the investigators concluded those things may have had an effect?

MR. DUNNINGTON: Yes.

SEN. FROCKT: You do have some qualms?

MR. DUNNINGTON: No, that's fine.

SEN. FROCKT: So you agree with that statement in the governor's report?

MR. DUNNINGTON: Yes.

SEN. FROCKT: And you don't think the governor's report somehow is covering up that part of how this problem may have come to light, do you?

MR. DUNNINGTON: No.

SEN. FROCKT: Now, on this question of must-fix – I'm very confused about what that, about your testimony. The first thing you said is that you are not sure if you advised the governor's investigators that you – and then later on, you said you are not sure if you were even asked about whether or not you change the must-fix designation. So which is it? Are you not sure, or are you just surprised they didn't ask you? I am just confused.

MR. DUNNINGTON: I did not change the must-fix designation as they indicated, and we did go over the CQ item. Repeat your question please?

SEN. FROCKT: Well, I am just trying to understand it. Initially, when you were asked by Sen. O'Ban, you said you were not sure if you advised them about this issue about must-fix. And then you said you probably did, and then later on you are sure they didn't even ask you about it. So which is it?

MR. DUNNINGTON: I know that we discussed it. What I specifically said I am not sure.

SEN. FROCKT: I see. So they did raise it with you.

MR. DUNNINGTON: They raised what must-fix meant. What was the meaning of must-fix?

SEN. FROCKT: So you told Sen. O'Ban that they did not ask you about that. Is that an incorrect statement, we just told Sen. O'Ban?

MR. DUNNINGTON: We went through the CQ item and they asked about what a must-fix definition was.

SEN. FROCKT: So they must have asked you something about must-fix. You don't agree with their conclusion, but they didn't not ask you about that, did they?

MR. DUNNINGTON: Yes.

SEN. FROCKT: I want to ask a few questions about this sequence of memos back in 2013, because I'm also confused about that. So if you could turn to the 11/8 meeting notes, 11/8/2013.

MR. DUNNINGTON: 11/8/2013. Where is that at?

SEN. FROCKT: That is under Exhibit 1. I'm sorry, that would have been Tab six of the small binder that I think you have with you.

MR. DUNNINGTON: O.K., Tab six.

SEN. FROCKT: Do you see that?

MR. DUNNINGTON: Yeah.

SEN. FROCKT: This is the meeting – now, those individuals, Mr. Jacob, Mr. Quimby, Ms. Kawata . . .

MR. DUNNINGTON: I am not - in the wrong. Tab six.

SEN. FROCKT: I'm sorry.

MR. DUNNINGTON: Tab six?

SEN. FROCKT: 11/8/13. The meeting notes of the OMNI project architecture is the title. Do you see it?

MR. DUNNINGTON: No, bear with me for a second. O.K. 11/8/13. Yes.

SEN. FROCKT: All right. Now, Mr. Jacob, Mr. Quimby, Kawata, Davis, Smith, Nguyen, Baird, Roth – I won't say his last name, Deepak – and Ms. Chou – what was their relationship to you?

MR. DUNNINGTON: What were their titles?

SEN. FROCKT: Yes. In the hierarchy of the IT department?

MR. DUNNINGTON: Jibu Jacob was the Deputy CIO.

SEN. FROCKT: O.K.

MR. DUNNINGTON: Mark Quimby was the applications manager.

SEN. FROCKT: O.K.

MR. DUNNINGTON: Luann Kawata was my equal, my peer. Sue Davis worked, she was an IT S4 who worked in my group. Jenn Smith was an ITS3 or 4 that worked in Luann Kawata's group. Trang Nguyen was my peer. He was a developer. Rob Baird was in charge of the technical analysts.

SEN. FROCKT: O.K.

MR. DUNNINGTON: Steve Roth was a database administrator. And Deepak was a testing manager.

SEN. FROCKT: O.K. And so were – who did you directly report to?

MR. DUNNINGTON: I didn't report to any of these people directly.

SEN. FROCKT: Were any of them higher than you on the hierarchy at DOC?

MR. DUNNINGTON: Yes. Jibu Jacob and Mark Quimby.

SEN. FROCKT: All right. You mentioned that this was a triage team. But then you said you had never heard of triage addressed like this. You said it was sort of a triage team but the issue was where to assign the fix. I usually take triage to mean, what is the highest priority? When you're thinking of triage in a medical situation, you know, who has the most severe injury or what have you. Why was triage about where to assign the fix?

MR. DUNNINGTON: That's what its purpose was. It was to review it and forward it on to the correct department person area.

SEN. FROCKT: Would Mr. Jacob or Mr. Quimby, the ones that you reported to, would they have been the ones who would've had the ability to assign this particular fix to you?

MR. DUNNINGTON: I mean they I suppose they could have, yes, but Marcel Quisano [phonetic] did that.

SEN. FROCKT: Marcel -- ?

MR. DUNNINGTON: The IT gatekeeper.

SEN. FROCKT: All right, I guess I'm confused as to who was doing what. How did you end up with that assignment? I mean you weren't there. Do you have any idea how you ended up with this assignment?

MR. DUNNINGTON: I wasn't where?

SEN. FROCKT: At that meeting, on 11/8.

MR. DUNNINGTON: Oh, at the project architecture meeting?

SEN. FROCKT: Yeah.

MR. DUNNINGTON: How I got the assignment to do the project severity and criteria – that work?

SEN. FROCKT: Yeah.

DUNNINGTON: There had been discussion about doing this before that.

SEN. FROCKT: What do you mean, before that?

MR. DUNNINGTON: Before 11/8. This topic had come up on several occasions.

SEN. FROCKT: And were you involved in those discussions?

MR. DUNNINGTON: I think so, yes.

SEN. FROCKT: And what did you understand the topic to be about?

MR. DUNNINGTON: As it reads - update the severity criteria document and that enhancements severity is always set to 3.

SEN. FROCKT: So what did that last statement mean, that enhancements severity is always set to level 3?

MR. DUNNINGTON: That means that all enhancements were to be severity level 3.

SEN. FROCKT: Well, I guess this came up before. Were there any questions raised about what this meant in terms of this fix, in terms of this King problem? Was that related to your group?

MR. DUNNINGTON: Could you say that again?

SEN. FROCKT: Was there any discussion of these previous meetings about raising enhancements severity to level 3, that the King fix as it were, was or was not related to an enhancement? Did that discussion come up? Is this an enhancement? Is this not an enhancement?

MR. DUNNINGTON: No.

SEN. FROCKT: And there was no discussion of the policy that was at issue and what the fix was about, right?

MR. DUNNINGTON: No.

SEN. FROCKT: So I guess what I am trying to get at is, were you aware, when this King fix was assigned to you – was it assigned to you or not assigned to you?

MR. DUNNINGTON: It was assigned to me.

SEN. FROCKT: Did you understand the significance of what the King fix meant?

MR. DUNNINGTON: No, not in its entirety, no.

SEN. FROCKT: Did anyone relay that to you?

MR. DUNNINGTON: No.

SEN. FROCKT: Have you ever heard of the department hand calculating sentences in relation to a programming error or any other issue like this? Has this ever come up before?

MR. DUNNINGTON: I hadn't – no. I wasn't aware of them doing that.

SEN. FROCKT: So Ms. Doty testified it was something that would happen from time to time that there would be a hand calculation. But you were not aware of that, and you were not made aware of that at any time?

MR. DUNNINGTON: Actually we did do a lot of hand calculations – no. When OMNI first went out we had a number of issues with ERDs. And I guess there were a number of people that worked on them and reviewed them so I guess to answer your question, yes, I was aware of some calculations occurring.

SEN. FROCKT: And did it occur to you that this might be an instance where hand calculations might be warranted?

MR. DUNNINGTON: No.

SEN. FROCKT: Have you ever been involved in any decisions like that, where you advised somebody that hey, we have to do hand calculations because we can't get this fix in for a certain amount of time?

MR. DUNNINGTON: No.

SEN. FROCKT: All right. Is that something that normally – what would you have done in that situation? Would you have advised a superior that you were aware of a problem that was going to take a long time?

MR. DUNNINGTON: That would not have been something that I would've been a part of.

SEN. FROCKT: That would've been something completely out of your orbit? Is that what you are saying?

MR. DUNNINGTON: I am saying I wouldn't have been a part of that, yeah.

SEN. FROCKT: All right. But you were aware that at times there were hand calculations that were done when there was a programming problem?

MR. DUNNINGTON: Previously, yes.

SEN. FROCKT: In what context were those?

MR. DUNNINGTON: Just when we went live with OMNI. There were some ERDs that needed to be reviewed.

SEN. FROCKT: So I guess the ultimate question is that when you felt like you were scapegoated here, in this report, who do you think dropped the ball? Since we are asking broad questions?

MR. DUNNINGTON: I think Dan Pacholke said it very well. There were a number of people that were involved. It was a systemic issue. And that processes weren't as mature as they should have been. And that ownership sits in a wide array of areas.

SEN. FROCKT: What was Ms. Schuler's relationship in the hierarchy of DOC, in this department to you? I'm a little confused by that.

MR. DUNNINGTON: She reported to me. She was an ITS4.

SEN. FROCKT: So do you feel that she made errors as well in the situation?

MR. DUNNINGTON: I suppose she probably did. But she was – you know, she maintained constant contact with Wendy Stigall. I mean, business drives what we are supposed to do.

SEN. FROCKT: Did she maintain contact with you? If she was your regular report?

MR. DUNNINGTON: She maintained contact with me, yes.

SEN. FROCKT: So do you think that she is – if you feel that you were unfairly scapegoated, do you think she is responsible for the failure for three years for this –?

MR. DUNNINGTON: No.

SEN. FROCKT: O.K. Is she unfairly treated in this report – the governor's report – since that is what we've been talking about all morning?

MR. DUNNINGTON: I think – I don't know. I would need to reread the report to see what it says about her.

SEN. FROCKT: Well, let ask you this, the report's conclusions state that the failure to – this is on page 4 you can look at it if have it in front of you – the failure to calculate the offender early release dates was not intentional or malicious. And I think, you know, you would agree with that statement, right?

MR. DUNNINGTON: Correct.

SEN. FROCKT: And you would agree that once it was detected, this is in the same paragraph, it took DOC three additional years to correct the problem. Correct? That's a fact, right?

MR. DUNNINGTON: Correct.

SEN. FROCKT: So you don't disagree with those conclusions, do you?

MR. DUNNINGTON: No.

SEN. FROCKT: Now, in your statement to our investigators, the senate investigators, I think you indicated that you felt Secretary Warner was – I'm going to find your statement here, it is on page 5 – that the IT department was negatively affected in Secretary Warner's tenure. There is no doubt in your mind. You see that? It is in your statement on page 5.

MR. DUNNINGTON: Yes.

SEN. FROCKT: But you can't say specifically that STRONG-R or other priorities had an impact on the priorities of the IT department. You testified to that earlier. So which is it?

MR. DUNNINGTON: I think other priorities did have an impact.

SEN. FROCKT: O.K. So you say they did have an impact but you told us specifically say that a few minutes ago.

MR. DUNNINGTON: I would like to be able to review – I will say they did have an impact. I will answer your question like that.

SEN. FROCKT: So you agree with the governor's report, because the governor's report also says that they may have had an impact.

MR. DUNNINGTON: O.K.

SEN. FROCKT: So I'm just trying to understand where, other than as to you, where are the major differences between the governor's report and your understanding of what transpired in this whole episode?

MR. DUNNINGTON: The major differences?

SEN. FROCKT: Yeah.

MR. DUNNINGTON: Well, I didn't delete the must-fix, I –

SEN. FROCKT: I said other than as to you. We understand you have some qualms with that.

MR. DUNNINGTON: Well, I would have to read the governor's report again. It's been a while. It is a long report.

SEN. FROCKT: It is.

MR. DUNNINGTON: I would have to read it again and then respond to you that would be my answer.

SEN. FROCKT: On August 15 – this is the August 15 e-mail or memo that Sen. O'Ban asked you about, this is again going back to the OMNI project architecture meetings. I'm a little bit confused as to – do you have that document in front of you?

MR. DUNNINGTON: Which one?

SEN. FROCKT: August 18, 2015.

MR. DUNNINGTON: August 18?

SEN. FROCKT: Yeah.

MR. DUNNINGTON: O.K, yes.

SEN. FROCKT: Could you explain again what this memo is about? I'm just a little bit confused. What did this mean? What was it about?

MR. DUNNINGTON: What are you confused about?

SEN. FROCKT: All of it. What was the point of the e-mail? And why were you advising these people of what was in it?

MR. DUNNINGTON: So the Advanced Corrections initiative project was underway, and there was a concern that some of the enhancements may have an impact. There was also the need, as it reads, "to share current system enhancements under your area and request your review to identify your priorities." That's what the purpose of this was.

SEN. FROCKT: Did this relate to the King fix directly? The programming error fix that had not taken place to this point?

MR. DUNNINGTON: Did it relate to it directly?

SEN. FROCKT: Yes.

MR. DUNNINGTON: I know that is noted on there, but did it relate to it directly?

SEN. FROCKT: It is noted in the attachment, is that what you're saying? But the cover memo itself does not raise this as a priority issue, does it?

MR DUNNINGTON: No, I am asking them for their priority issues.

SEN. FROCKT: All right. And so you are saying, I guess, is what you are saying that no one ever got back you on this, so you didn't know even two years later, after the King fix was initiated, that it was not a priority?

MR. DUNNINGTON: What I said is that Steven Sinclair responded, from prisons.

SEN. FROCKT: And you know that he is the only one who responded?

MR. DUNNINGTON: Correct.

SEN. FROCKT: What's on the sheet here is Sue Schuler, who reported to you, the projects that she was working on. And was one of those that King fix? It is on the attachment.

MR. DUNNINGTON: Yes, Sue Schuler was working on the King fix.

SEN. FROCKT: Right. So at this point, from 2013 when you were first assigned, you know, or when this enhancement issue/the King fix was sent into IT to have a fix driven – so August 15, there had still been no changes made, and no programming fix made at that point, at least two years later. Is that true?

MR. DUNNINGTON: That's true.

SEN. FROCKT: All right.

SEN. FROCKT: All right. O.K. And one more – I'm sorry, Mr. Chairman. I am almost done. You've been asked before, do you think Secretary Warner -- do you have any reason to believe he was aware of this situation?

MR. DUNNINGTON: All I can say is it wasn't at my level. I think others have responded to that.

SEN. FROCKT: So if you were asked whether not you think Secretary Warner was aware of this or whether his other priorities were impacting the failure to have the King fix programs, that would be speculation on your part?

MR. DUNNINGTON: Yeah, I wouldn't know.

SEN. FROCKT: Do you agree with the governor's investigators conclusion that the DOC should restructure its IT governance process?

MR. DUNNINGTON: Yes.

SEN. FROCKT: Can you turn to page 45 of the report? I would want to ask you one more series of questions, if you don't mind. This is in the governor's report. Do you have that in front of you? It is under subparagraph F. I am just going to read this to you and I want you to just ask you a question or two

about it. It says, on page 45, under F, and I will just read the paragraph, "it is now abundantly clear that the early release problem should have been a top priority for the DOC IT group. Instead, it took over three months for the IT consultation to be conducted. And then the problem went unaddressed for over 30 months. This lengthy and inexplicable delay was the result of deficient process for prioritizing IT work. The overarching flaw in this process was its failure to prioritize IT defects and enhancements based on the impact on public safety. The early release of offenders posed an obvious risk to public safety, and as such it should have been given the highest priority by IT. This was not done for several reasons," and then it goes on to list the reasons. Do you agree with the statements that I just read – do you disagree with any of the statements?

MR. DUNNINGTON: No. I agree with the paragraph.

SEN. FROCKT: All right. I think that's all I have. Thank you, Mr. Chairman.

SEN. PADDEN: Any other questions? I just have a couple of questions, and again thank you for appearing here. So it would appear that there was this, in your opinion, a group decision to reduce the severity level from a 2 to a 3, because of a feeling that these enhancements were less of a priority than Bernie Warner's project, cost savings, that they were less of a priority than other things that were a 2, is that right?

MR. DUNNINGTON: No, I wouldn't say that [or] put it quite that way, exactly. I would say that it was a means to focus on defects that were severity two, and to put the enhancements in their own bucket altogether. Is how I would clarify that?

SEN. PADDEN: So the defects were a higher priority than the enhancements?

MR. DUNNINGTON: Not always, depended on -

SEN. PADDEN: O.K., one other fix that apparently was made was the persistent misbehavior fix.

MR. DUNNINGTON: Correct. And that – as I understand that – that was a fix that affected about 100 people, and had it not been fixed, some of the people would have served longer terms than they were supposed to, and some would have been shorter. But that fix came up after the King fix, but was apparently was completed. Can you kind of let us know why that happened, if you don't mind?

MR. DUNNINGTON: What I recall, and what I think is that the requirements, and I think the policy was just written, the requirements of the policy setting forth a clear direction on it was available. So that's why it was done before the King fix, or why it got the attention.

SEN. PADDEN: And it was a level 2 at the time, also -- is that right?

MR. DUNNINGTON: Right.

SEN. PADDEN: And the governor's investigators contrasted that and said unlike the King fix Mr. Dunnington never reduced the severity level on the persistent misbehavior change request from a 2 to 3.

MR. DUNNINGTON: Correct.

SEN. PADDEN: Again, where these solely your decisions on deciding whether something was a two or a three?

MR. DUNNINGTON: No, those weren't solely my decisions. And quite frankly at the time I don't know how many defects and enhancements they were in the system but right now there are probably 28,000 of them.

SEN. PADDEN: 28,000 defects?

MR. DUNNINGTON: Yes. Not active, but that over time have existed.

SEN. PADDEN: So has it been growing, the number of defects?

MR. DUNNINGTON: It always grows. The system grows. So the defects grow.

SEN. PADDEN: Aren't they fixed and then reduced?

MR. DUNNINGTON: That's the idea.

SEN. PADDEN: But they are growing faster than – I know former Secretary Pacholke talked about adding at least five new people to the IT department and all this change over and also you were also contracting things out, but despite all those things, the backlog has been growing, is what you're saying?

MR. DUNNINGTON: I would say the backlog remains pretty constant.

SEN. PADDEN: All right. So just a final thing, you actually got a promotion in January –

MR. DUNNINGTON: I did.

SEN. PADDEN: – by Mr. Pacholke, and then now, a little bit later, you have this demotion. Had you had pretty good reviews? I assume you wouldn't have gotten the promotion.

MR. DUNNINGTON: Yes, I did.

SEN. PADDEN: I do want to thank you for your service, I obviously there are concerns about this and the opportunity to give your side of the story today. The whole thing is most unfortunate for everybody, but I do want to thank you for coming forward.

MR. DUNNINGTON: Thank you.

SEN. PADDEN: Any other questions? We're adjourned.