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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

BERNHARDT TIEDE, II, ) Docket No. A 23-CA-1004 RP  
TEXAS CITIZENS UNITED FOR )  
REHABILITATION OF )  
ERRANTS, INC., COALITION )  
FOR TEXANS WITH )  
DISABILITIES, INC., TEXAS )  
PRISONS COMMUNITY )  
ADVOCATES, BUILD UP, )  
INC., A/K/A JUSTICE )  
IMPACTED WOMEN'S ALLIANCE )  
)  
vs. ) Austin, Texas  
)  
BRYAN COLLIER, IN HIS )  
OFFICIAL CAPACITY AS )  
EXECUTIVE DIRECTOR OF )  
TEXAS DEPARTMENT OF )  
CRIMINAL JUSTICE, ET AL ) August 2, 2024

TRANSCRIPT OF MOTION HEARING  
BEFORE THE HONORABLE ROBERT L. PITMAN  
Volume 4 of 4

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**I N D E X**

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
<u>Witnesses:</u>				
John Baldwin	13	29	66	
Ronald A. Hudson	68	122	151	156
Bryan Collier	158	204	267	273

**E X H I B I T S**

		<u>Offered</u>	<u>Admitted</u>
1			
2	<u>Plaintiffs'</u>		
3			
4	#17	6	6
5	#34	233	233
6	#36	9	9
7	#81	6	6
8	#84 through 85	225	225
9	#124	6	7
10	#191	248	248
11	#204	7	7
12	#254	211	211
13	#265	235	235
14	#275	7	7
15	#276	9	9
16	#277 through 277A	8	9
17			
18	<u>Defendants'</u>		
19	#17	142	142
20	#18	112	112
21	#19	119	119
22	#21	133	133
23	#23	113	113
24	#34	10	10
25	#70	194	194

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**E X H I B I T S** (Continued)

	<u>Offered</u>	<u>Admitted</u>
<u>Defendants'</u>		
#76	195	195
#78	11	12
#79	98	98

08:32:37 1 THE COURT: Good morning.

08:32:39 2 MR. HOMIAK: Good morning, your Honor.

08:32:40 3 THE COURT: Anything we need to take up before we  
08:32:42 4 call our next witness?

08:32:42 5 MR. HOMIAK: Very briefly, your Honor, we have a  
08:32:44 6 few more exhibits that we need to do a little bit of  
08:32:46 7 cleanup on and the parties have discussed this in the  
08:32:50 8 hopes of expediting this process a little bit. So we  
08:32:54 9 have, your Honor, Plaintiffs' Exhibit 17, which is an  
08:33:00 10 article that was discussed in Dr. Vassallo's direct  
08:33:04 11 examination so we'd like to move to admit that one.

08:33:10 12 MS. MCGEE: No objection, your Honor.

08:33:11 13 THE COURT: So admitted.

08:33:12 14 MR. HOMIAK: And then, we have Plaintiffs'  
08:33:14 15 Exhibit 81. We previously moved to admit the picture of  
08:33:19 16 Bernhardt Tiede in 2016. Plaintiffs' Exhibit 81 is the  
08:33:23 17 photo taken in 2021 of Mr. Tiede so we move to admit that  
08:33:27 18 one, as well.

08:33:30 19 MS. MCGEE: No objection, your Honor.

08:33:31 20 THE COURT: So admitted.

08:33:34 21 MR. HOMIAK: And then, I believe Plaintiffs'  
08:33:35 22 Exhibit 124 was discussed in one of the cross-examinations  
08:33:41 23 conducted by Mr. Collier's counsel. That's the unit  
08:33:45 24 directory just showing, I think, the census number of TDCJ  
08:33:49 25 facilities if I'm correct. But it's Plaintiffs' Exhibit

08:33:52 1 124. So just the sake of completeness, we'll go ahead and  
08:33:55 2 move to admit that one.

08:33:56 3 MS. MCGEE: No objection, your Honor.

08:33:58 4 THE COURT: So admitted.

08:34:02 5 MR. HOMIAK: And then, your Honor, I just want to  
08:34:13 6 make sure I am describing this last one accurately so just  
08:34:16 7 one moment. So Plaintiffs' Exhibit 204, your Honor, I  
08:34:26 8 think has now been discussed with a couple of witnesses.  
08:34:28 9 It has a breakdown of the specific number of  
08:34:32 10 air-conditioned and non-air-conditioned beds by facility.  
08:34:35 11 I think we've seen it a couple of times now but nobody has  
08:34:38 12 managed to admit it. So we'd like to go ahead and move to  
08:34:41 13 admit Plaintiff's Exhibit 204.

08:34:43 14 MS. MCGEE: No objection, your Honor.

08:34:43 15 THE COURT: So admitted.

08:34:45 16 MR. HOMIAK: And then, we have two last exhibits.  
08:34:47 17 There was some confusion about the up-to-date article that  
08:34:51 18 came up during one of the cross-examinations yesterday  
08:34:54 19 morning. So I think where we lean is move to admit  
08:35:00 20 Exhibit 275 because it was discussed as 275 but not  
08:35:03 21 admitted and so plaintiffs would like to offer that, your  
08:35:08 22 Honor.

08:35:08 23 THE COURT: Any objection?

08:35:09 24 MS. MCGEE: No objection, your Honor.

08:35:10 25 THE COURT: So admitted.

08:35:12 1 MR. HOMIAK: And then, last, but not least, we  
08:35:14 2 have the administrative review and the OIG report for  
08:35:22 3 Corey Smith, who I believe was discussed in opposing  
08:35:26 4 counsel's cross-examination of Dr. Uribe. His name wasn't  
08:35:28 5 mentioned, but the document that was referred to was that  
08:35:32 6 of Corey Smith. There was a discussion about whether he  
08:35:35 7 was in an air-conditioned cell or not. And so, for the  
08:35:38 8 sake of completeness, we wanted to go ahead and admit both  
08:35:41 9 the administrative incident review and then, also, the OIG  
08:35:45 10 report of Mr. Smith.

08:35:46 11 MS. MCGEE: We have no objection subject to the  
08:35:48 12 protective order.

08:35:49 13 THE COURT: All right. Very good. Subject to  
08:35:51 14 that order.

08:35:52 15 MR. HOMIAK: So, your Honor, that will be 277  
08:35:54 16 will be the administrative incident review and then, 277A  
08:35:57 17 will be the OIG report.

08:35:58 18 THE COURT: Okay. Thank you.

08:36:08 19 MR. HOMIAK: So there was some discussion and I  
08:36:11 20 don't know, Ms. Golden, if you have a record of -- I think  
08:36:16 21 we just have one Exhibit 276 as opposed to an A and a B.  
08:36:21 22 I think where we landed after some discussion was that  
08:36:25 23 both the attachment and then, the policy that I think it  
08:36:29 24 was attached to would all come in as Plaintiffs' Exhibit  
08:36:32 25 276. So I just wanted to clarify that.



08:36:35 1 THE CLERK: I have 276 is Drugs Associated With  
08:36:38 2 Heat Stress.

08:36:40 3 MR. HOMIAK: So I think for the sake of  
08:36:42 4 completeness, it makes sense to just have the entire  
08:36:44 5 policy and the attachment admitted as 276.

08:36:49 6 MS. MCGEE: There was an Attachment A and  
08:36:53 7 Attachment B Mr. Edwards used.

08:36:58 8 MS. SNEAD: The entire thing is Plaintiffs'  
08:37:00 9 Exhibit 36 and then, Mr. Edwards was just talking about  
08:37:02 10 one piece of it, which was 276.

08:37:05 11 MR. HOMIAK: So would it make more sense to do  
08:37:08 12 Plaintiffs' 36 and enter the whole thing?

08:37:13 13 MS. MCGEE: Let the Plaintiffs' 36 be all that  
08:37:18 14 and then, just eliminate 276.

08:37:25 15 MR. HOMIAK: I think it makes sense to do both  
08:37:27 16 because 276 was discussed with the witness as an  
08:37:30 17 attachment and then, 36, we could admit so both are in the  
08:37:33 18 record. But to keep the record clean as far as what was  
08:37:36 19 discussed with the witness.

08:37:37 20 MS. MCGEE: Are you saying 36 is the entire  
08:37:39 21 exhibit and then, you just took a piece out of it and  
08:37:44 22 that's it? The whole policy is 36.

08:37:46 23 MR. HOMIAK: Yes. So I think we move to admit  
08:37:48 24 both 276 and 36 and that will hopefully avoid further --

08:37:55 25 THE COURT: Thank you. So admitted.

08:37:57 1 MR. HOMIAK: And that's it from the plaintiffs,  
08:37:59 2 your Honor.

08:37:59 3 THE COURT: Okay. Thank you.

08:38:00 4 MR. RHINES: And, your Honor, just brief  
08:38:02 5 housekeeping from defendants, as well. We move to admit  
08:38:06 6 Exhibit 34. I brought it up on cross-examination of Dr.  
08:38:10 7 Dominick and it's just an amendment to the articles of  
08:38:14 8 incorporation that I forgot to request to admit.

08:38:17 9 THE COURT: Any objection?

08:38:18 10 MR. HOMIAK: No objection, your Honor.

08:38:19 11 THE COURT: So admitted.

08:38:22 12 MR. RHINES: I think that's it on our end, your  
08:38:24 13 Honor.

08:38:24 14 THE COURT: Very good. Thank you. Then your  
08:38:25 15 next witness.

08:38:27 16 MS. WARREN: Your Honor, defendants call Mr. John  
08:38:30 17 Baldwin by Zoom.

08:38:32 18 THE COURT: Okay.

08:39:36 19 MS. WARREN: Your Honor, before we get started,  
08:39:39 20 there was one evidentiary issue that I think might come up  
08:39:42 21 on Mr. Baldwin's direct or cross-examination. It's in  
08:39:45 22 regard to something that he reviewed while he was  
08:39:48 23 preparing this report. It was an e-mail on which TDCJ's  
08:39:51 24 general counsel was on the e-mail and it was just sharing  
08:39:54 25 information with Mr. Baldwin from TDCJ regarding

08:39:57 1 statistics. We had originally withheld that document but  
08:40:01 2 we have that e-mail now. We will get the native format to  
08:40:06 3 plaintiffs just as soon as possible, but I do have a  
08:40:08 4 placeholder for that if we can go ahead and mark and admit  
08:40:10 5 that.

08:40:11 6 THE COURT: Okay. Any issue with that?

08:40:15 7 MR. EDWARDS: Yeah, I do have an issue because I  
08:40:17 8 asked for it, they refused to give it, they claimed  
08:40:20 9 privilege. And I guess if they're waiving it, I haven't  
08:40:22 10 seen it. I don't know what it is. So I mean, if it's  
08:40:25 11 statistics, you know, I just don't know what it is.

08:40:28 12 MS. WARREN: Your Honor, I have a copy for the  
08:40:29 13 Court and counsel. Would you like one, as well?

08:40:31 14 THE COURT: I don't need one.

08:40:32 15 MS. WARREN: Okay. Mr. Edwards. And so, this is  
08:40:36 16 the --

08:40:37 17 THE CLERK: Is that numbered?

08:40:38 18 MS. WARREN: What number would this be?

08:40:42 19 MR. RHEAMS: This would be 78.

08:40:45 20 MS. WARREN: Seventy-eight. So you'll see the  
08:40:47 21 statistics on the last page. Would y'all like a copy?

08:41:02 22 THE COURT: Sure.

08:41:03 23 MR. EDWARDS: No objection, your Honor.

08:41:03 24 THE COURT: Are you offering at this time?

08:41:05 25 MS. WARREN: Yes.

08:41:07 1 THE COURT: So admitted.

08:41:21 2 MS. WARREN: Just for the record, you'll see it's  
08:41:23 3 the e-mail's forwarded to me but we will definitely get  
08:41:27 4 you native format as soon as possible.

08:41:30 5 MR. EDWARDS: I have no problem with you just  
08:41:40 6 using the last page.

08:42:22 7 THE COURT: Have you been in communication with  
08:42:23 8 the witness about attending this morning?

08:42:26 9 MS. WARREN: Yes, your Honor. Yes. We've just  
08:42:40 10 gotten the link so we're transmitting.

08:44:16 11 MS. CARTER: Your Honor, I apologize for the  
08:44:17 12 delay. He lost the e-mail. I'm going to send him --

08:44:21 13 THE COURT: That's fine. We've all been in that  
08:44:24 14 situation.

08:46:49 15 THE WITNESS: Good morning.

08:46:49 16 THE COURT: Good morning, Mr. Baldwin. This is  
08:46:51 17 Judge Pitman. Can you hear me okay?

08:46:53 18 THE WITNESS: Judge, I can hear you. Yes. Thank  
08:46:56 19 you. I'm sorry, I don't know what happened first message  
08:46:59 20 you sent but I suspect it went somewhere.

08:47:02 21 THE COURT: Not a problem. We see you now,  
08:47:04 22 although if you could lower your camera a bit, we'll see  
08:47:07 23 you better.

08:47:09 24 THE WITNESS: I'm going to do that. How's that?

08:47:13 25 THE COURT: That's great. I was just asking if

08:48:24 1 you wouldn't mind speaking as closely as possible into the  
08:48:27 2 microphone. And if you have any difficulty hearing or  
08:48:29 3 understanding anything on this end, if you'll just let us  
08:48:32 4 know, please.

08:48:33 5 THE WITNESS: I will do. Thank you very much.

08:48:35 6 THE COURT: Before we begin, if I could ask you  
08:48:38 7 to please raise your right hand to be sworn.

08:48:41 8 THE CLERK: You do solemnly swear or affirm that  
08:48:41 9 the testimony which you may give in the case now before  
08:48:41 10 the Court shall be the truth, the whole truth, and nothing  
08:48:47 11 but the truth?

08:48:47 12 THE WITNESS: Yes, I do.

08:48:47 13 JOHN BALDWIN, called by the Defendant, duly sworn via  
08:48:48 14 videoconference.

08:48:48 15 DIRECT EXAMINATION

08:48:48 16 BY MS. WARREN:

08:48:51 17 Q. Good morning, Mr. Baldwin. How are you today?

08:48:54 18 A. I am fine. Thank you very much.

08:49:04 19 Q. We appreciate you being here. Can you please  
08:49:06 20 formally introduce yourself to the Court?

08:49:09 21 A. Yes. My name is John Baldwin.

08:49:13 22 Q. And, Mr. Baldwin, what do you do for a living now?

08:49:17 23 A. I am mainly retired. I do consultant work. I  
08:49:25 24 consult for a group called MH. They are owners,  
08:49:32 25 representative company. That means basically that we help

08:49:39 1 states mainly with the design and building of prisons,  
08:49:49 2 hospitals that are associated with the corrections field  
08:49:53 3 and that's my main job. And then, my second job is I do  
08:50:01 4 expert witness work for departments of corrections across  
08:50:10 5 the United States.

08:50:10 6 Q. And what states have you worked with in your  
08:50:13 7 consulting work building prisons and hospitals?

08:50:20 8 A. Idaho, Indiana. I'm sorry, my little machine said  
08:50:36 9 the meeting is recording. I have to say okay.

08:50:38 10 Q. You said Indiana, Idaho, what was the next one?

08:50:43 11 A. And Maryland.

08:50:49 12 Q. Okay. Now, can you please take us back and tell us  
08:50:52 13 about your start in corrections.

08:50:56 14 A. Yes. I started my career in corrections in Iowa  
08:51:03 15 April 1, 1977 and I started my career as a business  
08:51:09 16 manager of the Iowa Security and Medical Facility, which  
08:51:16 17 is which at the time, it was Iowa's only forensic  
08:51:20 18 psychiatric hospital and it was -- it had been in the  
08:51:28 19 Department of Social Services under the Division of  
08:51:36 20 Corrections. And then, from there, I was asked along with  
08:51:41 21 two other volunteers to help the department become a  
08:51:47 22 separate agency.

08:51:50 23 So in 1983, the legislature passed a law that  
08:51:55 24 took the -- well then, the Division of Corrections, now  
08:52:00 25 the Department of Corrections out of human services and

08:52:04 1 so, we had to create our own separate agency. And in  
08:52:10 2 1984, then I went to be the Deputy Director of  
08:52:14 3 Administration For the Iowa Department of Corrections and  
08:52:19 4 I stayed in that role till approximately April of 2007  
08:52:30 5 when I became the Director of the Iowa Department of  
08:52:33 6 Corrections. And I retired from that job in late January  
08:52:39 7 of 2015 and then, in August of 2015, I became the Director  
08:52:50 8 of the Illinois Department of Corrections.

08:52:53 9 Q. Let me stop you right there. How was it that -- were  
08:52:56 10 you recruited to become the Director of the Illinois  
08:52:58 11 Department of Corrections? How did that come to pass?

08:53:04 12 A. I was called by this person named David Wu, who I  
08:53:11 13 have no idea who that person was and he got my name from  
08:53:18 14 the associate -- corrections association and from the  
08:53:23 15 national corrections about somebody that the incoming  
08:53:27 16 governor could ask for names to be the Director of  
08:53:33 17 Corrections in Illinois. And so, I provided several names  
08:53:42 18 to the governor's staff. Well, the -- and then, about two  
08:53:49 19 months later or so, I got a call that they would like to  
08:53:55 20 meet with me to go over some of the situations that we had  
08:53:59 21 encountered in Iowa and we're successful with and they  
08:54:03 22 wanted to talk to me about those.

08:54:05 23 They were still in the process of hiring the  
08:54:09 24 director of corrections at that time. So we drove up to  
08:54:13 25 Chicago, two people, David Wu and a gentleman called Roger

08:54:22 1 Heaton and we were talking about corrections and where the  
08:54:27 2 nation's going, mental health cases, and that kind of  
08:54:30 3 thing, which Illinois had big lawsuit about and healthcare  
08:54:35 4 which had a lawsuit about, and after our 45-minute  
08:54:42 5 meeting, they told me to walk down the hall and somebody  
08:54:46 6 wanted to talk to me and I just then realized I might be  
08:54:50 7 in trouble. And sure enough, I walked down to the end of  
08:54:54 8 the hall, there was very tall man -- and I'm fairly tall  
08:54:59 9 but he was really tall -- who introduced himself as Bruce.  
08:55:03 10 At that, moment, I wish I would have recognized who the  
08:55:06 11 governor of Illinois was, but I did not. And so, I called  
08:55:09 12 him governor and he said yes. So we talked for 45 minutes  
08:55:16 13 and I told him yes, on the following Monday, that I would  
08:55:23 14 come to work for.

08:55:25 15 Q. Thank you, Mr. Baldwin. And I know that these are  
08:55:28 16 great stories but we are going to need to speed it up a  
08:55:31 17 little bit.

08:55:32 18 A. I know.

08:55:33 19 Q. I know you love to talk. We are on a timeline today  
08:55:36 20 and so -- thank you, Mr. Baldwin. We all appreciate it.

08:55:42 21 Okay. So what kind of situations did you  
08:55:45 22 encounter in Iowa, big obstacles to your job as director?  
08:55:53 23 A. We had to take a 10 percent across-the-board pay cut,  
08:55:58 24 which in most state corrections systems are not highly  
08:56:04 25 funded. That was probably the biggest one. We had to



08:56:10 1 teach people after that how to use data. We had a very  
08:56:16 2 robust data system and had to teach data people how to use  
08:56:20 3 it and positively impact outcomes. And then, we had a  
08:56:25 4 challenge of reducing our recidivism rate, which we did.

08:56:28 5 Q. Were you successful in reducing your recidivism?  
08:56:32 6 A. Yes.

08:56:33 7 Q. During your time as director of Iowa and then,  
08:56:37 8 Illinois, did you ever have to oversee large construction  
08:56:40 9 projects?  
08:56:42 10 A. Yes.

08:56:44 11 Q. And when we're talking about cost of those projects,  
08:56:49 12 is that on a massive scale or a small scale?  
08:56:54 13 A. In Iowa terms, it was a massive scale.

08:56:57 14 Q. How much were your construction projects in Iowa?  
08:57:03 15 A. The last two I did were probably total \$250 million,  
08:57:13 16 maybe 275 million.

08:57:16 17 Q. And what were you constructing with those projects?  
08:57:20 18 A. A new women's facility and a new maximum security  
08:57:25 19 facility.

08:57:26 20 Q. And how many beds did those facilities have if you  
08:57:33 21 remember?  
08:57:33 22 A. Approximately, it was 800 on men's side and 888 on  
08:57:40 23 the women's side.  
08:57:41 24 Q. 888 on the women's side.  
08:57:45 25 A. Yes.

08:57:45 1 Q. Now, are you familiar with the Texas Department of  
08:57:50 2 Criminal Justice directed by Mr. Collier, who's here with  
08:57:51 3 us today?

08:57:53 4 A. Yes, I am.

08:57:56 5 Q. If you can, can you give us comparison of the scale  
08:58:00 6 of the Texas Department of Criminal Justice with the  
08:58:03 7 states that you were director for?

08:58:06 8 A. Yeah. In Illinois, when I came, there were 49,000  
08:58:12 9 people in the prison system and last I knew, Texas was  
08:58:20 10 around 140,000 people so it was about a third. About the  
08:58:29 11 third of the size of Texas. And in Iowa, the highest we  
08:58:37 12 ever got for the population is 8,500 and so, it would be a  
08:58:42 13 much smaller percentage compared to Texas.

08:58:45 14 Q. And so, altogether, how many years did you spend in  
08:58:48 15 corrections before your final retirement?

08:58:54 16 A. Close to 42 years.

08:58:57 17 Q. Your Honor, at this time, defendants offer Mr. John  
08:59:00 18 Baldwin as an expert in corrections.

08:59:02 19 MR. EDWARDS: No objection.

08:59:03 20 THE COURT: So recognized.

08:59:05 21 Q. (BY MS. WARREN) Mr. Baldwin, are you familiar -- do  
08:59:09 22 you know Mr. Collier, Mr. Bryan Collier, the Director of  
08:59:13 23 the TDCJ?

08:59:13 24 A. I do, yes.

08:59:14 25 Q. Are you aware of the air conditioning projects that

08:59:17 1 he has undertaken?

08:59:18 2 A. I'm aware of that, yes.

08:59:20 3 Q. All right. I want to talk about that. Just

08:59:22 4 generally, have you ever seen any other state take on that

08:59:26 5 kind of project?

08:59:34 6 A. The only one that comes close would be California.

08:59:39 7 Q. What project was that?

08:59:42 8 A. Those are ADA compliance.

08:59:46 9 Q. The Americans --

08:59:47 10 MR. EDWARDS: Your Honor, if I may, we're getting

08:59:48 11 well beyond the expert report and certainly what was

08:59:52 12 disclosed to us. I don't mind generally talking about

08:59:54 13 what he's done in California, but if we get into specifics

08:59:57 14 of costs, they were not disclosed and they were not part

09:00:00 15 of the report and I would object that it's outside the

09:00:03 16 scope of the Court.

09:00:05 17 MS. WARREN: That's fine, your Honor. We don't

09:00:07 18 intend to.

09:00:07 19 THE COURT: Thank you.

09:00:09 20 Q. (BY MS. WARREN) What kind of project was that in

09:00:12 21 California that you said was comparable to the scale of

09:00:13 22 air conditioning at TDCJ?

09:00:16 23 A. California was sued over their noncompliance with the

09:00:20 24 Americans With Disabilities Act and they were, and I think

09:00:25 25 still are, in the process of making changes to their

09:00:30 1 fiscal plan to comply.

09:00:33 2 Q. So in that case, it would be things like wheelchair  
09:00:37 3 ramps, people with disabilities to move around prisons,  
09:00:40 4 that kind of construction project?

09:00:42 5 A. Yes.

09:00:42 6 Q. Now, I want to get into your opinions that you  
09:00:55 7 offered in this case about TDCJ's effort to air condition  
09:00:59 8 the prisons. So far, do you think it's been successful?

09:01:06 9 A. I'm sorry. Would you repeat that?

09:01:08 10 Q. So far, do you think it has been successful?

09:01:12 11 A. Yes.

09:01:13 12 Q. Why?

09:01:15 13 A. They have dramatically expanded the number of beds  
09:01:19 14 that are air conditioned. They are planning for a  
09:01:23 15 substantial increase. They have appropriations to  
09:01:28 16 accomplish that and it seems to me that they are on path  
09:01:32 17 to complete that.

09:01:35 18 Q. You said that they expanded the number of cool beds.  
09:01:39 19 When we say cool beds, is that synonymous with air  
09:01:44 20 conditioning?

09:01:44 21 A. In my terms, yes.

09:01:45 22 Q. And can you tell us about the efforts that they've  
09:01:47 23 made to expand the number of beds that are air conditioned  
09:01:51 24 within TDCJ?

09:01:53 25 A. Sure. It was, I think, in 2017 or '18, the

09:02:02 1 department got some money for beginning the expansion of  
09:02:06 2 cool beds. Most recently, Mr. Collier has been successful  
09:02:11 3 in getting quite a large sum of money from the Texas  
09:02:15 4 legislature to continue that process of cooling beds.  
09:02:24 5 They have, they are going to expand the number of cool  
09:02:30 6 beds somewhere around -- I don't know exact figures in  
09:02:33 7 front of me. I think they're going to end up around  
09:02:36 8 60,000 when it's all said and done and I think that's -- I  
09:02:42 9 think that's a very positive step forward.

09:02:45 10 Q. And you said that TDCJ has been successful in getting  
09:02:49 11 money from the legislature. Have you, yourself, ever had  
09:02:52 12 to lobby the legislature for money to support the  
09:02:56 13 departments that you directed?

09:02:57 14 A. Yes.

09:02:57 15 Q. What are the challenges with doing so?

09:03:04 16 A. There are some people in every state I've worked in  
09:03:09 17 the two that don't want to spend money. Two, there are  
09:03:14 18 those who don't want to spend money on prisons. Three,  
09:03:19 19 there are those people who want to spend money on programs  
09:03:25 20 but don't understand it's the environment that's important  
09:03:29 21 as well as the program. They are coequal in my mind, and  
09:03:34 22 therefore, it takes a lot of work. It takes a lot of  
09:03:42 23 credibility on the department director's stance on how  
09:03:45 24 spending this money is going to positively impact the  
09:03:48 25 correction system.

09:03:55 1 Q. Do you think that Mr. Collier has been anything less  
09:03:58 2 than forthcoming with the legislature about the challenges  
09:04:00 3 that the Texas Department of Criminal Justice is facing?  
09:04:06 4 A. I base my answer on all the money that he's gotten.  
09:04:11 5 A, you don't get that much money to do a project that  
09:04:16 6 everybody has to know is going to be ongoing for quite a  
09:04:21 7 while. You don't get that money unless you, A, are  
09:04:26 8 trusted and, B, have a case that has been thoughtfully  
09:04:32 9 presented and it will benefit the good of the TDCJ.  
09:04:39 10 Q. Do you know how much money TDCJ is seeking next  
09:04:43 11 legislative session?  
09:04:45 12 A. I do not know that.  
09:04:51 13 Q. Now, what about do you know the number of current  
09:04:56 14 cool beds that TDCJ has already installed?  
09:05:05 15 A. Not off top of my head but I think some 40,000.  
09:05:10 16 Q. And that's what they've been able to accomplish with  
09:05:13 17 funding they've gotten so far?  
09:05:15 18 A. Yes.  
09:05:15 19 Q. Have you ever seen any other department of  
09:05:17 20 corrections raise that much money for a single project?  
09:05:29 21 A. No, I have not.  
09:05:38 22 Q. Mr. Baldwin, in your opinion, is the Texas Department  
09:05:44 23 of Criminal Justice ignoring the problem of heat in Texas  
09:05:47 24 prisons?  
09:05:49 25 A. No.

09:05:50 1 Q. Why not?

09:05:52 2 A. They have requested substantial funding for cool  
09:05:57 3 beds. I think that's very impressive. I think their  
09:06:01 4 policy, I believe it's 10.64, is very specific about what  
09:06:09 5 the TDCJ will do in institutions when it's hot. I also  
09:06:17 6 recall and some of the -- in that document that I looked  
09:06:22 7 at, they have yearly training for not only staff but the  
09:06:26 8 offender population and it is required and I think that's  
09:06:30 9 really good. They have a very specific list of things  
09:06:35 10 that they're supposed to do when it gets hot as far as  
09:06:41 11 mitigating some of the impact of the heat and humidity on  
09:06:45 12 both the population and those people who work there. And  
09:06:51 13 I just -- I just think that that policy and how they  
09:06:58 14 follow up with it is something I've never seen in my time  
09:07:06 15 in corrections and it's -- I think it's really good. I  
09:07:13 16 think it's really good to begin to mitigate the problem  
09:07:16 17 that they have, but they're also then doing the other  
09:07:21 18 things which is obtaining money to really solve that  
09:07:24 19 problem.

09:07:25 20 Q. Now, we've heard a lot testimony during this hearing  
09:07:30 21 that, you know, inmates and correctional staff have still,  
09:07:36 22 unfortunately, fallen ill due to heat. Even with those  
09:07:41 23 mitigation measures in place, does that mean mitigation  
09:07:43 24 measures aren't working?

09:07:45 25 A. No.

09:07:47 1 Q. Why not?

09:07:49 2 A. Well, because people get sick whether you're inside a  
09:07:57 3 prison or out and it's hot inside a prison and out and  
09:08:01 4 it's cold inside a prison and out and different people  
09:08:06 5 react to their environment differently. And so, it's not  
09:08:11 6 uncommon in the states that I've been that people have had  
09:08:14 7 issues with both heat and in Iowa, Illinois, they're faced  
09:08:19 8 with cold, and so, you try to mitigate that as best you  
09:08:23 9 can. You try to give the staff and the people sentenced  
09:08:26 10 to the institutions resources, and like Bryan's doing, he  
09:08:34 11 tried to go out and get money to fix it.

09:08:37 12 Q. Now, you said that you have the issue of the cold in  
09:08:43 13 Iowa and Illinois. Did your departments -- did your  
09:08:48 14 organizations take measures to mitigate the cold?

09:08:56 15 A. We actually help that by when VOI/TIS came around --  
09:09:02 16 that's the Violent Offender Truth in Sentencing Act, by  
09:09:03 17 the way, that we were able to get money to build some new  
09:09:07 18 facilities and we also continue to upgrade power plants  
09:09:16 19 and that kind of thing. The bottom line, though, was two  
09:09:20 20 of three of our facilities were really old and you could  
09:09:24 21 not totally mitigate the heat or the cold because of their  
09:09:31 22 time of construction and the windows that were, at best,  
09:09:38 23 bad.

09:09:41 24 Q. So did you install heating in all prisons in Iowa or  
09:09:47 25 Illinois or was it already installed?



09:09:49 1 A. Heating was already installed.

09:09:52 2 Q. Were inmates and correctional staff still adversely  
09:09:58 3 affected by the cold in the winters?

09:10:02 4 A. It does get cold in some parts of Iowa and Illinois  
09:10:06 5 and yes, some of the old buildings were not very good  
09:10:11 6 about keeping the cold out.

09:10:14 7 Q. Have you visited TDCJ prisons?

09:10:18 8 A. I have visited one TDCJ prison, yes.

09:10:22 9 Q. Which one was that?

09:10:23 10 A. The Walls.

09:10:25 11 Q. Is that the state penitentiary in Huntsville?

09:10:29 12 A. Yes. I believe that's the proper name, although I  
09:10:37 13 only heard it referred to as the Walls.

09:10:39 14 Q. Did you take a tour of that facility?

09:10:42 15 A. I didn't get a tour. I went to one unit to look at  
09:10:46 16 one of their programs that I was thinking about copying  
09:10:50 17 over.

09:10:50 18 Q. Do you remember the relative age of the Walls Unit in  
09:10:55 19 Huntsville?

09:10:56 20 A. It looked like prisons in Iowa, Anamosa and Fort  
09:11:02 21 Madison, one of which had a section that was pre-Civil  
09:11:07 22 War. So I'm not sure what the ages but it was in the  
09:11:12 23 1800s.

09:11:13 24 Q. And do you remember it being built out of red brick?

09:11:21 25 A. No.

09:11:23 1 Q. That's okay. I want to switch back to the heat  
09:11:31 2 mitigation measures that you talked about earlier that  
09:11:33 3 TDCJ is taking. Which measures do you think are effective  
09:11:38 4 that TDCJ is taking to mitigate the heat?

09:11:43 5 A. From my perspective, the biggest one is the heat  
09:11:51 6 index score developed by the University of Texas Medical  
09:11:53 7 Branch at Galveston. I think that and then, incorporating  
09:11:58 8 that into the TDCJ offender management system is a really  
09:12:05 9 good way to track that. I also think that the -- all of  
09:12:17 10 the these specified activities that they have, they can  
09:12:18 11 get fans, they can get electrolyte drinks, they can get  
09:12:23 12 ice, they can get cool towels, on and on, really helps  
09:12:29 13 mitigate some of those issues.

09:12:33 14 Q. As far as the heat scoring system, you said that you  
09:12:37 15 thought that was working really well. What about that is  
09:12:41 16 working really well?

09:12:42 17 A. It seems to me that once a person is identified as  
09:12:47 18 needing a cool bed through this system, they do get a cool  
09:12:54 19 bed and I think that's important because you are trying to  
09:13:05 20 -- you're trying until you get the whole issue moderated  
09:13:07 21 is to keep people safe. And I think that system which I  
09:13:11 22 have not seen in any other state really is very good at  
09:13:18 23 identifying those people who need to be moved. I think  
09:13:23 24 that's an important part of the overall treatment of  
09:13:27 25 people sentenced to the TDCJ.

09:13:31 1 Q. We've heard testimony especially from the plaintiffs'  
09:13:36 2 witnesses that the heat scoring system is -- you know,  
09:13:40 3 it's not perfect. You know, it doesn't necessarily  
09:13:44 4 identify every single individual who might have a low heat  
09:13:48 5 tolerance. Do you think that that's a reason to get rid  
09:13:51 6 of the heat scoring system?

09:13:53 7 A. No.

09:13:54 8 Q. Why not?

09:14:00 9 A. I have yet to see some medical situation, whether  
09:14:09 10 it's a vaccine or a treatment, it all comes with, oh, by  
09:14:14 11 the way, this might not work if you're X, Y and Z. Having  
09:14:20 12 something that works for 90 or 95 percent of the  
09:14:23 13 population -- and I'm making those numbers up. I'm sure  
09:14:25 14 it's higher -- is a really good start --

09:14:27 15 MR. EDWARDS: Objection. Calls for speculation,  
09:14:29 16 especially given the fact that it's much, much lower.

09:14:32 17 THE COURT: I'll allow. Go ahead.

09:14:34 18 Q. (BY MS. WARREN) Sorry, Mr. Baldwin, could you  
09:14:36 19 continue? You were saying, you know, if it's working for  
09:14:39 20 most of the population.

09:14:41 21 A. Yeah. If it's working for most of the population, I  
09:14:44 22 think that's a very good rule to keep using. I do not  
09:14:50 23 know of any tool that doesn't have exceptions.

09:14:58 24 Q. I want to switch gears a little bit and I want to  
09:15:01 25 talk about Mr. Dean Williams. I know that you weren't

09:15:06 1 here earlier in the hearing but we did hear from Mr.  
09:15:09 2 Williams. He was here with us in court. Are you familiar  
09:15:13 3 with Mr. Williams?

09:15:14 4 A. I am.

09:15:17 5 Q. How do you know Mr. Williams?

09:15:19 6 A. He was the director in Alaska for a couple of years  
09:15:24 7 and then, he's director in Colorado for a couple of years  
09:15:28 8 during the time that I was the director in Iowa and  
09:15:31 9 Illinois.

09:15:36 10 Q. What do you think of Dean Williams as a director of  
09:15:42 11 the department of corrections?

09:15:43 12 A. Well, first, I consider Dean a good friend.  
09:15:51 13 Secondly, I have no knowledge about what he did or did not  
09:15:59 14 do in Alaska. I do know he tried to do some projects in  
09:16:12 15 Colorado. He created a radio station, I believe, cost a  
09:16:20 16 couple of institutions. I think there were some bands  
09:16:22 17 that he -- ban like musical bands that he did and I know  
09:16:31 18 he talked about those at meetings. So those are two  
09:16:35 19 things that I know about Mr. Williams' work in Colorado.

09:16:40 20 Q. Now I want to talk about some of his opinions. Have  
09:16:43 21 you reviewed Mr. Williams' report?

09:16:45 22 A. I have.

09:16:47 23 Q. All right. One of his opinions is that TDCJ is using  
09:16:52 24 heat to punish both inmates and TDCJ staff. Do you agree  
09:16:57 25 with that statement?

09:16:59 1 A. No.

09:17:00 2 Q. Why not?

09:17:02 3 A. Well, briefly, it's Texas, it's hot. So by that

09:17:08 4 logic, are they punishing people who don't have air

09:17:13 5 conditioning in Galveston or Houston? It strikes me

09:17:17 6 that's an overbroad statement and I think it belies the

09:17:21 7 fact as we talked about earlier that the TDCJ, under

09:17:25 8 Bryan's leadership, is moving forward with the expansion

09:17:29 9 of cool beds.

09:17:32 10 Q. Mr. Williams testified that the heat in TDCJ prisons

09:17:39 11 shocked his conscience. Does it shock your conscience,

09:17:43 12 Mr. Baldwin?

09:17:44 13 A. No.

09:17:46 14 Q. Why not?

09:17:48 15 A. It's hot inside of a prison. It's hot in Iowa in the

09:17:52 16 summer and a couple of prisons got hot. It's hotter in

09:17:57 17 Illinois in the southern part and it gets hot. You have

09:18:00 18 to try to mitigate that till there is a solution and

09:18:05 19 that's what Bryan's doing and that's what I did in Iowa

09:18:13 20 with the southernmost institution.

09:18:17 21 Q. All right. Thank you, Mr. Baldwin. Your Honor, we

09:18:20 22 pass the witness.

09:18:47 23 CROSS-EXAMINATION

09:18:47 24 BY MR. EDWARDS:

09:18:55 25 Q. Well, we got this problem again. I'm headless again,

09:18:58 1 Mr. Baldwin. Can you at least hear me?

09:19:01 2 A. I can. Yes, sir.

09:19:02 3 Q. Okay. Well, there are worse things than not getting  
09:19:09 4 to see my ugly mug, but I do have to ask you what does  
09:19:12 5 "hope" represent up there?

09:19:15 6 A. Would you rephrase that question? You broke up.

09:19:18 7 Q. Sure. I'm looking at the word "hope." Is that of  
09:19:23 8 significance to you, sir?

09:19:27 9 A. The word "cold"?

09:19:31 10 Q. We could get into it but I was just curious what the  
09:19:35 11 "word" hope behind you represents.

09:19:36 12 A. Oh, hope. Oh, I'm sorry. Hope, yeah. I might cry  
09:19:42 13 so I will try to get this out. That was my wife's motto  
09:19:50 14 while she died of cancer.

09:19:52 15 Q. I have no intent to bring up a difficult subject for  
09:19:56 16 you. I was -- in my odd way of trying to be endearing but  
09:20:02 17 we'll move on into your opinions in this case, all right,  
09:20:04 18 sir?

09:20:05 19 A. Yes. And sir, I'm sorry to ask but if you could move  
09:20:10 20 closer to the mic, I'm having a much difficult -- I'm  
09:20:12 21 having a hard time hearing you.

09:20:15 22 Q. Sure. Can you hear me now, sir?

09:20:17 23 A. Yes, sir. Thank you.

09:20:18 24 Q. All right. I was trying my best to listen to your  
09:20:23 25 testimony and when you were talking about how this doesn't

09:20:27 1 shock your conscience because it gets hot in Texas, did I  
09:20:30 2 hear you correctly?  
09:20:31 3 A. Yes, you did.  
09:20:33 4 Q. And you said that the -- I think I'm going to put the  
09:20:37 5 word in the "obligation" but -- actually, I'll take that  
09:20:40 6 back. You said you've gotta mitigate the condition, i.e.,  
09:20:45 7 the heat until there's a solution. Did I hear you  
09:20:47 8 correctly?  
09:20:48 9 A. Yes.  
09:20:49 10 Q. Well, you know that there's a solution here, don't  
09:20:53 11 you?  
09:20:57 12 A. Yes, there is.  
09:21:03 13 Q. Bryan Collier knows there's a solution, as well,  
09:21:06 14 doesn't he?  
09:21:08 15 A. I believe he's demonstrated that, yes.  
09:21:11 16 Q. Well, he knows that the solution is air conditioning  
09:21:15 17 which completely eliminates the danger of high heat in  
09:21:19 18 Texas prisons, right?  
09:21:22 19 A. Yes.  
09:21:24 20 Q. And I'm trying to understand this, but I hear you  
09:21:29 21 saying Mr. Collier's doing a great job because he has  
09:21:36 22 obtained funding for several thousand air-conditioned  
09:21:41 23 beds. Do I understand your testimony correctly?  
09:21:44 24 A. You do.  
09:21:46 25 Q. And you say that despite the fact that there are, I

09:21:50 1 think you said, 140,000 prisoners, the real number may be  
09:21:55 2 134,000 or 135,000, okay, sir?

09:21:58 3 A. Yes.

09:21:59 4 Q. Okay. But you go so far as to say he's doing an  
09:22:06 5 excellent job by obtaining funding to, you know, the  
09:22:14 6 88,900 beds he's gotten in the last six-and-a-half years,  
09:22:17 7 right?

09:22:21 8 A. Are you talking about the ones that are completed or  
09:22:23 9 the ones that are being developed, or both?

09:22:27 10 Q. Well, I believe you testified and you're saying what  
09:22:30 11 a great job Mr. Collier is doing, that he built or  
09:22:34 12 installed 40,000 air-conditioned beds. Did I hear you  
09:22:38 13 correctly?

09:22:38 14 A. That's -- yes, that's either done or in process, I  
09:22:42 15 believe.

09:22:42 16 Q. Right. I want to be clear -- clear up some  
09:22:48 17 confusion. That's not really true that he installed  
09:22:51 18 40,000 beds. What he did was add 8,900 beds after 2018.  
09:22:58 19 Are you aware of that?

09:22:59 20 MS. WARREN: Your Honor, objection. Compound  
09:23:01 21 questions. If we could stick to one idea per question.

09:23:04 22 THE COURT: Do you want to break up the question?

09:23:07 23 Q. (BY MR. EDWARDS) Sure. Do you know that it's not  
09:23:09 24 true that Bryan Collier has installed 40,000  
09:23:12 25 air-conditioned beds or not?



09:23:15 1 A. I do know Bryan has installed -- okay. Has had --  
09:23:20 2 gotten funding to install the 8,900 beds you referenced  
09:23:25 3 earlier and money for a whole lot more.

09:23:28 4 Q. Right. But just so we're clear, from 2018 until the  
09:23:37 5 present, Bryan Collier has gotten funding to install 8,900  
09:23:42 6 beds and there were existing air-conditioned beds at the  
09:23:45 7 time he took over, correct?

09:23:57 8 A. I believe there are air-conditioned beds in Texas  
09:23:59 9 prior to Bryan taking over and yes, he has gotten the  
09:24:05 10 8,900 beds and money for a lot more and that's my point.

09:24:10 11 Q. Okay. Again, I don't want to quibble because if you  
09:24:14 12 don't know, you don't know. But I'll represent to you  
09:24:17 13 that there were, in fact, air-conditioned beds in the  
09:24:21 14 system before Bryan Collier took over, okay? If you can  
09:24:25 15 accept that or not. He has added 8,900 and 40 beds and  
09:24:32 16 that's your understanding, correct?

09:24:34 17 A. Yes.

09:24:35 18 Q. And 1,400 of those were because the agency got sued  
09:24:41 19 and was found to be deliberately indifferent for  
09:24:46 20 endangering inmates at the Pack Unit. Are you aware of  
09:24:49 21 that?

09:24:49 22 A. No.

09:24:50 23 Q. So 1,400 of those were effectively court-ordered and  
09:24:55 24 this is the first you're learning about it?

09:24:58 25 A. Yes.

09:25:00 1 Q. Nevertheless, again, I think another lawyer has said  
09:25:04 2 this but math is always a dangerous thing for lawyers to  
09:25:08 3 get involved with. But you run a prison system, you're  
09:25:12 4 probably better at it than me. In six-and-a-half years at  
09:25:17 5 8,940 beds, what's that, about -- I mean, if I did it on  
09:25:24 6 my calculator, it's about 1,376 beds per year.

09:25:29 7 A. Yes. That sounds right.

09:25:36 8 Q. And do you believe that that is a reasonable number  
09:25:42 9 to add to the system each year?

09:25:49 10 A. I do not know the answer to what's reasonable in  
09:25:52 11 Texas. I do know that from my opinion, it looks like  
09:25:59 12 Bryan Collier used that to springboard into more money  
09:26:05 13 from the legislature in the recent biennium.

09:26:12 14 Q. Sir, if we did the math on 1,375 beds per year, it  
09:26:21 15 would take more than 70 years to air condition the Texas  
09:26:26 16 prison system; isn't that correct?

09:26:30 17 A. I will trust your math.

09:26:32 18 Q. Do you find that a 70 year -- well, do you think that  
09:26:37 19 waiting 70 years is acceptable?

09:26:47 20 A. I don't think Texas is going to wait 70 years. I  
09:26:51 21 think Bryan's demonstrated clearly that it's going to be  
09:26:54 22 much less time to air condition all of TDCJ beds.

09:27:02 23 Q. Well, sir, it's absurd and patently unreasonable --

09:27:08 24 MS. WARREN: Objection, your Honor.

09:27:09 25 Argumentative misstates testimony.

09:27:11 1 MR. EDWARDS: It's cross-examination, your Honor.

09:27:12 2 THE COURT: You can ask. Go ahead.

09:27:14 3 Q. (BY MR. EDWARDS) Let me repeat that. It's absurd and

09:27:17 4 utterly unreasonable to wait 70 years to fix a danger that

09:27:22 5 is killing people. Don't you agree?

09:27:31 6 A. If that were a true statement, I would agree with it,

09:27:35 7 but I'm not sure it's true.

09:27:38 8 Q. Well, have you seen a document that in which Bryan

09:27:44 9 Collier has requested appropriations to air condition the

09:27:49 10 entire prison system?

09:27:52 11 A. I have not seen a document for the entire correction

09:27:56 12 system. I've seen, what, 800 -- 108 million new money, I

09:28:01 13 believe, for TDCJ.

09:28:03 14 Q. And that was less than it cost for you to build the

09:28:06 15 prisons you built, right?

09:28:10 16 A. Yes, it was.

09:28:12 17 Q. About 170 million less, right?

09:28:19 18 A. No. That was for the total of two of them so it

09:28:24 19 would be about 42.

09:28:26 20 Q. Okay. Fair enough. 170 million for the two you did,

09:28:29 21 right? Less. It's not an important point. It's a lot

09:28:40 22 less, how about that?

09:28:42 23 A. Yes. A lot less.

09:28:47 24 Q. Sir, do you know what the head of the -- are you

09:28:56 25 aware that the House of Representatives in Texas actually

09:29:03 1 passed a bill to air condition the Texas prison system?

09:29:08 2 A. No, I'm not aware of that.

09:29:11 3 Q. And do you know -- well, there's been testimony in  
09:29:17 4 this case that the head of that committee said that the  
09:29:23 5 state had a give-a-damn problem, not a money problem. Do  
09:29:28 6 you have anything to say about that?

09:29:33 7 A. Well, what I would say in the line I use often when  
09:29:37 8 the legislature makes that comment and it's you have the  
09:29:42 9 power of the purse, go ahead and appropriate it.

09:29:45 10 Q. Have you seen a document in which Bryan Collier has  
09:29:49 11 said affirmatively, a document publicly where Bryan  
09:29:52 12 Collier said, please air condition the entire prison  
09:29:57 13 system?

09:29:58 14 A. No.

09:29:58 15 Q. Okay. Nevertheless, you are aware that TDCJ is in  
09:30:05 16 favor of air conditioning the entire prison system, aren't  
09:30:08 17 you?

09:30:08 18 A. Yes.

09:30:09 19 Q. Okay. And have you reviewed the testimony from what  
09:30:15 20 I'll call as a corporate representative of the state of  
09:30:20 21 Texas and Texas Department of Criminal Justice, a person  
09:30:24 22 who has actually testified as Bryan Collier?

09:30:29 23 A. No.

09:30:30 24 Q. That was never sent to you.

09:30:33 25 A. At this time, I do not recall that.

09:30:35 1 Q. Paul, would you put up the first part where we go  
09:30:40 2 through who Mr. Sweetin is, how he's testifying for Bryan  
09:30:45 3 Collier. I'm going to show you a document, sir. I just  
09:30:47 4 want to make sure you understand what this deposition is.  
09:30:57 5 And it may take some time.

09:31:14 6 Mr. Sweetin, can you see that this -- excuse me.  
09:31:17 7 Mr. Baldwin, can you see that?

09:31:19 8 A. Yes, I can.

09:31:20 9 Q. I just want to read to you -- this was a deposition  
09:31:23 10 of an individual with the understanding that he was there  
09:31:26 11 to --

09:31:26 12 MS. WARREN: Objection, your Honor. Lack of  
09:31:28 13 personal knowledge. Mr. Baldwin has already testified  
09:31:29 14 that he has no knowledge of this deposition.

09:31:34 15 MR. EDWARDS: It's a deposition that's in  
09:31:36 16 evidence. I'm going to show it to him as to what is in  
09:31:39 17 evidence so that he could comment on some of the other  
09:31:42 18 things that are in there.

09:31:43 19 THE COURT: Go ahead.

09:31:44 20 Q. (BY MR. EDWARDS) Sir, take a moment to read that and  
09:31:48 21 I just want to be clear that this is from a deposition of  
09:31:52 22 someone there to testify as the corporate representative  
09:31:55 23 for the Texas Department of Criminal Justice or, in this  
09:32:00 24 case, for Bryan Collier in his official capacity. Do you  
09:32:03 25 see that?

09:32:09 1 A. Let me read it.

09:32:10 2 Q. Sure. My apologies. Scroll down so he can read

09:32:13 3 everything that's in evidence.

09:32:25 4 A. Who is David Sweetin?

09:32:27 5 Q. David Sweetin is the representative of the Texas

09:32:30 6 Department of Criminal Justice and Bryan Collier in his

09:32:34 7 official capacity. That's who he is. I just want to make

09:32:38 8 sure you understand that.

09:32:41 9 A. So you're gonna tell me what David Sweetin does?

09:32:45 10 Q. I'm just making sure that you understand that the

09:32:48 11 deposition, to the extent I show it to you, is effectively

09:32:50 12 the Texas Department of Criminal Justice. You could

09:32:53 13 dispute that but I wanted to give you the chance to see

09:32:56 14 exactly who this person was testifying for. And if you

09:32:59 15 read line 19 to 23, it makes it crystal clear that he's

09:33:03 16 testifying on behalf of TDCJ, the Texas Department of

09:33:07 17 Criminal Justice, and Bryan Collier in his official

09:33:09 18 capacity. Do you agree and accept that, sir?

09:33:12 19 A. Yes.

09:33:12 20 Q. Okay. Now, back to the funding, do you know why, do

09:33:18 21 you know the exact reason why TDCJ said it was in favor of

09:33:24 22 legislation to air condition the prison system?

09:33:30 23 A. I'm unaware of TDCJ saying that.

09:33:33 24 Q. Okay. Paul, would you put up the deposition at page

09:33:37 25 131, the "understood."

09:34:09 1 A. Starting with Q?

09:34:10 2 Q. Yeah. I'm going to read it to you. I'm going to  
09:34:12 3 read the answer, okay? Just wanted to make sure you can  
09:34:17 4 read this. You are in -- you as the Texas Department of  
09:34:20 5 Criminal Justice and Bryan Collier, in his official  
09:34:23 6 capacity, you were in favor of it because you understood  
09:34:27 7 there's a dangerous condition in the system, extreme heat  
09:34:32 8 in the housing areas that tragically has killed inmates  
09:34:37 9 and caused numerous inmates and officers to suffer  
09:34:41 10 heat-related illness, right? And what was the answer,  
09:34:45 11 sir?

09:34:46 12 A. The answer from Mr. Sweetin was yes.

09:34:49 13 Q. Okay. TDCJ and Bryan Collier know there's a  
09:34:56 14 dangerous condition in the prison system, correct?

09:35:06 15 A. Yes, those first three lines.

09:35:08 16 Q. TDCJ and Bryan Collier, in his official capacity,  
09:35:12 17 know that that dangerous condition is, in fact, extreme  
09:35:17 18 heat in the housing areas, correct?

09:35:29 19 A. That's part of your question, right?

09:35:33 20 Q. I'll say it again. TDCJ and Bryan Collier, in his  
09:35:36 21 official capacity, know that the dangerous condition in  
09:35:39 22 the system is, in fact, extreme heat in the housing areas,  
09:35:43 23 correct?

09:35:45 24 A. The answer was yes.

09:35:47 25 Q. And TDCJ and Bryan Collier know that that dangerous

09:35:53 1 condition that is extreme heat in the housing areas has  
09:35:58 2 killed inmates and caused numerous inmates and officers to  
09:36:02 3 suffer heat-related illnesses, right?

09:36:06 4 A. Yes.

09:36:07 5 Q. You can take it down. And you think it's okay to  
09:36:14 6 wait 70 years to fix that condition when people are dying,  
09:36:18 7 sir? Is that really your testimony?

09:36:20 8 MS. WARREN: Objection, your Honor. It misstates  
09:36:24 9 testimony waiting seven years.

09:36:26 10 MR. EDWARDS: Seventy years, not seven.

09:36:28 11 MS. WARREN: I misheard. I apologize.

09:36:30 12 Q. (BY MR. EDWARDS) You really think it's okay to wait  
09:36:32 13 70 years to fix that type of dangerous condition when  
09:36:35 14 people are dying?

09:36:41 15 A. Nope.

09:36:43 16 Q. Waiting that time -- do you think it's okay to wait  
09:36:46 17 seven years when people are dying to fix a dangerous  
09:36:49 18 condition you know about?

09:37:01 19 A. There is no reasonable answer to your question. From  
09:37:07 20 my perspective, the issue is, from my perspective, base on  
09:37:13 21 my experience in corrections, that there are some bad  
09:37:15 22 institutions that need to get fixed and they're part of  
09:37:21 23 the appropriation process to get that done. And so,  
09:37:25 24 that's what Texas is faced with. And I would argue that  
09:37:31 25 Bryan's making a very impactful effort to get more funding



09:37:38 1 and put more cool beds up. And in the time, there's going  
09:37:46 2 to be some problems. But he has done a lot and they're  
09:37:50 3 going to have a lot more cool beds and more coming. You  
09:37:55 4 cannot just wave a wand and say, poof, they're cool, which  
09:37:59 5 I seem to think you have that opinion. I don't know why  
09:38:03 6 you would. Can you explain that to me?

09:38:04 7 Q. Well, your lawyer could ask whatever questions he or  
09:38:07 8 she wants of you. I'll ask the questions of you, sir, if  
09:38:10 9 you're okay with that. Are you okay with that?

09:38:12 10 A. I am fine with that.

09:38:14 11 Q. Terrific.

09:38:15 12 A. Yes.

09:38:16 13 Q. Okay. I didn't get an answer to my question. If you  
09:38:23 14 know the solution -- if you know the solution and you know  
09:38:28 15 how to fix the problem and it's killing people in the  
09:38:32 16 Texas prison system and you know you can do it, is it okay  
09:38:38 17 to delay that for a significant period of time when you  
09:38:42 18 know people are going to die as a consequence?

09:38:50 19 A. In my opinion, after my experience in Illinois and  
09:38:54 20 Iowa, you need to be proactive in finding solutions to  
09:38:58 21 problems that exist in the system that you are operating.

09:39:06 22 Q. Okay. The documents that you were provided show a  
09:39:15 23 plan to ultimately get to about 60 or 61,000, we'll call  
09:39:21 24 them, cool beds, correct?

09:39:23 25 A. Yes.

09:39:26 1 Q. That means that their plan leaves 75,000 people  
09:39:33 2 exposed to this known danger and in grave risk, doesn't  
09:39:38 3 it?

09:39:40 4 A. Yes.

09:39:49 5 Q. The Court heard testimony from Dean Williams and I  
09:39:54 6 believe -- again, I was trying to listen carefully but I  
09:39:59 7 get nervous during deposition -- or during testimony like  
09:40:01 8 this so I don't always get it right.

09:40:03 9 You considered him a friend and a good ethical  
09:40:06 10 person; is that fair?

09:40:08 11 A. Yes.

09:40:10 12 Q. You considered him a moral person, right?

09:40:15 13 A. Yes.

09:40:15 14 Q. You considered him a very competent director of  
09:40:19 15 corrections or do you not?

09:40:27 16 A. I consider Dean to be a very good corrections  
09:40:32 17 director. He was -- he wasn't in the job in Alaska and  
09:40:39 18 Colorado long enough for me to opine on whether his  
09:40:46 19 programs he installed in Colorado will produce results;  
09:40:51 20 therefore, I can't answer the competent question.

09:40:54 21 Q. He's a good person. Everything you understand about  
09:40:58 22 him is that he's a competent leader of a prison  
09:41:01 23 organization. You just -- you don't believe he was there  
09:41:04 24 long enough for you to give your full endorsement, fair?

09:41:08 25 A. Fair.

09:41:11 1 Q. Now, he testified in no uncertain terms that if he  
09:41:14 2 was presented with the evidence that we heard in court  
09:41:18 3 that he would raise the alarm, that he would pull the fire  
09:41:22 4 alarm and do everything in his power to fix the problem  
09:41:27 5 and that's what you'd tell Bryan Collier to do, as well,  
09:41:32 6 right?

09:41:32 7 A. I would tell Bryan Collier the path that he's on will  
09:41:38 8 solve the problem and the path that he's on with more  
09:41:44 9 funding that hopefully will be in his next budget will  
09:41:48 10 continue to increase the pace. That's what I'd tell him.

09:41:51 11 Q. Well, the point of pulling a fire alarm is to put out  
09:41:56 12 the fire, right?

09:41:56 13 A. Sir, you can't put out this fire by pulling the fire  
09:42:01 14 alarm. It's going to take years to install AC in all  
09:42:04 15 Texas prisons.

09:42:05 16 Q. Does it take years -- excuse me. I'm sorry, I cut  
09:42:09 17 you off. I apologize --

09:42:09 18 MS. WARREN: Your Honor, I'd like the witness to  
09:42:11 19 be able to finish his answer.

09:42:12 20 Q. (BY MR. EDWARDS) I apologize, your Honor. I  
09:42:14 21 apologize.

09:42:14 22 A. I am fine. Go ahead, please.

09:42:16 23 Q. Does it take years to install temporary air  
09:42:19 24 conditioning in Texas prisons?

09:42:25 25 A. It probably would.

09:42:28 1 Q. Well, are you aware of a situation in which the Texas  
09:42:32 2 Department of Criminal Justice actually did install  
09:42:35 3 temporary air conditioning in far less than a couple of  
09:42:39 4 years?

09:42:39 5 A. No, I am not.

09:42:42 6 Q. You're not aware that the Pack Unit, which started  
09:42:46 7 all of this, that they installed temporary air  
09:42:51 8 conditioning for the two summers -- two to three summers  
09:42:56 9 before they were able to permanently install it?

09:43:00 10 A. No, I am not aware of that.

09:43:02 11 Q. Well, let me represent to you, sir, that the Texas  
09:43:07 12 Department of Criminal Justice and Bryan Collier knows  
09:43:09 13 that he can install temporary air conditioning --

09:43:12 14 MS. WARREN: Objection, your Honor --

09:43:12 15 Q. (BY MR. EDWARDS) -- first you're learning about it --

09:43:15 16 MS. WARREN: -- Mr. Edwards testifying. Assumes  
09:43:16 17 facts not in evidence.

09:43:17 18 MR. EDWARDS: Doesn't assume facts not in  
09:43:19 19 evidence. It's in Judge Ellison's order that it is  
09:43:22 20 absolutely in evidence.

09:43:23 21 THE COURT: You can ask the question. Go ahead.

09:43:25 22 Q. (BY MR. EDWARDS) Do you need me to repeat the  
09:43:27 23 question?

09:43:28 24 A. No. May I ask a clarifying question of that?

09:43:32 25 Q. Sure.

09:43:33 1 A. How big is the Pack Units?

09:43:37 2 Q. You don't know?

09:43:37 3 A. No. I'm asking.

09:43:40 4 Q. Okay. It's 1,400. But just before we get to this,

09:43:46 5 were you provided Judge Ellison's order explaining how the

09:43:52 6 department was deliberately indifferent and how they were

09:43:56 7 endangering inmates and placing them at grave risk?

09:44:02 8 A. I don't recall seeing that at this time.

09:44:04 9 Q. Well, it made national news. Did you hear about it?

09:44:08 10 A. No.

09:44:10 11 Q. Did you -- when you were issuing your opinions about

09:44:14 12 what a great job the system's doing, did you ask them

09:44:18 13 whether they were under any monitoring arrangement or

09:44:21 14 having found to be deliberately indifferent for this exact

09:44:23 15 issue before?

09:44:25 16 A. No.

09:44:28 17 Q. Would you concede that that's modestly relevant?

09:44:42 18 A. I did not -- I did not go there because I was dealt

09:44:46 19 -- I was dealing with the facts before me and not what

09:44:50 20 happened previously. That's it.

09:44:52 21 Q. Well, sir, I mean, again, how much are you getting

09:44:56 22 paid? Are you doing this for --

09:45:01 23 A. \$350 an hour.

09:45:03 24 Q. So you're getting paid for your opinion, fair?

09:45:07 25 A. Yes.

09:45:09 1 Q. Would you agree with me that an opinion is better  
09:45:14 2 informed and more reliable if you consider all of the  
09:45:17 3 relevant facts?

09:45:26 4 A. Yes.

09:45:31 5 Q. Was that a difficult question for you to answer or  
09:45:35 6 did you not hear me?

09:45:36 7 A. No, it wasn't difficult. I was thinking back on some  
09:45:41 8 legal issues from my time in other states trying to make  
09:45:47 9 sure my answer was either yes or no and it was it.

09:45:52 10 Q. That's okay. And one of those legal issues was a  
09:45:54 11 class action lawsuit in the Illinois system in which you  
09:45:57 12 were sued and one of the issues was that those prisoners  
09:46:00 13 were exposed to hot cells, right?

09:46:04 14 A. I do not recall that lawsuit whatsoever.

09:46:08 15 Q. Well, we'll -- okay. So you're unaware that you were  
09:46:13 16 sued in a -- you, your name was the subject of a class  
09:46:19 17 action lawsuit in Illinois in which one of the issues was  
09:46:23 18 hot cells? You just don't know about that?

09:46:26 19 A. Nope. No idea.

09:46:28 20 Q. All right. Here's why I kind of think that you might  
09:46:34 21 have -- it might have been beneficial to you to read Judge  
09:46:36 22 Ellison's order and I'd like you to see if you agree with  
09:46:39 23 it. If you read the order, you might become aware of his  
09:46:44 24 analysis which concluded that TDCJ's heat --

09:46:48 25 MS. WARREN: Your Honor, relevance -- excuse me.

09:46:51 1 Relevance. This has nothing to do with the current state  
09:46:57 2 of air conditioning within TDCJ. Furthermore, Judge  
09:47:01 3 Ellison's order was to the effect of on a preliminary  
09:47:05 4 injunction, not a final finding, that TDCJ was  
09:47:08 5 deliberately indifferent. It was a finding that the  
09:47:12 6 plaintiffs in that case were likely to succeed on the  
09:47:14 7 merits.

09:47:15 8 Furthermore, it was the settlement that dictated  
09:47:18 9 that both the plaintiffs in that case and TDCJ agreed to  
09:47:22 10 that led to the improvements in Pack.

09:47:25 11 THE COURT: And you can make those points on  
09:47:27 12 redirect if you'll.

09:47:30 13 MR. EDWARDS: Thank you, your Honor.

09:47:30 14 THE COURT: Continue.

09:47:32 15 MS. WARREN: Yes, your Honor.

09:47:36 16 A. Sir.

09:47:37 17 Q. (BY MR. EDWARDS) Yes?

09:47:38 18 A. Since you're getting water, I would like to take a  
09:47:41 19 four-minute water break.

09:47:43 20 MR. EDWARDS: If the Court is so inclined. I  
09:47:45 21 have no objection, your Honor.

09:47:46 22 THE COURT: Sure. Let's do a two-minute one.  
09:47:51 23 I'm starting to sound like TDCJ.

09:47:59 24 MR. EDWARDS: Should we formally break?

09:48:01 25 THE COURT: Feel free to take but I'm not going

09:48:05 1 to leave. So take a two-minute break.

09:49:11 2 THE WITNESS: Your Honor, thank you.

09:49:12 3 THE COURT: You bet. We're still missing some  
09:49:14 4 folks in the courtroom here. We'll take another couple of  
09:49:20 5 minutes. Thank you. Are you ready?

09:49:45 6 MR. EDWARDS: Thank you, your Honor.

09:49:45 7 Q. (BY MR. EDWARDS) Mr. Baldwin, are you ready to  
09:49:48 8 continue?

09:49:48 9 A. Yes, sir.

09:49:53 10 Q. I may have lost my train of thought so I apologize.  
09:49:56 11 But here's why I think Judge Ellison's order might have  
09:49:58 12 helped you. It would have made you aware of why he found  
09:50:03 13 the agency to be deliberately indifferent and placed all  
09:50:07 14 those men in grave danger. Do you disagree with that?

09:50:17 15 A. I don't know how to answer that question. I haven't  
09:50:18 16 seen the order and --

09:50:21 17 Q. That's a -- you know what, I think that's fair. Do  
09:50:25 18 you agree, though, that now that I've told you about it  
09:50:29 19 and told you kind of how important it is that you ought to  
09:50:35 20 in formulating any new opinions, or confirming your  
09:50:38 21 current opinions at least, look at it and review it?

09:50:49 22 A. I don't think so.

09:50:52 23 Q. Okay. You don't think so. Please continue, sir.

09:50:58 24 A. Based on my years of experience dealing with  
09:51:03 25 attorneys, they focused -- they always told me to focus on



09:51:09 1 what the current case was and that's what I did in this  
09:51:14 2 case.

09:51:14 3 Q. So even now that I've told you about this and knowing  
09:51:18 4 that this is just in the preliminary stages, you're  
09:51:21 5 telling us you're not -- you don't think it's necessary  
09:51:24 6 for you to review Judge Ellison's order, fair?

09:51:26 7 MS. WARREN: Objection, your Honor. Asked and  
09:51:27 8 answered.

09:51:28 9 THE COURT: You can answer.

09:51:30 10 A. I would defer to the Texas Attorney General's Office  
09:51:37 11 to make that decision.

09:51:41 12 Q. (BY MR. EDWARDS) Okay. You in your report -- I just  
09:51:48 13 want to make sure I have this right. We have the benefit  
09:51:50 14 of having actually listened to UTMB -- sorry, to Dr.  
09:51:57 15 Leonardson, who talked about the manner in which this heat  
09:52:05 16 score is implemented, but just so I understand your  
09:52:07 17 report, you think this heat -- and testimony, frankly, you  
09:52:09 18 think this heat score that TDCJ has implemented is just  
09:52:12 19 great and really protective of inmates; is that correct?

09:52:17 20 A. I think it's great and I think it helps protect the  
09:52:21 21 inmate population.

09:52:23 22 Q. Do you understand -- are you there, sir?

09:52:29 23 A. Yes. Sorry.

09:52:30 24 Q. That's okay. Your understanding is that UTMB  
09:52:36 25 designed a scoring system to help protect vulnerable

09:52:42 1 inmates in the prison system, right? That's what your  
09:52:45 2 understanding is?

09:52:45 3 A. Yes.

09:52:46 4 Q. Okay. You don't know that that's just completely  
09:52:52 5 wrong, though, do you?

09:52:55 6 A. No.

09:52:56 7 Q. If the evidence is that it's not correct that UTMB  
09:53:01 8 designed a system to protect the inmates but rather, TDCJ  
09:53:05 9 gave UTMB conditions from a legal settlement, would your  
09:53:09 10 opinion change in any way?

09:53:14 11 A. I don't have enough information from which to make a  
09:53:17 12 statement, sir.

09:53:17 13 Q. Okay. If the system that's in place does not include  
09:53:24 14 numerous medical conditions that TDCJ and its healthcare  
09:53:29 15 contractor, UTMB, know affect heat tolerance, if many of  
09:53:35 16 those conditions are simply not included, would you agree  
09:53:38 17 that the system can be better and more protective by  
09:53:43 18 including those conditions?

09:53:44 19 MS. WARREN: Objection, your Honor. Misstates  
09:53:45 20 testimony.

09:53:48 21 MR. EDWARDS: I don't think it does.

09:53:49 22 THE COURT: I'll allow the question.

09:54:01 23 A. If what you say is accurate, I would certainly look  
09:54:05 24 to the UTMB to improve that system, yes.

09:54:12 25 Q. (BY MR. EDWARDS) Why wouldn't you ask TDCJ and

09:54:15 1 Director Collier, in particular, to make sure that  
09:54:17 2 happens?

09:54:21 3 A. I'm sure. Hold on. A, as we've been -- no. I think  
09:54:36 4 that responsibility belongs to the people who have an MD  
09:54:41 5 after their name.

09:54:42 6 Q. You would say, look, of course we oughta have the  
09:54:46 7 medical providers determining who is vulnerable and who  
09:54:50 8 needs to be -- get the protective effect of air  
09:54:53 9 conditioning, right?

09:54:54 10 A. Yes.

09:54:55 11 Q. Okay. And you would say, look, TDCJ has no business  
09:55:00 12 telling UTMB which conditions can and cannot be in their  
09:55:04 13 heat score system, right?

09:55:14 14 A. I would primarily fall on that side of the equation,  
09:55:19 15 yes.

09:55:23 16 Q. And are you aware that the Texas Department of  
09:55:28 17 Criminal Justice does not allow providers on their own to  
09:55:32 18 make housing recommendations to place inmates in air  
09:55:36 19 conditioning?

09:55:36 20 MS. WARREN: Objection, your Honor. Misstates  
09:55:38 21 testimony.

09:55:38 22 MR. EDWARDS: Does not.

09:55:40 23 MS. WARREN: Mr. Fitzpatrick testified yesterday  
09:55:42 24 that the heat score itself is a recommendation for  
09:55:46 25 housing. They cannot request a specific unit, but the

09:55:49 1 housing conditions are requested through a heat score.

09:55:53 2 THE COURT: Want to rephrase the question.

09:55:54 3 MR. EDWARDS: Well, I can but that's inaccurate.

09:55:57 4 But I mean -- sure. I'll rephrase the question.

09:56:00 5 Q. (BY MR. EDWARDS) Obviously, you would tell TDCJ that

09:56:03 6 medical providers ought to be able to recommend

09:56:07 7 air-conditioned housing if they want to, correct?

09:56:09 8 A. Yes.

09:56:11 9 Q. And if it's true that medical providers cannot, on

09:56:20 10 their own, without checking with TDCJ first recommend

09:56:25 11 air-conditioned housing, that would be potentially

09:56:28 12 problematic, sir, correct?

09:56:29 13 MS. WARREN: Objection. That misstates the

09:56:32 14 testimony.

09:56:32 15 THE COURT: I'll allow the question. Go ahead.

09:56:34 16 A. No.

09:56:34 17 Q. (BY MR. EDWARDS) You think that's fine for TDCJ to

09:56:36 18 say no, you can't put somebody in air-conditioned housing

09:56:40 19 even though they need it medically?

09:56:42 20 MS. WARREN: Your Honor, I renew my objection.

09:56:45 21 THE COURT: I get it, but even if that weren't

09:56:48 22 the testimony, he can ask that question.

09:56:51 23 MR. EDWARDS: Thank you, your Honor.

09:56:51 24 MS. WARREN: Yes, your Honor.

09:56:54 25 A. I think it is responsibility of TDCJ as it is in

09:56:59 1 every other state to put a person in the best bed  
09:57:06 2 available for them considering all the input. I do not  
09:57:12 3 believe that a medical provider should override the  
09:57:18 4 security threat group conversation. And so, I believe  
09:57:24 5 TDCJ has the responsibility to put the person in the right  
09:57:31 6 place based upon all available data to them.

09:57:35 7 Q. (BY MR. EDWARDS) That's fair. Assuming it's safe to  
09:57:38 8 do so, though, you would tell TDCJ of course, the medical  
09:57:41 9 providers ought to be able to recommendation housing  
09:57:46 10 without interference in air conditioning if it's  
09:57:48 11 protective, correct?

09:57:51 12 A. My opinion is they can recommend, but the TDCJ  
09:57:56 13 ultimately has the responsibility of where to put them.

09:57:59 14 Q. Sure. TDCJ has the responsibility to fix dangerous  
09:58:04 15 conditions and not expose the people in its custody and  
09:58:06 16 care to them, right?

09:58:10 17 A. Yes.

09:58:11 18 Q. And I may have lost my train of thought. I don't  
09:58:14 19 know if I'm repeating myself. I apologize. Remember we  
09:58:17 20 were talking about temporary air conditioning, the Pack  
09:58:22 21 Unit, do you remember that?

09:58:22 22 A. I remember that.

09:58:23 23 Q. The testimony from TDCJ is that it cost \$320,000 a  
09:58:27 24 summer to temporarily air condition the Pack Unit. First  
09:58:31 25 you're learning about that is now?

09:58:34 1 A. Yes.

09:58:38 2 Q. If, in fact, it is true that TDCJ temporarily  
09:58:41 3 installed -- temporarily air conditioned the Pack Unit,  
09:58:47 4 you would, of course, agree with me that it's feasible to  
09:58:50 5 do so in certain prisons in the system, correct?

09:58:59 6 A. In the total theoretical? Yes, it is.

09:59:04 7 Q. Let's get beyond the theoretical. Do you know if  
09:59:15 8 TDCJ is temporarily air conditioning any facilities  
09:59:19 9 currently?

09:59:20 10 A. I do not know.

09:59:21 11 Q. I'll represent to you that the evidence we have is  
09:59:23 12 that they're currently temporarily air conditioning nine  
09:59:27 13 facilities. That further cements that, of course, it's  
09:59:30 14 doable, right?

09:59:34 15 A. Yes.

09:59:37 16 Q. Do you think -- there's been talk of studies in this  
09:59:44 17 case, scientific studies that show that there are, in  
09:59:49 18 fact, real serious dangers associated with exposure to  
09:59:53 19 high heat. You didn't review any of them and they weren't  
09:59:57 20 sent to you by the Attorney General's Office, right?

09:59:59 21 A. Right.

10:00:00 22 Q. But you ran a prison system, right, two of them?

10:00:04 23 A. Yes. Two of them, yes.

10:00:07 24 Q. If you were provided a study from a credible medical  
10:00:15 25 journal or organization that alerted you to real dangerous

10:00:26 1 conditions in your prison system, would you review that  
10:00:29 2 study?

10:00:32 3 A. Yes.

10:00:36 4 Q. And I hope this is the answer, but obviously, you  
10:00:39 5 would review that because that's the job, right?

10:00:44 6 A. I would have it reviewed or I would review it,  
10:00:48 7 depending on the state --

10:00:50 8 Q. That's a much better way to say it. And I think Mr.  
10:00:52 9 Williams even testified that the leader -- as a leader of  
10:00:57 10 an organization, he was a generalist and he would rely on  
10:01:01 11 experts to help him formulate his opinions and I trust  
10:01:04 12 that's what you would do, right?

10:01:06 13 A. Most of the time.

10:01:08 14 Q. But the first step in figuring out what to do about  
10:01:14 15 an alarming study is to review it or have it reviewed,  
10:01:18 16 right?

10:01:18 17 A. Yes.

10:01:19 18 Q. And if you were provided information that showed that  
10:01:27 19 14 people on average were dying every year from exposure  
10:01:33 20 to heat in the Texas prison system because they weren't in  
10:01:39 21 air conditioning, that would cause you concern, wouldn't  
10:01:41 22 it?

10:01:44 23 A. Yes.

10:01:47 24 Q. In a million years, would you ignore that study and  
10:01:51 25 not consider it?

10:02:00 1 A. If I found it to be reasonable, well researched, I  
10:02:09 2 would certainly give it credence. Absolutely.

10:02:12 3 Q. My question's not whether you give it credence. My  
10:02:17 4 question's whether you review it, okay? That's why I did  
10:02:20 5 the hyperbolic in a million years, could you imagine a  
10:02:24 6 situation where you would not review such a serious study  
10:02:27 7 and of course you would tell the Court, yes, I would  
10:02:30 8 review it to make sure it's credible or not, right?

10:02:32 9 A. I would have somebody do that.

10:02:35 10 Q. You would never disregard it, right?

10:02:43 11 A. Depends on what answers I got back from the staff who  
10:02:48 12 look at it.

10:02:48 13 Q. Again, not talk -- that wouldn't be disregarding it.  
10:02:50 14 That would be considering it and evaluating it. You  
10:02:54 15 understand the difference between disregarding somebody --  
10:02:57 16 excuse me, between disregarding something and evaluating  
10:03:01 17 it and coming to a different conclusion. You understand  
10:03:03 18 the difference, right?

10:03:05 19 A. Yes.

10:03:07 20 Q. Disregarding something and ignoring it is being  
10:03:12 21 indifferent, isn't it?

10:03:19 22 A. On that topic, I mean, are they different -- are you  
10:03:24 23 asking it in a micro sense or a macro sense?

10:03:27 24 Q. A micro sense, sir. Ignoring something that could be  
10:03:29 25 important and disregarding it entirely is indifferent,



10:03:34 1 right?

10:03:43 2 A. Well, I have ignored a lot of stuff in my day because  
10:03:50 3 I didn't think it rose to the appropriate level of action.

10:03:53 4 Q. Well, let me ask you about that.

10:03:55 5 A. In that sense, you know, I would think different. On  
10:04:00 6 the other hand, yeah, I mean, I can see your point.

10:04:04 7 Q. Well, I appreciate that. But I mean, we're not  
10:04:06 8 talking about, you know, the cafeteria trays aren't being  
10:04:10 9 passed out. We're talking about 270 people dying as a  
10:04:14 10 consequence of the heat in un-air conditioned prisons in  
10:04:17 11 the Texas prison system. You agree that that is very  
10:04:20 12 relevant and needs to be evaluated and investigated,  
10:04:23 13 right?

10:04:24 14 A. If it speaks to that and offer some solutions, yes.

10:04:31 15 Q. Well, do you understand that the Texas Department of  
10:04:36 16 Criminal Justice and Bryan Collier, in his official  
10:04:41 17 capacity, have testified that they disregarded multiple,  
10:04:47 18 two studies that spoke to the dangers of extreme heat in  
10:04:52 19 the Texas prison system? Are you aware of that?

10:04:55 20 A. I'm aware of that.

10:04:58 21 Q. You spoke briefly about these mitigation measures and  
10:05:07 22 you said they're doing -- I'm paraphrasing -- doing a  
10:05:10 23 great job, Texas Department of Criminal Justice. It's  
10:05:13 24 great for mitigation measures, right?

10:05:16 25 A. Yes. They are.

10:05:18 1 Q. Well, do you agree with the department and Bryan  
10:05:26 2 Collier, in his official capacity, that those measures are  
10:05:28 3 only as effective as the men and women who implement them,  
10:05:31 4 right?

10:05:32 5 A. Of course.

10:05:33 6 Q. So if you received a report that they weren't being  
10:05:40 7 done, you would, of course, investigate that, right?

10:05:44 8 A. I would not but somebody would.

10:05:47 9 Q. Fair enough, sir. You would make sure they get  
10:05:50 10 investigated, right? Right?

10:05:57 11 A. Almost always.

10:05:59 12 Q. You would not ignore it and disregard it, correct? I  
10:06:06 13 mean, if you cared about the men and women in your care,  
10:06:08 14 you wouldn't ignore and disregard it, right?

10:06:14 15 A. Well, let me go to a -- more of a lengthy  
10:06:20 16 explanation. There are people who like to point out  
10:06:29 17 various things in corrections in my experience that are  
10:06:33 18 not factually true and if that person or that group sent  
10:06:37 19 me something, I would probably ignore it. If it came from  
10:06:44 20 people who were thoughtful and serious about it and  
10:06:49 21 understood there was both sides, I would pay more  
10:06:52 22 attention to it. So I don't know who sent those documents  
10:06:56 23 in. It would depend on who they were, what their  
10:06:58 24 relationship was with the department of corrections.

10:07:03 25 Q. Were you aware Texas A & M University is one -- is an

10:07:07 1 organization that you would just disregard?

10:07:16 2 A. I haven't worked with Texas A & M, but it certainly  
10:07:20 3 is a reputable school.

10:07:25 4 Q. Well, the lead author of one of these studies went to  
10:07:29 5 Brown University. You think that's a reputable school?  
10:07:32 6 Have you heard of Brown?

10:07:33 7 A. Brown's a reputable school, yes. If they -- hold a  
10:07:46 8 minute, just for a second. I have a plane flying over my  
10:07:54 9 head.

10:07:56 10 Q. Fair enough. We don't have too much more. I promise  
10:08:02 11 you.

10:08:03 12 A. It's okay.

10:08:04 13 Q. If survey information from Texas A & M University  
10:08:10 14 indicated that 60 percent of inmates who reported that  
10:08:18 15 wellness checks weren't being done, that's something that  
10:08:20 16 you need to investigate, right?

10:08:22 17 A. Yes.

10:08:23 18 Q. And if the same survey indicated that 43 percent had  
10:08:29 19 a health crisis disregarded, that's troubling and you need  
10:08:33 20 to investigate it, right?

10:08:36 21 A. I would not investigate that. I would pass it on to  
10:08:39 22 my healthcare person.

10:08:40 23 Q. You'd have it investigated by whoever you deem  
10:08:44 24 competent and reliable that you trust, right?

10:08:46 25 A. Yes.

10:08:47 1 Q. If 20 percent weren't getting cold showers at all,  
10:08:51 2 that would be a potential problem in the Texas prison  
10:08:55 3 system given the high heat, right?

10:08:59 4 A. Yes.

10:09:00 5 Q. And if two thirds of inmates recorded they weren't  
10:09:02 6 getting access to cold or cool showers, that would be a  
10:09:06 7 terrible situation and of course you would investigate it?

10:09:09 8 A. Yes. Now, it goes back to what I have said before.  
10:09:18 9 You have to have a source of that information that's  
10:09:21 10 credible and not prone to suing you because that gets a  
10:09:27 11 whole different conversation going.

10:09:29 12 Q. You really don't like lawyers, right?

10:09:33 13 THE COURT: Mr. Edwards.

10:09:34 14 A. No. I actually raised one so I'm okay with lawyers.

10:09:38 15 Q. (BY MR. EDWARDS) Well, the reason -- and I apologize.  
10:09:40 16 The reason that I say that is --

10:09:44 17 THE COURT: I'm beginning not to like one.

10:09:50 18 MR. EDWARDS: Okay. Fair enough, your Honor.

10:09:53 19 Q. (BY MR. EDWARDS) I think that's my cue to move it  
10:09:57 20 along. And so, I will end with this, sir. If it's true  
10:10:16 21 that men and women in the Texas prison system are, in  
10:10:24 22 fact, being exposed to a dangerous condition that could  
10:10:28 23 kill them and there are deaths that are happening as a  
10:10:32 24 consequence, that needs to be fixed, correct?

10:10:39 25 A. Yes. That situation should be fixed.

10:10:47 1 THE COURT: Do you mind if I ask a couple of  
10:10:49 2 questions?

10:10:50 3 MS. WARREN: Yes. May I still redirect?

10:10:51 4 THE COURT: Oh, absolutely. Yeah. In fact, I  
10:10:52 5 want to do it before you do in case you have followup to  
10:10:55 6 mine.

10:10:55 7 MS. WARREN: Yes, your Honor.

10:10:56 8 THE COURT: So, Mr. Baldwin, I just have a couple  
10:10:58 9 of questions if you don't mind. Since this is a bench  
10:11:00 10 hearing, I get the opportunity to ask questions if I have  
10:11:03 11 them.

10:11:03 12 THE WITNESS: Yes, sir, please.

10:11:05 13 THE COURT: As someone who has appeared as an  
10:11:09 14 expert witness, you know that one thing that everyone  
10:11:11 15 wants to know is the assumptions that you make in arriving  
10:11:14 16 at your conclusions. And one thing that I want to be  
10:11:17 17 clear on is sort as you approach this and render an  
10:11:21 18 opinion as to the reasonableness of TDCJ's approach in  
10:11:27 19 these situations, can you tell me a little bit about how  
10:11:30 20 you conceive of the problem of heat in the Texas prison  
10:11:35 21 system? And if you need me to explain that a little more  
10:11:40 22 but how did you categorize it? How did you characterize  
10:11:50 23 it in formulating your opinion?

10:11:52 24 THE WITNESS: Sure. I started with basis of Iowa  
10:11:54 25 and Illinois. While they are not as hot or long as Texas

10:11:59 1 is hot, or in some spots of Texas as humid, Iowa and  
10:12:11 2 Illinois both are hot during times of the year and both  
10:12:12 3 have high humidity and I looked at -- I remembered what we  
10:12:17 4 did in those states to help mitigate the heat issues that  
10:12:23 5 some people were exposed to. And so, that's what I used  
10:12:30 6 as my basis, your Honor, for delving into what the TDCJ  
10:12:36 7 has done to this date.

10:12:39 8 THE COURT: And what data did you review about  
10:12:44 9 the actual temperatures and both average and extreme  
10:12:51 10 temperatures in Texas?

10:12:53 11 THE WITNESS: I looked at the claim of 150  
10:12:58 12 degrees heat index in one of the Dallas area of prisons  
10:13:05 13 and I pulled data for that date from the National Weather  
10:13:10 14 Service and looked at their heat index score and I'm going  
10:13:16 15 to be close but not accurate, your Honor. I think the  
10:13:20 16 high that day of the alleged 150 degrees the high was 93  
10:13:27 17 degrees and the relative humidity was 38 percent and I'm  
10:13:32 18 close. It was impossible to hit the 150-degree mark. So  
10:13:40 19 that led me to some conclusions. The bottom line is I  
10:13:50 20 think -- I know based on the funding he's been able to get  
10:13:55 21 that Bryan Collier's very serious about fixing this  
10:13:57 22 problem and air conditioning takes a while to install, a  
10:14:03 23 while to acquire, and I think Texas is moving down with  
10:14:09 24 the last funding of 108 million a very positive path.

10:14:12 25 THE COURT: Would you agree with me that urgency

10:14:14 1 of addressing the problem is directly related to how  
10:14:17 2 serious you review the problem to be? Now, I'll follow  
10:14:22 3 that up by saying if you look at how inmates in the prison  
10:14:27 4 system are experiencing heat, I suppose you could view it  
10:14:29 5 on a spectrum of characterizing -- I think everybody here  
10:14:33 6 acknowledges that it's a problem but I want to sort of put  
10:14:38 7 a fine point on how we view the problem because it could  
10:14:41 8 be on a continuum of being characterized as uncomfortable  
10:14:44 9 for people in these facilities, or it could be that they  
10:14:49 10 are suffering as a result of it, or it could be that their  
10:14:53 11 health is being compromised, or it could be lethal. I  
10:14:57 12 mean, that's sort of one way to picture the spectrum.

10:15:01 13 Can you share with me how you consider the heat  
10:15:03 14 to be affecting inmate populations in Texas?

10:15:06 15 THE WITNESS: Sure. Back to your comments, I  
10:15:12 16 think those are right. I would add one more to that.  
10:15:16 17 There are regrettably people who try to game the system  
10:15:23 18 sometimes. Those are small in number. I'm also always  
10:15:29 19 surprised, your Honor, when I go to a place that I think  
10:15:33 20 -- in Iowa and Illinois that I could not live in this kind  
10:15:36 21 of condition. There are people who thrive in those kind  
10:15:39 22 of conditions and I've had people beg me to keep them in  
10:15:44 23 restrictive housing. Every time I hear that, I am stunned  
10:15:49 24 by that. That's not meant to say that everybody does that  
10:15:52 25 by any stretch but there are people -- people react

10:15:56 1 differently to different conditions.

10:15:59 2 I believe in my review of Texas that I wish --  
10:16:08 3 you know, turn back the clock, it would sure have been  
10:16:14 4 nice had they afforded some air conditioning and heating a  
10:16:16 5 long time ago. They didn't and it has to get fixed. And  
10:16:20 6 I have no doubt that the TDCJ is getting on -- it's on a  
10:16:24 7 path to get that problem fixed.

10:16:26 8 THE COURT: Yeah, I get it, but you're not  
10:16:28 9 answering my question. Why does it have to be fixed?  
10:16:30 10 Does it have to be fixed because people are uncomfortable,  
10:16:33 11 because people are suffering, because people's health is  
10:16:36 12 being compromised, or because people are dying? Why? Why  
10:16:40 13 are you wanting it to be fixed?

10:16:42 14 THE WITNESS: I want it to be fixed because I  
10:16:46 15 think treatment of the offenders is better served by  
10:16:52 16 having a more normative environment for heat and, more  
10:17:00 17 importantly, the delivery of services by staff who are  
10:17:04 18 also in that heat. I believe, and I have a case in point  
10:17:10 19 that would prove this, better living, working conditions  
10:17:15 20 raises the bar of success for all people involved.

10:17:20 21 THE COURT: So if I could get an answer to my  
10:17:22 22 question then, on that spectrum, how are you conceiving of  
10:17:28 23 the effect of heat on Texas inmates on the spectrum adding  
10:17:33 24 any intermediate position that you'd like to add? Are  
10:17:38 25 they uncomfortable but not suffering? Are they suffering



10:17:41 1 but not suffering health effects? I mean, pick a point on  
10:17:45 2 that spectrum that is what you identify as being your sort  
10:17:51 3 of assumption in assessing TDCJ's performance.

10:18:00 4 THE WITNESS: My assumption is that TDCJ has  
10:18:05 5 started on down the right path.

10:18:05 6 THE COURT: Yeah, but the assumption as to the  
10:18:06 7 effect of the heat, where on that spectrum are you  
10:18:10 8 thinking people are -- because, obviously, the problem is  
10:18:12 9 the effect of the heat on people. So I have to ask what  
10:18:16 10 is your assessment then, assumption as to the effect on  
10:18:20 11 the people?

10:18:21 12 THE WITNESS: Yes. And I do not mean to be  
10:18:25 13 evasive but I will tell you what my experience in my two  
10:18:28 14 states tells me.

10:18:29 15 THE COURT: Well, let me interrupt you to help  
10:18:30 16 you answer the question. If, for example, there was no  
10:18:33 17 doubt that it was lethal, you wouldn't have trouble  
10:18:36 18 answering this question, right?

10:18:37 19 THE WITNESS: Right.

10:18:38 20 THE COURT: Okay. So can you tell me what you  
10:18:45 21 were assuming -- is it some people are uncomfortable and  
10:18:49 22 some people are dying? Or everybody's uncomfortable? Or  
10:18:52 23 is that not a good question for some reason?

10:18:55 24 THE WITNESS: My basic assumption going in going  
10:18:59 25 down that path was that people are uncomfortable.

10:19:05 1 THE COURT: Okay. Thank you. Your witness.

10:19:08 2 RE-DIRECT EXAMINATION

10:19:08 3 BY MS. WARREN:

10:19:16 4 Q. Mr. Baldwin, can you hear me okay?

10:19:18 5 A. If you could bring the mic closer to you, I'd  
10:19:23 6 appreciate it.

10:19:25 7 Q. How's this?

10:19:26 8 A. Much better. Thank you.

10:19:28 9 Q. Okay. Perfect. I just have a few followup  
10:19:32 10 questions.

10:19:33 11 Regarding the suit that Mr. Edwards spoke with  
10:19:37 12 you about regarding heat, how many times as director of  
10:19:41 13 Iowa and Illinois have you been sued?

10:19:48 14 A. I don't think I can count that high. I guess a lot.

10:19:54 15 Q. Is that a typical experience as director of the  
10:19:57 16 department of corrections?

10:19:59 17 A. Yeah, it is. I was sued way less often in Iowa than  
10:20:06 18 I was in Illinois. But I'm still going to court on  
10:20:14 19 Illinois lawsuits.

10:20:15 20 Q. Do you really think that TDCJ is going to take 70  
10:20:19 21 years to air condition its prisons based on their current  
10:20:23 22 plans?

10:20:24 23 A. No.

10:20:25 24 Q. Why not?

10:20:28 25 A. The funding that TDCJ got will really move that

10:20:35 1 process along. And if Bryan is like every other director  
10:20:41 2 of corrections that I know, including myself, once you get  
10:20:45 3 money, you go back for more to solve that problem.

10:20:49 4 Because you can go to the legislature and argue that this  
10:20:52 5 is an important issue. We're in court. You've given me  
10:20:57 6 hundreds of millions right now and I need more. And my  
10:21:01 7 experience says the legislature accepts that and will  
10:21:05 8 continue to fund what the TDCJ asks for.

10:21:13 9 Q. In your professional opinion, do you believe that Mr.  
10:21:16 10 Collier and TDCJ are doing everything in their power to  
10:21:21 11 air condition Texas prisons?

10:21:23 12 A. Yes.

10:21:25 13 Q. Are you aware of any prison system in the United  
10:21:29 14 States that has been ordered to immediately undertake a  
10:21:36 15 massive construction project systemwide?

10:21:41 16 A. No.

10:21:48 17 Q. Do you believe that it's possible for TDCJ to  
10:21:52 18 immediately install temporary air conditioning systemwide?

10:21:59 19 A. No.

10:22:02 20 Q. Pass the witness.

10:22:05 21 MR. EDWARDS: Nothing further, your Honor.

10:22:06 22 THE COURT: Thank you so much. I appreciate your  
10:22:10 23 patience with us today our technology and you are now  
10:22:14 24 excused.

10:22:15 25 THE WITNESS: Your Honor, thank you very, very

10:22:17 1 much.

10:22:18 2 THE COURT: Okay. Probably is a good time for a  
10:22:24 3 morning break so let's take a 10-minute break and we can  
10:22:29 4 resume in 10 minutes.

10:26:54 5 (Recess.)

10:33:39 6 THE COURT: Your next witness.

10:33:44 7 MS. CARTER: The defendant calls Mr. Ronald  
10:33:46 8 Hudson to the stand.

10:34:09 9 THE COURT: Before you take a seat, you could I  
10:34:12 10 get you to raise your right hand.

10:34:14 11 THE CLERK: You do solemnly swear or affirm that  
10:34:14 12 the testimony which you may give in the case now before  
10:34:14 13 the Court shall be the truth, the whole truth, and nothing  
10:34:22 14 but the truth?

10:34:22 15 THE WITNESS: Yes, sir.

10:34:23 16 RONALD A. HUDSON, called by the Defendant duly sworn.

10:34:23 17 DIRECT EXAMINATION

10:34:23 18 BY MS. CARTER:

10:34:31 19 Q. Good morning. Will you please state your full name  
10:34:34 20 for the Court, please?

10:34:35 21 A. Ronald Alan Hudson.

10:34:39 22 Q. Mr. Hudson, do you know what plaintiffs are asking  
10:34:41 23 for in this case?

10:34:42 24 A. Yes.

10:34:44 25 Q. What are they asking for?

10:34:46 1 A. To fully air condition every unit we have.

10:34:50 2 Q. Is that even physically possible to accomplish  
10:34:54 3 immediately, Mr. Hudson?

10:34:55 4 A. No, it's not.

10:34:57 5 Q. Is it even physically possible to accomplish in a  
10:35:01 6 year?

10:35:01 7 A. No.

10:35:03 8 Q. Where do you work, Mr. Hudson?

10:35:06 9 A. I am the Facilities Director for the Texas Department  
10:35:09 10 of Criminal Justice.

10:35:09 11 Q. How long have you worked for TDCJ?

10:35:20 12 A. Thirty-two years.

10:35:23 13 Q. And just briefly, Mr. Hudson, can you explain to the  
10:35:27 14 Court what roles or positions you've had in TDCJ since the  
10:35:31 15 start of your career?

10:35:32 16 A. Sure. Started out as a correctional officer at the  
10:35:36 17 Walls Unit, did that for six years, worked as security.  
10:35:41 18 Lived there, went into working for the manufacturing and  
10:35:45 19 logistics division with the Texas Correctional Industries  
10:35:48 20 where I worked my way up through the textile mills, the  
10:35:51 21 garment factories, did that, moved on up and I rent all  
10:35:57 22 warehouses. I was a division manager within TCI, did that  
10:36:01 23 for about 15 years. Then I moved over into food service  
10:36:05 24 and laundry and I was the director for the food service  
10:36:07 25 and the laundry supply operations for the prison system.

10:36:12 1 Then after that, I went back to MAL and that's  
10:36:15 2 when M&L took over the ag operations and I was promoted in  
10:36:22 3 2017 to go back over to MAL and I was the deputy division  
10:36:27 4 director over the agribusiness and minerals for two years.  
10:36:33 5 And then, after two years, I transferred over and I was a  
10:36:35 6 Deputy Division Director for Texas Correctional Industries  
10:36:38 7 in the warehouse operations. And then, in 2021, I  
10:36:44 8 transferred over to the facilities division and I was the  
10:36:46 9 Deputy Division Director for Facilities Division for a  
10:36:49 10 year. And now, I have been the division director; it will  
10:36:52 11 be two years at the end of August.

10:36:55 12 Q. Not just in this director role but in your previous  
10:37:00 13 roles as directors, about how many units do you oversee?

10:37:04 14 A. When I was in laundry and food service, I'd overseen  
10:37:09 15 all operations across the state. All laundry and all food  
10:37:12 16 service and all supply. When I was in the warehouse role,  
10:37:17 17 I'd overseen all warehousing for the entire industry. I  
10:37:20 18 ran all warehousing, making sure that the food supply  
10:37:22 19 chain was well taken care of. I made sure that there was  
10:37:25 20 enough necessities in the warehouse, supplies to take care  
10:37:28 21 of the units, the day-in-and-day-out operations.

10:37:31 22 And then, when I was in the ag operations, there  
10:37:34 23 was roughly about 20 units that had ag operations on that  
10:37:37 24 I'd overseen those, also. And as you move into your role  
10:37:43 25 as TCI deputy division director, you know, there's

10:37:46 1 probably 30 or 40 units you have operations on. And then,  
10:37:52 2 as the facilities, your over all -- I mean, you've got the  
10:37:57 3 whole thing. You're on every unit all the time.

10:38:03 4 Q. What does the facilities division do?

10:38:06 5 A. What we do is we have right at 1,200 employees within  
10:38:11 6 the facilities division or positions and we oversee all  
10:38:14 7 the maintenance on the units. We make sure that we have  
10:38:19 8 safe secure operations on those units. We make sure that  
10:38:23 9 we make timely repairs in a timely manner when those life  
10:38:28 10 safety issues arise. We make sure that if there are  
10:38:34 11 things that potentially become a risk for per se, you  
10:38:39 12 know, we oversee all the wastewater treatment plants, the  
10:38:43 13 water wells. We run -- we take care of that whole  
10:38:48 14 operation of overseeing those operations on the units.

10:38:51 15 And then, there's also regional staff in each of  
10:38:54 16 the regions across the state so if, you know, a problem  
10:38:56 17 arises on a unit that the unit staff can't handle, then  
10:39:02 18 we'll deploy the regional staff. Or we have staff at  
10:39:06 19 headquarters that we'll deploy that staff also out of  
10:39:08 20 headquarters.

10:39:09 21 Q. How many different facilities and units does TDCJ  
10:39:12 22 have across the state, Mr. Hudson?

10:39:14 23 A. Right at 101.

10:39:16 24 Q. And are all those facilities the same?

10:39:20 25 A. No, they're not.

10:39:23 1 Q. What are your responsibilities as Director of  
10:39:27 2 Facilities?

10:39:28 3 A. My responsibility as the Director of Facilities is to  
10:39:34 4 -- I oversee all unit operations. I have regional  
10:39:38 5 managers that oversee those. Within the headquarters, we  
10:39:43 6 have five different departments. We have the maintenance  
10:39:47 7 director position that oversees the maintenance. We have  
10:39:49 8 the engineering department that oversees all engineering  
10:39:52 9 work that we have. We have a budget area that oversees  
10:39:56 10 all the programming as far as the budget needs we may need  
10:40:01 11 and make sure that the units have adequate funding on the  
10:40:03 12 units. And then, we also have a risk assessment  
10:40:06 13 department within headquarters that oversees -- that goes  
10:40:09 14 out and conducts audits. They do approximately 35 to 40  
10:40:13 15 audits a year at all units. They're constantly out on  
10:40:15 16 units, auditing units on maintenance operations.

10:40:18 17 We also have a project administration department  
10:40:20 18 that when we have projects, PO projects or board projects  
10:40:26 19 that's over a million dollars, we have a group of  
10:40:28 20 individuals that oversees those projects and work with  
10:40:31 21 those companies, making sure that we install or that we  
10:40:34 22 build out those projects according to engineering specs.  
10:40:39 23 And then, we also have an environmental department that  
10:40:41 24 also works closely with TCEQ, TDA. They make sure that  
10:40:47 25 we're within regulations on all of our water treatment



10:40:51 1 plants, our wastewater treatment plants, that we have  
10:40:56 2 garbage collection. So they're over all the environmental  
10:41:01 3 part of that. I oversee all of those operations.

10:41:03 4 Q. And you mentioned the projects. What kind of  
10:41:05 5 projects does facility run?

10:41:10 6 A. It's a lot. You know, currently right now, we have  
10:41:16 7 approximately about 20 board projects right now that are  
10:41:21 8 over a millions dollars. Projects that have to go before  
10:41:23 9 board approval. We have those projects. We have -- and  
10:41:30 10 just to name a few of those projects that we have, we have  
10:41:33 11 -- right now, we overseeing a project of replacing some  
10:41:37 12 chillers at the clinics unit.

10:41:39 13 We're also looking to oversee the project at the  
10:41:41 14 Michael Unit, replacing those chillers. Those were the  
10:41:44 15 original chillers that were on those units. So we're in  
10:41:46 16 the process of overseeing that. We're in the process of  
10:41:49 17 building a new water treatment plant, the Ferguson Unit.  
10:41:53 18 That is the original treatment plant when the Ferguson  
10:41:56 19 Unit was built. So that unit was built in the early '70s  
10:41:59 20 so, again, that's age and infrastructure we have to talk  
10:42:02 21 care of. We have a wastewater treatment plan that's  
10:42:06 22 fixing to go up for out on the street, that's going to be  
10:42:09 23 somewhere between probably 10 or \$15 million project. And  
10:42:13 24 that's just one of our first wastewater treatment plants  
10:42:16 25 that we are rebuilding. We have 13 of those.

10:42:18 1 So we have 13 more of those to go in a line of  
10:42:22 2 those and those wastewater treatment plants, like I said,  
10:42:25 3 are anywhere from 10 to \$15 millions apiece to rebuild  
10:42:29 4 those. Water treatment plants aren't cheap either. That  
10:42:31 5 project right there probably runs around the \$10 million  
10:42:34 6 range. So we have to provide those units water where  
10:42:37 7 we're not on a city provider water. We have to maintain  
10:42:41 8 -- those apply where a lot of our units are built, there  
10:42:46 9 isn't a local municipality where we can get that water  
10:42:48 10 from. So we have to ensure that we keep that water on  
10:42:52 11 those units, keep the wastewater going. We keep those  
10:42:55 12 fences repaired. We just run safe and secure operations  
10:43:00 13 across the state and it's a huge responsibility.

10:43:03 14 Q. Is air conditioning facilities, is that a project  
10:43:06 15 that facilities divisions manages?

10:43:08 16 A. It is. It is our number-one priority right now.

10:43:14 17 Q. Mr. Hudson, how much do you interact with Mr.  
10:43:17 18 Collier?

10:43:18 19 A. I interact with Mr. Collier every week -- almost two  
10:43:24 20 or three times a week, if not in a day.

10:43:27 21 Q. Do you update Mr. Collier on a facilities plans  
10:43:32 22 throughout the system?

10:43:32 23 A. Yes, ma'am.

10:43:33 24 Q. Do you have to advise Mr. Collier how much facilities  
10:43:36 25 projects will cost?

10:43:38 1 A. I do.

10:43:39 2 Q. Who assists you in these cost evaluations?

10:43:45 3 A. We have an engineering department that works that has  
10:43:49 4 a lot of knowledge. Our lead engineer is not only a  
10:43:53 5 engineer but he's also an attorney, also. He has a lot of  
10:43:56 6 experience and I rely on him heavily. And then, he has  
10:44:03 7 seven engineers that work under him. He has two deputy  
10:44:05 8 engineers and then, he has two architects. So he has a  
10:44:09 9 staff of 12 individuals that work under him. We rely on  
10:44:13 10 him heavily.

10:44:14 11 And then, we also partner with -- we currently  
10:44:17 12 have 18 firm -- engineering firms on contract right now  
10:44:23 13 who works on some of our bigger projects for us. And  
10:44:27 14 right now, our engineers or right now, they're managing  
10:44:32 15 somewhere an 350 projects whether they're in design or in  
10:44:35 16 construction, well over \$500,000 that they manage on a  
10:44:41 17 daily basis and it's a lot.

10:44:43 18 Q. Can we pull up Defendant's Exhibit 19. And, Mr.  
10:44:57 19 Hudson, while James is pulling this up, why do we work  
10:45:00 20 with outside engineering firms?

10:45:03 21 A. When you get into projects like some of these big AC  
10:45:06 22 projects that we have, we do not have the bandwidth, we  
10:45:09 23 don't have the staff to pull that off. That is a huge  
10:45:14 24 task to undertake. Not only are you designing -- many of  
10:45:18 25 our units as well as -- everybody in this courtroom knows,

10:45:20 1 many of our units were not built with air conditioning.  
10:45:23 2 They just weren't. A lot of our units that were built in  
10:45:26 3 the '90s are the ones that we're focusing on right now  
10:45:30 4 that we are getting designs on those now. We've got four  
10:45:35 5 different -- we've got four of those firms right now  
10:45:39 6 that's helping us design those projects now so -- and not  
10:45:42 7 only are we designing the HVAC but for every one of these  
10:45:45 8 units is going to have a backup generator to that HVAC.

10:45:49 9           The biggest problem that we learned from the Pack  
10:45:52 10 Unit when we designed that one is we didn't have enough  
10:45:54 11 electrical power. We're still dealing with that today. I  
10:45:57 12 mean, I've already spent just this year on transformers,  
10:46:01 13 rebuilding transformer banks, I've already spent just this  
10:46:03 14 year alone over a million dollars on electrical upgrades  
10:46:07 15 still at Pack today because we rushed into that deal and  
10:46:11 16 we didn't give that project enough time to go through the  
10:46:14 17 full design because we got in a hurry on that deal.

10:46:16 18           We can't get into a hurry when we go in designing  
10:46:21 19 these projects. That's the worst thing we can do because  
10:46:23 20 what you're going to wind up doing when you get in a hurry  
10:46:25 21 is you're going to waste money at the end. That's hard  
10:46:29 22 taxpayers' dollars that we are managing on a daily basis.  
10:46:33 23 So that's why we rely on engineers. That's why we rely on  
10:46:37 24 our outside engineers, our outside partners on all of our  
10:46:40 25 projects that we do because we want to make sure that

10:46:42 1 those things are done right and they're done right the  
10:46:44 2 first time so we don't have to go back and make those  
10:46:49 3 repairs later on.

10:46:50 4 Q. Mr. Hudson, you testified that you manage a team  
10:46:53 5 specifically of engineers that have the project managers  
10:46:56 6 and deputy engineers on their team; is that correct?

10:46:59 7 A. That's correct.

10:47:00 8 Q. And you work with them in contracting as well with  
10:47:03 9 outside engineers?

10:47:03 10 A. That's correct.

10:47:05 11 Q. At this time, defendant would like to move to  
10:47:07 12 designate Mr. Hudson as an expert in facilities  
10:47:09 13 management.

10:47:11 14 MR. HOMIAK: No objection, your Honor.

10:47:12 15 THE COURT: So recognized. Thank you.

10:47:15 16 Q. (BY MS. CARTER) Mr. Hudson, are you familiar with  
10:47:18 17 this document?

10:47:29 18 A. Yes, I could see it.

10:47:38 19 Q. What is this, Mr. Hudson?

10:47:40 20 A. This is a list of all of our engineers that we have  
10:47:42 21 on contract now. The ones that are highlighted in yellow  
10:47:46 22 have HVAC experience that we could rely on to do design  
10:47:50 23 work for us. The ones that's on that list that has our  
10:47:56 24 projects now that are in design with Huitt-Zollars,  
10:48:02 25 Jacobs, Parkhill, Stanley would be the ones on that list

10:48:07 1 that currently have some of our HVAC projects right now.

10:48:31 2 Q. Mr. Hudson, can TDCJ or you just call up any of these  
10:48:36 3 engineering firms and say let's get some plans going?

10:48:38 4 A. There's a process that that goes through. Whenever  
10:48:42 5 we start a project, for instance, an HVAC project, we know  
10:48:46 6 who those ones on that list who we go to, the negotiations  
10:48:50 7 start back and forth about what they can design that  
10:48:53 8 project for. I could tell you right now, in just HVAC  
10:48:57 9 projects today of what we have in design right now, we  
10:49:00 10 have like -- I think it's right at \$6.7 million of our  
10:49:05 11 85.7 million is tied up in design of getting these units  
10:49:07 12 designed right now. That's what we have tied up in design  
10:49:11 13 work currently.

10:49:15 14 Q. Do you have to get projects approved by anyone, Mr.  
10:49:18 15 Hudson?

10:49:18 16 A. We do.

10:49:19 17 Q. Who do you have to get your projects approved by?

10:49:22 18 A. Depending on the dollar-wise of what those projects  
10:49:24 19 are, we have what we call a facilities review board.  
10:49:27 20 Anything under \$50,000, I could approve those projects.  
10:49:30 21 Anything over \$50,000 has to go to a review board. From  
10:49:35 22 50,000 to half a million dollars, our deputy executive  
10:49:39 23 director approves those. Anything from 500,000 to  
10:49:42 24 \$999,000, Mr. Collier approves those. Anything over a  
10:49:46 25 million dollars, we have to take to our board for

10:49:48 1 approval.

10:49:49 2 Q. Do bids have to get approved?

10:49:54 3 A. Yes, they do.

10:49:55 4 Q. Who are bids approved by?

10:49:57 5 A. Our contracts procurement division.

10:50:06 6 Q. You mentioned \$85 million, Mr. Hudson. Do you know  
10:50:10 7 where that number came from?

10:50:11 8 A. Yes. That was what was appropriated by the  
10:50:13 9 legislature for us to install air conditioning on our  
10:50:16 10 units, yes, ma'am.

10:50:17 11 Q. Where does facilities get its budget?

10:50:20 12 A. Our budget is appropriated -- each session, we get  
10:50:26 13 appropriated an amount of deferred maintenance and you can  
10:50:28 14 go back prior to 2018 on what we've been appropriated and  
10:50:36 15 normally, prior to 20 -- well, even through 2018-'19  
10:50:39 16 legislative session, we were only appropriated \$40  
10:50:42 17 million. Prior to that, we were only appropriated \$40  
10:50:46 18 million, okay? After '18 and '19 when you get in -- when  
10:50:54 19 you into 2021, that's when our budget went to the 54  
10:50:59 20 million, that's what we were appropriated, for deferred  
10:51:00 21 maintenance projects. That's all those projects I'm  
10:51:02 22 talking about for wastewater treatment plants,  
10:51:05 23 refurbishing water wells, whatever those big projects --  
10:51:07 24 renovating kitchens on units, all of those big projects  
10:51:10 25 that we do, that's where that money comes from. That's

10:51:13 1 what we pay out of our big projects is that amount of  
10:51:16 2 money. And when you talk about managing 37 million square  
10:51:23 3 foot of space that TDCJ or facilities has to manage and  
10:51:27 4 take care of, that's a lot of space that we manage on a  
10:51:30 5 daily basis when you talk about 37 million square foot.  
10:51:34 6 It takes a lot money to manage something that big.

10:51:36 7 Q. And you told me the projects that would come out of  
10:51:41 8 the deferred maintenance project. Can you explain what a  
10:51:43 9 deferred maintenance budget is? Like how does that  
10:51:46 10 operate?

10:51:46 11 A. Deferred maintenance budget is projects that each  
10:51:51 12 year that we identify that we put on a list that we want  
10:51:54 13 to accomplish, okay? So of that list when we get funding,  
10:51:58 14 we'll pull projects off of that list to get those projects  
10:52:03 15 done. So when you only get \$54 million, or if you only  
10:52:07 16 get \$40 million, or if you get \$105 million, or like this  
10:52:13 17 session, we were able to get 105 plus the 85.7, you know,  
10:52:18 18 plus some more funding for some other things, we were able  
10:52:21 19 to pull more projects to the forefront to get those things  
10:52:24 20 done that hasn't been getting done for a long time.

10:52:27 21 You know, the last unit we built was in 1997 was  
10:52:33 22 the Lopez Unit. That's the last unit we built. Think  
10:52:36 23 about how old that unit is and what the life expectancy of  
10:52:41 24 some of those units are. Some of those units have already  
10:52:42 25 met some of their life expectancy that we're having to go



10:52:44 1 back and rebuild a lot of those envelopes on those units.  
10:52:47 2 It takes a lot of money to manage those units and be sure  
10:52:49 3 that they stay safe and secure, in good working order.

10:52:53 4 Q. Mr. Hudson, did you hear plaintiffs' counsel ask some  
10:52:57 5 questions to Mr. Baldwin about building a prison unit in,  
10:53:02 6 I believe it was, Idaho or Illinois?

10:53:04 7 A. One of our engineering firm -- and I did hear that  
10:53:07 8 but I'm going to use another example. One of our  
10:53:11 9 engineering firms, HOK, okay? It's -- I mean, they're the  
10:53:15 10 same ones that's designed the capitol complex project over  
10:53:18 11 here. They're actually one of our 18 design companies  
10:53:21 12 that we use. They designed a prison in Utah. They told  
10:53:26 13 us a 2250 that style unit now would cost us well in excess  
10:53:30 14 of over a billion dollars to build that unit today.

10:53:33 15 Q. And can you explain to the Court what a 2250 is?

10:53:36 16 A. A 2250 is one of our units that we built in the '90s,  
10:53:40 17 one of our maximum security units to where we built 10 of  
10:53:44 18 those in -- I think the Michael Unit was built in the late  
10:53:46 19 '80s and the other nine were built in the '90s. Those are  
10:53:50 20 some of our maximum security units that were built during  
10:53:52 21 that timeframe. And those 2250s, they're going to have  
10:54:01 22 six housing locations on them. All your 2250s are going  
10:54:05 23 to have a 12 building. They were built with the 12  
10:54:08 24 building with air conditioning. At the time, we used that  
10:54:09 25 for restrictive housing at the time or a lot of our G5

10:54:13 1 population.

10:54:14 2           Later on down the road, two of those units, the  
10:54:17 3 Allred Unit and the Clements Unit, both were built with  
10:54:22 4 ECVs, those were also built sometime in the early 2000s.  
10:54:25 5 Both of those were built with air conditioners in those,  
10:54:28 6 also, too.

10:54:28 7 Q. Can you explain what an ECV is?

10:54:30 8 A. That's an expansion cell block. Those were built for  
10:54:33 9 our more restrictive-type inmates, our GR, G5 populations  
10:54:37 10 inmates, and two of those 2250s have those on those, also.  
10:54:41 11 So those 2250s are maximum security units where we try to  
10:54:46 12 manage that type of inmate population.

10:54:49 13 Q. And if TDCJ was told today to build a new unit, would  
10:54:52 14 it have to be a 2250?

10:54:54 15 A. It would not have to be a 2250. It would be whatever  
10:54:57 16 we would come up with that we wanted to design, but it  
10:55:01 17 would probably be pretty close to a 2250, somewhere in  
10:55:05 18 that same concept.

10:55:08 19 Q. Going back to the deferred maintenance budget, Mr.  
10:55:11 20 Hudson, and I'll use Hurricane Beryl for an example. If a  
10:55:16 21 unit gets hit by a hurricane and needs a new roof, does  
10:55:19 22 that come out of the deferred maintenance budget?

10:55:21 23 A. It does.

10:55:21 24 Q. How much does a new roof on a unit cost?

10:55:27 25 A. Right now, we're working on getting the Hughes Unit a

10:55:30 1 new roof. That roof -- and one of the things we do now  
10:55:32 2 whenever we do roofs is we just don't just change the roof  
10:55:35 3 out because a lot of our exhaust fans on the roofs, a lot  
10:55:39 4 of our air conditioning units that potentially could be on  
10:55:41 5 those roofs, we change those out when we do a roof  
10:55:45 6 project. The estimated cost of doing a roof at the Hughes  
10:55:49 7 Unit is well in excess of over \$20 million. As a matter  
10:55:54 8 of fact, it's so much that we've had to break that project  
10:55:57 9 up into two phases.

10:55:59 10 So the first phase of that project is we went in  
10:56:01 11 there and we have defined what roofs were in the worst  
10:56:06 12 shape because we don't have the \$20 million right now to  
10:56:08 13 spend on that one project. So we've had to break that  
10:56:10 14 roof up into two projects to get it done. So we went in  
10:56:13 15 and we've looked at what roofs were the worst ones and  
10:56:16 16 that's the ones we're going to move into that first phase,  
10:56:18 17 and we should get that done somewhere between probably 10  
10:56:22 18 to \$12 million and that's only half the unit.

10:56:35 19 Q. How many units did you say TDCJ has currently?

10:56:38 20 A. 101.

10:56:40 21 Q. And how many units are currently fully air  
10:56:44 22 conditioned?

10:56:44 23 A. There's 32.

10:56:48 24 Q. How many units are partially air conditioned?

10:56:50 25 A. Fifty-five.

10:56:53 1 Q. How many units are currently temporarily air  
10:56:56 2 conditioned?

10:56:56 3 A. How many units are temporary, you're talking about  
10:56:58 4 full units? Full units or just how many units do we have?

10:57:03 5 Q. If there's a difference, you can tell me.

10:57:05 6 A. Okay. There is a difference, okay? Right now,  
10:57:10 7 Operation Lone Star has the Briscoe and Segovia Units.  
10:57:15 8 They are the only two units we have today that are fully  
10:57:19 9 temporary air conditioned are those two units. However,  
10:57:24 10 we do have a portion of the Lopez Unit that also has  
10:57:27 11 Operation Lone Star inmates on it are detainees on that  
10:57:31 12 unit, also. So there is a portion of the Lopez Unit that  
10:57:34 13 is temporarily air for the Lopez Unit.

10:57:38 14 Currently, what we have temporary air  
10:57:40 15 conditioned, what we use right now, we use the Beto jail  
10:57:44 16 and we've got two housing locations at the Murray Unit and  
10:57:47 17 that is the only places that we have temporary air today;  
10:57:50 18 and the reason that we have those temporarily air  
10:57:52 19 conditioned is that the Beto jail, when we closed the  
10:57:55 20 Gurney Unit down a few years back, we took our intake  
10:58:00 21 inmates and we moved intake to the Beto Unit. So that was  
10:58:03 22 still part of that AC intake initiative that we did in  
10:58:09 23 '22, '23. The Beto Unit was one of the units that we  
10:58:12 24 picked that we were going to air condition A, B, C and D  
10:58:15 25 wing, okay? That's in design now. That design of just

10:58:19 1 that portion of the Beto Unit right now is a board  
10:58:24 2 project. The program cost on that design right now just  
10:58:27 3 before we was on the Beto Unit is \$1.2 million just to  
10:58:30 4 design a portion of a system one-type unit, the Beto Unit.

10:58:36 5 So to answer your question, the only places that  
10:58:38 6 we have right now that are air conditioned is the Beto  
10:58:42 7 jail for intake of offenders that come in from county  
10:58:45 8 jail, and we also have J building and K building at the  
10:58:49 9 Murray Unit that are temporarily air conditioned for that  
10:58:52 10 summertime. However, we do have other temporary air  
10:58:58 11 conditionings all across the state that when we have a  
10:59:00 12 housing location that goes down with an air conditioning  
10:59:03 13 problem, if we can't fix that air conditioning in a timely  
10:59:07 14 manner, if region shows up and can't fix that air  
10:59:13 15 condition in a timely manner, if we can't get parts, we  
10:59:17 16 immediately rent a piece of equipment to go in where that  
10:59:20 17 air conditioning is. We rent anywhere from 10 tons to 20  
10:59:25 18 tons, 30 tons to 40 tons and we even got some chillers. I  
10:59:30 19 mean, you can go to the Estelle Unit right now, in the RMF  
10:59:32 20 unit right now, there's a chiller sitting out there right  
10:59:34 21 now because one of our chillers are down. So we rent  
10:59:37 22 chillers for that purpose when we have equipment that goes  
10:59:40 23 down.

10:59:43 24 Q. Let's talk about rental equipment for a moment, Mr.  
10:59:46 25 Hudson. Did you hear testimony or questioning from

10:59:51 1 plaintiffs' counsel about when TDCJ temporarily AC-ed the  
10:59:55 2 Pack Unit?

10:59:56 3 A. I did.

10:59:56 4 Q. Do we still temporarily AC units the way we did Pack?

11:00:02 5 A. No.

11:00:04 6 Q. How was Pack Unit temporarily air conditioned?

11:00:08 7 A. Okay. We use that term loosely about temporarily air  
11:00:16 8 conditioned at Pack. We did temporarily air condition it  
11:00:20 9 until we got the permanent air conditioning in there,  
11:00:22 10 however, those weren't actual rental units that we rented  
11:00:25 11 that we brought there. We actually bought that equipment  
11:00:28 12 for about \$900,000, I believe, about \$900,000 and we  
11:00:34 13 installed those into the current duct work that's there  
11:00:38 14 now.

11:00:38 15 And we still use those air conditions today as a  
11:00:42 16 permanent solution if the permanent air conditioning was  
11:00:45 17 to go out, or so we have something freeze up or compressor  
11:00:49 18 freeze up or something happened to that permanent air  
11:00:52 19 conditioning, we can flip the switch and we can go out  
11:00:53 20 there, we can turn on the other permanent air conditioner.  
11:00:56 21 So it's not temporary. It's permanent.

11:00:59 22 So when you talk about \$300,000 a year, okay?

11:01:04 23 But then, you also had to buy fuel for that generator.

11:01:07 24 That generator ran on generator power for eight months,

11:01:10 25 okay? Those generators use somewhere between -- depending

11:01:13 1 on the size of the generator, that generator's going to  
11:01:16 2 use -- if it's a smaller generator, it's going to use  
11:01:19 3 somewhere about 10 gallons an hour. If you've got a  
11:01:22 4 bigger generator, those generators are going to be up in  
11:01:26 5 the 30 gallons an hour. I mean, they are some -- they use  
11:01:29 6 a lot of fuel.

11:01:30 7           When you talk about running a generator for that  
11:01:32 8 long, that's cost associated with temporarily air  
11:01:37 9 conditioning something. It's not like you can just say, I  
11:01:38 10 could air condition temporarily something for this and  
11:01:42 11 whatever that cost of that temporary unit is. You have to  
11:01:44 12 factor in that cost of what that fuel is that goes into  
11:01:47 13 running that generator that powers that air conditioner  
11:01:50 14 up. That's cost associated with that.

11:01:53 15 Q. Mr. Hudson, how much would it cost to rent temporary  
11:01:58 16 AC equipment for a six month or seven-month period for one  
11:02:02 17 year?

11:02:05 18 A. Based on the prices that we have now, it's -- these  
11:02:14 19 are just estimates because we haven't done it so these are  
11:02:18 20 just estimates. And I don't want anybody to say when they  
11:02:21 21 come up here and they say, you're inflating your prices  
11:02:23 22 because it's a pie-in-sky number. We don't know. But  
11:02:25 23 based on the prices we have now and working with vendors  
11:02:28 24 like we work with now, Sunbelt, United, Aggreko, Intex,  
11:02:33 25 all these companies that we partner with now that we rent

11:02:36 1 equipment from that come out now, based on those prices  
11:02:43 2 and we looked at how many housing areas do not have air  
11:02:46 3 conditioning. 1,176 housing areas do not have air  
11:02:51 4 conditioning that we would have to temporarily air  
11:02:53 5 condition across the state.

11:02:53 6           So that would take -- and it's pretty easy to  
11:02:56 7 figure that on your smaller units, the units that were  
11:02:59 8 built in the '90s, that's really -- it's easier to figure  
11:03:02 9 that on those type of units, your 500-bed units, your  
11:03:05 10 thousand-bed units. Your 2250s, those are kind of easy  
11:03:09 11 because like the Pack Unit, if we had to go there and we  
11:03:12 12 had to air condition another Pack Unit, which we have four  
11:03:15 13 of those same type units, that's a dorm-type unit. You  
11:03:19 14 just blow air into it like a stadium like we do the Pack  
11:03:19 15 Unit.

11:03:22 16           However, you get into our thousand beds like the  
11:03:24 17 Briscoes and you get into those ones that actually got  
11:03:29 18 cells, that makes it more difficult to get air into those  
11:03:32 19 cells temporarily the way that you do that. That makes it  
11:03:36 20 harder to do that. The biggest issue we have with the --  
11:03:43 21 it's not an issue, it's a challenge. Our system one-type  
11:03:45 22 units that are old type units, like the Coffield Unit, how  
11:03:48 23 would you pump enough temporary air into the Coffield Unit  
11:03:51 24 to keep it 65 to 85 degrees with temporary air  
11:03:56 25 conditioning?



11:03:56 1 A lot of our other system one units are the same  
11:04:00 2 way. We have 17 of those system one-type units that are  
11:04:03 3 old red brick-type units.

11:04:05 4 Q. Mr. Hudson, can you explain why those system one  
11:04:08 5 units would be difficult to air condition?

11:04:09 6 A. Because they have windows that go all the way up a  
11:04:12 7 wall that stay open all the time. So as part of the  
11:04:16 8 design challenges we're having, how are we going to close  
11:04:20 9 all of those windows? How are we going to enclose that  
11:04:24 10 system one-type unit to where you could air condition that  
11:04:28 11 type unit?

11:04:28 12 On your 2250s, your thousand-bed units that were  
11:04:31 13 built in the '90s, it will be a challenge but we're  
11:04:34 14 working through that now. But where we have our biggest  
11:04:37 15 challenge at now is with those system one-type units.  
11:04:40 16 However, we do have some investigatory work going on with  
11:04:44 17 those companies now, like Beto. We've got investigatory  
11:04:48 18 work going on at Estelle. We've got investigatory work  
11:04:51 19 going on at Memorial that were started. We've got  
11:04:54 20 investigatory work where we've got one on those units.

11:04:57 21 Now, to get back to answering your question, we  
11:04:59 22 put together a spreadsheet that -- an estimate per se, you  
11:05:06 23 know, and I was looking at it last week and this week and  
11:05:09 24 vendors -- we're still working with vendors every day.  
11:05:12 25 It's a very, very fluid number. You know, I think I sent

11:05:15 1 you another document last night, we're still working on  
11:05:18 2 that cost as to what it would take.

11:05:20 3           When you talk about temporarily air conditioning  
11:05:24 4 1,176 housing areas when you've got to rent an air  
11:05:28 5 conditioner and you have to rent a generator to go with  
11:05:30 6 that and it's just an estimate, it will be well in excess  
11:05:34 7 over -- I want to say well over 100 -- I think it was --  
11:05:45 8 it was well in excess of \$180 million.

11:05:49 9 Q.   And that's just the equipment.

11:05:50 10 A.   That's just the equipment.

11:05:51 11 Q.   How much fuel does it take to run those generators  
11:05:53 12 and run those equipment?

11:05:55 13 A.   When you would have to run those generators, you run  
11:05:57 14 them for seven months. Well, we would have to rent for  
11:06:01 15 seven months. I think something was talked six months.  
11:06:05 16 You'd have to rent from April 1 to October 31st is what  
11:06:08 17 you would have to rent for. It's seven months. You run a  
11:06:12 18 generator for seven months, this is where your biggest  
11:06:17 19 cost is on an estimate when you're trying to run that many  
11:06:20 20 generators across the board, when you're trying to run  
11:06:25 21 1,133 generators for that long for a seven-month period,  
11:06:29 22 24 hours a day, seven days a week, that was well in excess  
11:06:32 23 of about \$600 million.

11:06:36 24           And not only are you buying fuel for that but  
11:06:38 25 you're also having to buy debt for that. There's a cost

11:06:41 1 associated with debt. However, we do get our fuel at a  
11:06:45 2 cheaper cost than most people do. We got that on contract  
11:06:47 3 right now in the way we buy our fuel is we buy it in  
11:06:49 4 racks. We buy it from Sun -- I think it's from Sunoco.  
11:06:52 5 So we buy our fuel in bulk fuel and we get a little bit  
11:06:56 6 cheaper than everybody else do.

11:06:58 7           When I figured that spreadsheet the other day, we  
11:07:00 8 -- at the time that I got that quote, the rack of fuel  
11:07:03 9 that we were buying at the time was about \$3 a gallon.  
11:07:07 10 When I looked yesterday, that same rack of fuel is about  
11:07:13 11 \$2.85. So that price of that fuel fluctuates up and down.  
11:07:16 12 Now, the one thing that you haven't -- that we didn't  
11:07:19 13 account for within that estimate is the staff hours that  
11:07:26 14 it's going to take on our units to man those generators 24  
11:07:31 15 hours a day to keep fueling those generators for a  
11:07:34 16 seven-month time over that many units. I don't think we'd  
11:07:38 17 have the staff on the unit to be able to do it. We'd  
11:07:41 18 probably have to hire extra staff on our units to do that.  
11:07:43 19 That wasn't even attributed to the fact of that estimate  
11:07:47 20 of what it would take to temporarily air condition those  
11:07:51 21 units.

11:07:52 22 Q. So what is our overall estimate for how much it would  
11:07:55 23 cost total project to rent, to do temporary AC systemwide  
11:08:01 24 for seven months?

11:08:04 25 A. It'd be somewhere between 700, \$800 million and the

11:08:09 1 majority of that cost is in fuel. The majority of that's  
11:08:12 2 going to be in fuel running those generators for that  
11:08:15 3 long. And let me make this point. What we were told to  
11:08:21 4 do, we had to do that. Right now, we are so focused on  
11:08:24 5 trying to make permanent air conditioning, we are so  
11:08:26 6 focused on trying to get that done and that is one of my  
11:08:31 7 -- one of the agency's biggest goals right now and that's  
11:08:34 8 one of my biggest goals right now.

11:08:35 9           If we were to have to do that -- stop what we're  
11:08:37 10 doing on trying to permanent, we had to go to temporary  
11:08:40 11 air conditioning today, for that time period, all of our  
11:08:44 12 resources that we're trying to get done over here and  
11:08:46 13 trying to get things done, that's going to take away from  
11:08:48 14 that because we just don't have the staff or the resources  
11:08:51 15 to do both.

11:08:53 16           Pack Unit was pretty simple because it's only one  
11:08:57 17 unit. But when you talk about spreading out over that  
11:08:58 18 many units to try to get that done in that short period of  
11:09:03 19 time, it'd be difficult for us.

11:09:13 20 Q. Mr. Hudson, I want to talk about the different units  
11:09:15 21 a little bit later so we'll circle back to why Pack is  
11:09:19 22 different than the rest. But I want to ask, have you had  
11:09:22 23 the chance to listen to all the witness testimony so far  
11:09:24 24 this week?

11:09:24 25 A. I've been in and out.

11:09:26 1 Q. Did you hear plaintiffs' counsel ask me about some  
11:09:30 2 partial AC units where they allege there may be only a few  
11:09:35 3 air-conditioned beds installed?

11:09:36 4 A. I heard that.

11:09:38 5 Q. You mentioned investigatory work earlier. What is  
11:09:42 6 investigatory work?

11:09:44 7 A. Investigatory work is work that you do before you go  
11:09:47 8 into a full design of a project, okay? So we want these  
11:09:51 9 engineers to go -- not our engineers but these firms that  
11:09:53 10 we partner with to go out to the Estelle Unit, to go out  
11:09:57 11 to the Memorial Unit, to go out to the Byrd Unit, that's  
11:10:01 12 where we're doing those investigatory works on those  
11:10:05 13 system ones with those outside engineering, tell us what  
11:10:09 14 it's going to take to put air conditioning in these  
11:10:13 15 buildings.

11:10:14 16           These buildings were built -- some of these were  
11:10:16 17 built early 1900s. The Walls was built -- I was a CO on  
11:10:19 18 the Walls Unit. That thing was built back in the  
11:10:22 19 mid-1800s and some of the same buildings are still there  
11:10:26 20 that have just been renovated over the years. So those  
11:10:29 21 places like that -- when you walk into a system one unit,  
11:10:32 22 just to explain how system one, say, for instance, the  
11:10:35 23 Memorial Unit, for example -- and I don't know how many  
11:10:38 24 people in the courtroom other than -- has actually been on  
11:10:41 25 a system one-type unit.

11:10:42 1 But a system one-type unit is built like a  
11:10:45 2 telephone pole, okay? When you walk into the hallway,  
11:10:48 3 there's a long hallway like probably as long as two  
11:10:52 4 football fields long, and off in the hallway, you have  
11:10:56 5 housing that comes off that long hallway. So that's where  
11:11:02 6 like at the Beto Unit where we're trying to air condition  
11:11:04 7 A, B, C and D wing, that's on the north side of the unit.  
11:11:08 8 But as you work your way down that hallway, you've got A,  
11:11:12 9 B, C, D, then you've got E, F, G, then you've got H, I, J,  
11:11:16 10 K, L, M, N, O, P, all the way up to U wing. S, T, U wing  
11:11:22 11 is all -- you got all the way from A wing to a U wing on  
11:11:24 12 the Beto Unit, that's a lot of wings. That's a lot of  
11:11:27 13 area to try to air condition.

11:11:29 14 Because when you walk down the hallway -- the  
11:11:32 15 hallway's probably as tall as this ceiling here and you  
11:11:35 16 have what you call a spline that runs down that hallway.  
11:11:37 17 It's a huge spline that goes down it. On the high  
11:11:43 18 locations, you've got these big windows on these housing  
11:11:46 19 locations and you've got these windows that open out that  
11:11:48 20 draw that air in. You have supply fans, you have exhaust  
11:11:51 21 fans, you have these huge fans up in the spline. You have  
11:11:55 22 all this air coming from the outside that comes across  
11:12:00 23 those cells, into the cells, into the pipe chases, goes up  
11:12:03 24 into the spline. And so, you're pulling air in, you're  
11:12:06 25 pulling air in, you're pulling air out and exhaust the

11:12:09 1 heat out, and you constantly got a flow of air in those  
11:12:13 2 things.

11:12:13 3           Some of these may be four rows high, some of them  
11:12:19 4 may be five rows high designed with no ductwork at all in  
11:12:22 5 those buildings. There's no ductwork at all. So all you  
11:12:26 6 have is a constant movement of air with no ductwork. You  
11:12:29 7 just have huge supply fans and exhaust fans that move air.  
11:12:33 8 Our units -- at least our units that were built in the  
11:12:36 9 '90s than some of our newer units, those have ductwork in  
11:12:42 10 them.

11:12:42 11           In the majority of those units, most of those  
11:12:44 12 units all have ductwork and we can continue to use some of  
11:12:48 13 that existing ductwork now as we install air conditioning.  
11:12:51 14 We could still use some of that ductwork. But when you  
11:12:53 15 get into these system one units, it's just going to be a  
11:13:02 16 huge job.

11:13:05 17 Q. Mr. Hudson, so you've covered investigatory work.  
11:13:08 18 What is the next step in terms of air conditioning units?

11:13:13 19 A. Once you get past that investigatory, you move to  
11:13:17 20 design. And if you want to talk about the ones that we  
11:13:19 21 have now going into design, we can sure talk about that  
11:13:27 22 and what all we have in design right now.

11:13:29 23 Q. Okay. Judge Pitman, I ask that I can display a  
11:13:33 24 demonstrative.

11:13:33 25           THE COURT: Sure.

11:13:41 1 THE WITNESS: This will help explain a lot of our  
11:13:43 2 different types of units, what types they are, what we  
11:13:46 3 have air conditioned, what we don't.

11:13:51 4 MR. HOMIAK: Your Honor, I don't believe this has  
11:13:54 5 been disclosed before.

11:13:56 6 MS. CARTER: I'm just using it as a  
11:13:58 7 demonstrative. You can feel free to inspect and James  
11:13:59 8 could also e-mail you a copy if we could admit it. But I  
11:14:02 9 was going to allow it to assist Mr. Hudson explaining to  
11:14:06 10 Mr. Pitman, Judge Pitman.

11:14:07 11 THE COURT: You can move over here.

11:14:09 12 MR. HOMIAK: Yes, your Honor.

11:14:44 13 Q. (BY MS. CARTER) Mr. Hudson, I was asking you what  
11:14:51 14 next stage after investigatory work is. But if you can  
11:14:56 15 explain to the Court, do you know what this document is?

11:14:58 16 A. Yes, I do.

11:14:58 17 Q. Did you create this document?

11:14:59 18 A. I did.

11:15:00 19 Q. Do you regularly keep track of this document at TDCJ?

11:15:04 20 A. I do.

11:15:04 21 Q. Can you explain to the Court what it is?

11:15:06 22 A. I can. Okay. These are when you look at the top  
11:15:09 23 left corner, we'll stop there, those are our list of our  
11:15:12 24 2250 units, okay? There's 10 of those. You have the  
11:15:16 25 Polunsky Unit. You have the Michael. You can read them



11:15:19 1 all the way down, okay? Like I was mentioning earlier,  
11:15:22 2 all of those units there have a portion of those units  
11:15:24 3 that are air conditioned. You have a 12 building. Some  
11:15:28 4 of those may have an ECD. Some of those are air  
11:15:32 5 conditioned. The ones that we are in design right now  
11:15:34 6 with our 14,000 beds we have in design right now are the  
11:15:38 7 ones that are in yellow. You have the Stiles Unit. You  
11:15:40 8 have Polunsky Unit. We pick one building from each of  
11:15:44 9 those units on those units to design that work, okay?  
11:15:49 10 Because we feel like that if we design that, then we can  
11:15:54 11 move even further past that.

11:15:55 12           If you see where the McConnell Unit's in gray  
11:15:58 13 right there, the McConnell Unit is the one right now where  
11:16:02 14 we are moving in out of investigatory -- we're going to be  
11:16:07 15 moving that unit, the McConnell Unit, into full design,  
11:16:10 16 okay? Once we have that McConnell Unit fully designed, we  
11:16:15 17 can take that same design of the McConnell Unit and we can  
11:16:18 18 use it over all 10 of those other units that use that  
11:16:23 19 design of that unit. That's where all of this starts at  
11:16:27 20 is getting things designed. It's not like you could just  
11:16:29 21 go put air conditioning in something without designing it  
11:16:32 22 because when you get over a certain dollar amount of a  
11:16:34 23 project and it is a public building and the state of Texas  
11:16:38 24 owns it, has to be designed by an engineer and architect  
11:16:41 25 and they have to stamp that project.

11:16:43 1 Q. And, Mr. Hudson, if I may, is that statutorily  
11:16:46 2 required?

11:16:46 3 A. That is an administrative code.

11:16:50 4 MR. HOMIAK: Your Honor, if I may, before we move  
11:16:52 5 on from this, can we just -- I just ask that this be  
11:16:55 6 admitted into evidence as an exhibit.

11:16:57 7 MS. CARTER: Certainly.

11:16:58 8 MR. HOMIAK: So we can refer to it in the  
11:17:01 9 post-hearing briefing.

11:17:03 10 MS. CARTER: This would be Defendants' Exhibit  
11:17:13 11 78. Seventy-seven?

11:17:14 12 THE CLERK: Seventy-nine.

11:17:16 13 THE COURT: Seventy-nine.

11:17:19 14 THE CLERK: I've got 77.

11:17:26 15 THE COURT: I will admit 79.

11:17:35 16 Q. (BY MS. CARTER) Mr. Hudson, are you familiar with  
11:17:36 17 this document?

11:17:38 18 A. Can I finish explaining this because this is here.

11:17:43 19 Q. I asked you if it's statutorily required for  
11:17:43 20 defendants --

11:17:45 21 A. Yes. I'm going to explain the rest of the housing so  
11:17:51 22 Judge Pitman will understand our plan of what we're doing.

11:17:53 23 Okay. As you move down and you see all the units in

11:17:56 24 yellow, okay, all the units in yellow are ones that has

11:18:00 25 design on now. That's part of your 14,000 beds. And as

11:18:03 1 you look through the different categories of yellow and if  
11:18:08 2 you'll notice, each type of facility that's grouped  
11:18:10 3 together, there's a design going on of those group of  
11:18:13 4 facilities, okay?

11:18:15 5 So all the ones in green are fully air  
11:18:19 6 conditioned. They're fully air conditioned. All the ones  
11:18:22 7 that you see in the blue are part of our AC intake  
11:18:26 8 projects that we did in '22-'23, which not all of those  
11:18:28 9 units in blue are fully air conditioned. However, we do  
11:18:30 10 have at least a housing location on those units that we  
11:18:36 11 can -- if an inmate comes in from an intake area and they  
11:18:39 12 need to be moved from a heat score, they can actually be  
11:18:42 13 moved to a housing location on those units, okay?

11:18:46 14 As you move down to the thousand beds here, okay,  
11:18:51 15 you see there's High Unit is fully air conditioned in  
11:18:56 16 green. Then you see the other four units that are in  
11:18:58 17 design right now. You'll see the Boyd Unit, the Hightower  
11:19:01 18 Unit, the Stevenson Unit. And there's also the Briscoe  
11:19:04 19 Unit that's also in design, but that's not part of the  
11:19:08 20 14,000 beds. We're just going ahead and getting that  
11:19:11 21 designed as we get future money, we'll take that design  
11:19:14 22 and we'll be able to move forward with that project at the  
11:19:14 23 time.

11:19:16 24 Then you go to the middle row, what you see are  
11:19:18 25 thousand-bed units. All those units are exactly alike,

11:19:21 1 okay? So you see the Lopez Unit, the Sanchez Unit and the  
11:19:24 2 Formby Unit, all of those units -- again, that's not a  
11:19:28 3 full design of a unit, however, there's a housing location  
11:19:30 4 on those units that's being designed so we can put air  
11:19:36 5 conditioning in a portion of that unit.

11:19:37 6 As you get down to Bartlett Unit here, that one  
11:19:40 7 there will be fully air conditioned. The Bartlett Unit  
11:19:43 8 will be. It's one of our item units now that we'll be  
11:19:45 9 opening up later on in the year, however, we're going to  
11:19:49 10 go ahead and air condition that full unit also now. Then  
11:19:52 11 you move into the thousand bed, what they call the SAFPs,  
11:19:56 12 those units, two of those are already fully air  
11:19:56 13 conditioned.

11:19:58 14 Then you see the Segovia Unit, that one's in  
11:20:01 15 design. We'll probably push that one out on '26, '27 as  
11:20:05 16 far as build it out, but that's not part of our 14,000  
11:20:08 17 beds because we don't have funding yet for that. Then as  
11:20:09 18 you move down the list, you can see all the ones in  
11:20:14 19 yellow, the 500 bed -- as a matter of fact, the Goodman  
11:20:16 20 Unit here on the 500-bed units here, they had the site  
11:20:21 21 with the vendors last week. The bid closes on the Goodman  
11:20:26 22 Unit in about two weeks so that will be one that we'll be  
11:20:28 23 moving into fully air conditioning that whole unit of the  
11:20:30 24 Goodman Unit.

11:20:32 25 And then, the one right behind it is the Johnson

11:20:35 1 Unit, it is blue that was part of our AC intake project.  
11:20:38 2 However, we fully air conditioned the Johnston Unit. It  
11:20:40 3 was only 612 beds and we had the money to do that in '22  
11:20:44 4 and '23. So we fully air conditioned that unit. And  
11:20:47 5 then, you move up here to the system ones and that's what  
11:20:50 6 I was talking about, those are our more difficult units  
11:20:53 7 and you see how many there are. All those are system  
11:20:56 8 one-type units.

11:20:57 9           However, we do have on the O'Daniel Unit that you  
11:21:01 10 see in yellow, there's 38 beds there. Once we get done  
11:21:05 11 with the O'Daniel Unit, that whole unit will be fully air  
11:21:08 12 conditioned at the O'Daniel Unit. The rest of the unit is  
11:21:08 13 fully air conditioned. When you look at the Beto Unit,  
11:21:11 14 that's what I was talking about earlier, A, B, C and D  
11:21:14 15 wing, right now, we got \$1.2 million tied up in just part  
11:21:18 16 of that unit design, what it's going to look like to do  
11:21:21 17 full design of that whole unit.

11:21:23 18           Then you've got your private facilities down here  
11:21:25 19 in green down here, all of those are air conditioned  
11:21:27 20 except for a portion of the Bradshaw Unit. We have one  
11:21:30 21 housing location there at the Bradshaw Unit that's not air  
11:21:33 22 conditioned. Then you move into your fast tracks like  
11:21:36 23 your Pack Unit in green here, but the whole Pack Unit --  
11:21:39 24 you see Luther, Powledge, Jester III and Terrell. The  
11:21:42 25 Luther Unit right now has 95 percent design complete. The

11:21:47 1 Powledge Unit, Jester III and Terrell, all of those units  
11:21:50 2 are in the 80 percent design complete. However, once you  
11:21:54 3 get past your technical review of design, we can go ahead  
11:21:57 4 and move on and send that packet over to purchasing that  
11:22:02 5 does all of our goods for us and procures the services  
11:22:05 6 that we need.

11:22:06 7           So all of those projects have already been moved  
11:22:08 8 over there and they're already setting up the RFP process  
11:22:11 9 for that. For the Luther Unit will be the first one and  
11:22:14 10 then, I believe, Powledge, J III and Terrell will follow  
11:22:21 11 suit. And to talk about pricing, because this is probably  
11:22:24 12 going to come up later, when you talk about pricing, right  
11:22:28 13 now, what we're working on right now is getting good cost  
11:22:31 14 estimates.

11:22:32 15           We did a document back in 2021 where we say that  
11:22:38 16 it was going to be estimated to air condition all of you  
11:22:42 17 our units, it would cost \$1.1 billion to air condition all  
11:22:47 18 of our units. Now that we're getting good design with  
11:22:49 19 these outside firms that we're working with now, we're  
11:22:53 20 nailing down good estimate -- cost estimate that will go  
11:22:56 21 out with these RFPs that we know when a vendor bids on  
11:22:59 22 this whether it's a good bid or not a good bid because  
11:23:03 23 these outside engineering firms that we have under  
11:23:05 24 contract have now had time to do a full design of what  
11:23:08 25 that's going to look like so we're really getting good

11:23:10 1 design and good cost of what those estimates are going to  
11:23:12 2 look like now.

11:23:13 3 Q. Mr. Hudson, did you hear plaintiffs' counsel ask Mr.  
11:23:16 4 Baldwin specifically about the Pack Unit?

11:23:19 5 A. I've heard part of that testimony. I'm not sure what  
11:23:22 6 part you're...

11:23:24 7 Q. Well, I'll represent to you that plaintiffs' counsel  
11:23:27 8 asked Mr. Baldwin if he believed it was feasible to then  
11:23:32 9 air condition other certain units if they've already air  
11:23:35 10 conditioned the Pack Unit. My question for you is how  
11:23:37 11 many other units are like the Pack Unit?

11:23:40 12 A. There's four other units like the Pack Unit.

11:23:42 13 Q. Are those units already in design to be air  
11:23:42 14 conditioned?

11:23:46 15 A. They're already designed -- they're the ones that I  
11:23:47 16 just covered whether they're -- they've been past their  
11:23:51 17 first technical review, they're all up in the 80s. And  
11:23:54 18 the Luther Unit is at 95 percent design, I believe.

11:23:57 19 Q. Do we have an estimate of when those will be fully  
11:23:59 20 air conditioned?

11:24:02 21 A. An estimate when they'll be fully air conditioned is  
11:24:05 22 our -- we would hope to have all of those under contract  
11:24:09 23 in 2024, have those bid out and awarded in 2024. That  
11:24:14 24 gives us a year working with the vendor to have those  
11:24:16 25 done. So my goal would be to have all of those air

11:24:19 1 conditioned by the end of '25.

11:24:21 2 Q. Mr. Hudson, can you explain to me why we have  
11:24:29 3 prioritized some units in certain phases? Does TDCJ have  
11:24:38 4 a current phase plan for AC installation?

11:24:41 5 A. That was something that we put together back in  
11:24:45 6 '21 going into session in '22, '23, so there's really not  
11:24:48 7 this thing called a phased plan. Right now, what we're  
11:24:51 8 doing is we are -- what our plan is right now -- it's kind  
11:24:56 9 of like our plan is right now is we categorized our units.  
11:24:59 10 We are finding units that are in a certain category where  
11:25:04 11 we could get designs on those units so as we get those  
11:25:08 12 units fully designed and as we get funding for the  
11:25:12 13 legislative sessions -- or from the legislature, as we get  
11:25:15 14 that funding and we truly feel like after we got the \$85.7  
11:25:20 15 million this last session, we truly feel like there's an  
11:25:23 16 appetite now moving forward that we're going to continue  
11:25:25 17 to get that funding as we move forward. If they give it  
11:25:27 18 to you once, there's probably a probability they're going  
11:25:30 19 to continue to keep giving you that funding as we move  
11:25:33 20 forward.

11:25:33 21 So that's what we're planning for. That's why  
11:25:35 22 we're trying to get all of these different units and all  
11:25:37 23 these different categories with the full design as we move  
11:25:40 24 into the next session how much money we get, then we'll  
11:25:43 25 make a determination of how many more units we could get



11:25:47 1 fully air conditioned at that point.

11:25:48 2 Q. Mr. Hudson, how many air-conditioned beds does TDCJ  
11:25:52 3 currently have?

11:25:53 4 A. How many beds do they currently have? Somewhere  
11:25:56 5 about 45,000. Like 45,500, somewhere in that range.

11:26:00 6 Q. And do you know the total inmate population?

11:26:02 7 A. Today, somewhere around 133,000.

11:26:06 8 Q. Is that about a third of the inmate population that  
11:26:09 9 has air conditioning?

11:26:10 10 A. That is correct.

11:26:14 11 Q. How many more beds does TDCJ expect to air condition  
11:26:18 12 by end of the year?

11:26:20 13 A. What's in construction now, those four projects we  
11:26:23 14 have in construction now, I know because people have been  
11:26:25 15 looking -- I've heard them talk today about our dashboard,  
11:26:28 16 all of those units will be air conditioned by the end of  
11:26:31 17 this year.

11:26:32 18 Q. How many is that?

11:26:35 19 A. That is the -- I think it's in construction now, the  
11:26:38 20 Young Unit, the Plane Unit and the Gist Unit. And those  
11:26:42 21 are just pieces of those units. However, when we get done  
11:26:45 22 with the Young Unit, that's 110 beds. Right now, you  
11:26:48 23 could see the Young Unit here right now, it's showing it's  
11:26:51 24 partially air conditioned. When we get done with those  
11:26:54 25 110 beds, that unit will be fully air conditioned at that

11:26:57 1 point.

11:26:57 2 At the Plane Unit, when we finish those last  
11:27:00 3 three wings, we got A, B and F wings at the Plane Unit,  
11:27:03 4 the Plane Unit, by the end of this year, will be fully air  
11:27:06 5 conditioned by the end of 2024. The Gist Unit, we got --  
11:27:10 6 I think it's A building right now. That's just going to  
11:27:12 7 be that one building there on the Gist Unit that we air  
11:27:15 8 conditioned. By the end of the year, we can say that we  
11:27:17 9 got three more units fully air conditioned.

11:27:19 10 Q. Mr. Hudson, can you tell me the timeframe that each  
11:27:22 11 of these design steps takes? How long does it take to  
11:27:26 12 create an investigatory plan?

11:27:30 13 A. When I come to facilities a couple of years ago,  
11:27:32 14 although I'm not a man of a lot of patience and I've had  
11:27:36 15 to learn patience working around engineers because  
11:27:38 16 everything they do -- my director of engineering said it's  
11:27:41 17 kind of like having a baby. It takes that long to design  
11:27:46 18 a project. You know, nine months, a year would be -- you  
11:27:54 19 know, some of these, projects, we got funding last  
11:27:56 20 September, okay? We're in August, fixing to be September  
11:28:00 21 now, we've still got projects that's in design, however,  
11:28:02 22 they're at the end of that. So based on what we've been  
11:28:05 23 able to do now, I would say probably a year fully air --  
11:28:08 24 fully putting a design on the unit at that point.

11:28:14 25 Q. And what's the next step? How long would that take?

11:28:20 1 A. Once we get the design done -- and that's where we  
11:28:22 2 are now on -- I'll use the fast track as an example.  
11:28:29 3 About a year ago, the comptroller has allowed us to do  
11:28:33 4 what they call an RFP process. Now, it's called request  
11:28:37 5 for proposal. We haven't been able to procure services by  
11:28:42 6 that means up until the last year using RFP process. The  
11:28:48 7 process that we've had to use historically has been you  
11:28:51 8 design it, you build it out, you award it and then, you  
11:28:54 9 construct it. That's a long process and you have to do  
11:28:57 10 that.

11:28:57 11 However, with the new RFP process that the  
11:29:00 12 comptroller has being able to do now, that's why we pick  
11:29:04 13 each of these categories when we design these units.  
11:29:06 14 Because what our plan is, okay, if we're going to put a  
11:29:10 15 design on the McConnell Unit, we have that fully designed,  
11:29:12 16 we get funding. What we could do is okay, we want to do  
11:29:15 17 the Allred Unit now. What we can do is we can take that  
11:29:20 18 design on RFP process. We can bid that out with what they  
11:29:23 19 call a construction manager at risk. That's also  
11:29:24 20 something new that we're able to do. What they call  
11:29:28 21 construction manager at risk. What you do is you bid that  
11:29:31 22 out on an RFP and the way you award that is on best value.  
11:29:34 23 Then you make that award, that construction manager at  
11:29:37 24 risk. You award that contract to that vendor. They have  
11:29:39 25 the design of that project that we give the McConnell

11:29:43 1 Unit. They would take that project -- or that design to  
11:29:45 2 the Allred Unit. They would make -- because you still  
11:29:48 3 have to go through process of making sure that you have  
11:29:50 4 the same electrical on that unit because providers across  
11:29:53 5 the state provide different types of electricity when it  
11:29:57 6 comes into a unit. There might be different transformers.  
11:30:01 7 There might be different voltage. All those things are  
11:30:03 8 different on those 2250.

11:30:04 9           So you still have to go through that process of  
11:30:06 10 designing that part of that process. However, that speeds  
11:30:09 11 that process up a whole lot quicker than the old way that  
11:30:13 12 we were having to do things if you had to design it and  
11:30:16 13 you had to bid it out, and then, the way you bid that out  
11:30:19 14 at the time was low bid got the bid. I could tell you  
11:30:23 15 that we have a vendor show -- we have a hub show once a  
11:30:27 16 year where we bring in our hub vendors.

11:30:30 17           THE COURT: I'm going to have to ring in a little  
11:30:32 18 bit here. We've got some limited time today so you're  
11:30:34 19 going to have to tighten up a little bit on -- this is all  
11:30:37 20 very relevant and interesting but we just need to stick a  
11:30:41 21 little closer.

11:30:42 22 Q. (BY MS. CARTER) Yes, your Honor.

11:30:43 23           Mr. Hudson, I want to ask you specifically about  
11:30:45 24 the Hightower Unit. Has that plan been completed?

11:30:49 25 A. No, it's not. They finished it -- second technical

11:30:52 1 review on that unit within the last week or two. They  
11:30:58 2 finished that second technical review, which means that  
11:31:01 3 they have submitted their first design to us. We sent  
11:31:04 4 that back with comments. Then they come back with their  
11:31:07 5 next review and then, we sent that back to them. So that  
11:31:10 6 means once you get past that second technical review,  
11:31:13 7 you're getting very close to being design completing that  
11:31:17 8 project.

11:31:17 9 Q. And once you have that project, can then you take  
11:31:20 10 Hightower's project and send it to a design firm to  
11:31:22 11 design, for example, Dalhart Unit?

11:31:25 12 A. If it's a like unit, if it's the same thousand-bed  
11:31:28 13 unit, you could, yes.

11:31:29 14 Q. And does that enable TDCJ to get those designs  
11:31:33 15 approved quickly?

11:31:33 16 A. Yes, it does.

11:31:36 17 Q. Mr. Hudson, aside from working to air condition TDCJ  
11:31:43 18 units that are not already air conditioned, what is  
11:31:45 19 facility's role in managing the AC units, the facilities  
11:31:48 20 that are already air conditioned?

11:31:50 21 A. We got two current board projects right now that are  
11:31:53 22 over a million-dollar project. One is at the Clements  
11:31:56 23 Unit right now and the other at the Michael Unit. Those  
11:31:59 24 chillers at those two 12 buildings on those 2250s have met  
11:32:03 25 their life expectancy. They're right at 30 years old.

11:32:07 1 One of those projects is a little over \$4 million project  
11:32:11 2 and the other project, I think it's the Michael Unit, is  
11:32:13 3 just a little over like a \$3 million project.

11:32:17 4           So you talk about replacing a chiller that's  
11:32:20 5 already there and it's \$4 million just to replace the  
11:32:24 6 chiller, when you take that 4 million and you put that  
11:32:27 7 over every building that doesn't have air condition on  
11:32:30 8 that unit, our cost estimate on a 2250 right now to fully  
11:32:35 9 air condition a 2250 right now is somewhere probably right  
11:32:38 10 now between 25 to \$30 million just to air condition a  
11:32:42 11 2250.

11:32:42 12 Q. Mr. Hudson, does facilities do any type of assessment  
11:32:46 13 of each unit before it gets hot every year?

11:32:49 14 A. We do.

11:32:50 15 Q. What is that assessment?

11:32:51 16 A. We do what we call summer prep and that's part of the  
11:32:56 17 -- also part of the 1064 process when we do summer prep  
11:32:59 18 where on by March 31st of each year, our stuff have to go  
11:33:05 19 out and they have to evaluate every piece of equipment on  
11:33:08 20 their unit and be sure that it is working properly and  
11:33:11 21 make sure it's in good working order, and if it's not,  
11:33:14 22 they gotta put it on the list and they turn it in and we  
11:33:17 23 then, go through the process of tracking it and trying to  
11:33:19 24 get that procured and installed and fixed before April 15,  
11:33:24 25 whenever seasonal preparedness kits.

11:33:26 1 Q. Is there any ongoing reporting that happens?

11:33:29 2 A. Oh, it happens every day.

11:33:32 3 Q. I believe you brought up the bit about the current AC  
11:33:36 4 if the unit goes out. Do we have people on staff that can  
11:33:40 5 go and fix those parts?

11:33:42 6 A. We do. We have HVAC technicians on all of our units  
11:33:46 7 that have a license. Some of them even carry a universal  
11:33:50 8 license, which is even above just a regular license, like  
11:33:53 9 a regular commercial license. A lot of our guys have what  
11:33:55 10 they call a universal license above that.

11:33:57 11 Q. If they can't fix it, what do you do?

11:33:59 12 A. Then we'll find somebody from region to go there and  
11:34:03 13 assess that problem. If regional staff or our staff can't  
11:34:06 14 fix it, then we'll do what we call a diagnose and repair  
11:34:11 15 process where we'll get a vendor to come out and fix that  
11:34:13 16 piece of equipment; and if that vendor can't fix that  
11:34:16 17 piece of equipment or source those parts in a timely  
11:34:19 18 manner, then we'll rent a piece of equipment to go on that  
11:34:22 19 inmate housing location.

11:34:23 20 Q. Have you always -- what is your rental budget, I  
11:34:26 21 guess is what I'm asking?

11:34:28 22 A. Well, me and the CFO had this conversation not long  
11:34:32 23 ago. Historically, we've spent in years past somewhere  
11:34:37 24 around 3 to \$4 million a year on renting boilers, heaters,  
11:34:42 25 rental HVAC equipment, across the board, three or four

11:34:46 1 million. This year, right now, I'm at a little over \$13  
11:34:50 2 million right now rental equipment that I've rented  
11:34:52 3 already year to date on just those items that I just  
11:34:56 4 mentioned.

11:35:04 5 Q. Mr. Hudson, earlier, I asked you if TDCJ is required  
11:35:08 6 to have a registered architect or engineer work on these  
11:35:14 7 plans; is that true?

11:35:15 8 A. It is true.

11:35:19 9 Q. Is this the statute you're familiar with, Mr. Hudson?

11:35:28 10 A. Yes. That is the administrative code that was  
11:35:30 11 provided me but my director of engineering.

11:35:32 12 Q. Okay. At this time, I move to admit Defendants'  
11:35:35 13 Exhibit 18.

11:35:42 14 MR. HOMIAK: No objection.

11:35:43 15 THE COURT: So admitted.

11:35:45 16 Q. (BY MS. CARTER) Mr. Hudson, are you familiar with  
11:35:58 17 this document?

11:35:59 18 A. I am.

11:35:59 19 Q. What does this document depict?

11:36:03 20 A. That depicts the AC projects that we installed in  
11:36:10 21 '22, '23, however, four of those projects are still  
11:36:14 22 pending so that kind of -- so if you look on there and you  
11:36:18 23 look at Gist A building, okay, that's 464 beds. As a  
11:36:23 24 matter of fact. That is a board project right now that's  
11:36:24 25 over a million dollars that's been ongoing now -- you



11:36:29 1 know, just to try and get one housing location and we're  
11:36:32 2 still trying to get that housing location.

11:36:33 3           So that just shows you how long of a timeframe  
11:36:36 4 that it takes to get in a lot of our equipment to come in.  
11:36:39 5 You look at the Plane Unit E, B and F buildings, those  
11:36:42 6 three protects also are still pending because there's been  
11:36:45 7 a delay in being able to get HVAC equipment procured and  
11:36:49 8 delivered to us so we could get those housing locations up  
11:36:50 9 and running.

11:36:58 10 Q. At this time, I move to admit Defendants' Exhibit 23.

11:37:02 11           MR. HOMIAK: No objection, your Honor.

11:37:04 12           THE COURT: So admitted.

11:37:06 13 Q. (BY MS. CARTER) Mr. Hudson, are you familiar with  
11:37:14 14 this document?

11:37:16 15 A. I am.

11:37:17 16 Q. Mr. Hudson, can you explain to me what this document  
11:37:24 17 is depicting?

11:37:25 18 A. What this is is a one-pager that shows -- you know,  
11:37:29 19 it kind of paints a picture of what we did since 2018 as  
11:37:34 20 far as the funding sources we got each year by the  
11:37:37 21 legislature that was appropriated. You know, if you look  
11:37:40 22 at '18 and '19, we did a Telford shoe project and a Jester  
11:37:46 23 III shoe project that year. That was the same time that  
11:37:48 24 the pat was going on.

11:37:50 25           Now, what's unique about those two locations is,

11:37:52 1 at that time, we were trying to find any place that we  
11:37:57 2 could find to try to protect our more vulnerable inmates.  
11:38:04 3 So what we did is there at the Telford Unit -- what that  
11:38:08 4 location was before we turned it into a special housing  
11:38:11 5 unit was actually an old industry building that had an air  
11:38:15 6 conditioner in it that we converted to a special housing  
11:38:18 7 unit.

11:38:18 8 At the Jester III Unit where we made that shoe  
11:38:20 9 there at that unit, that was actually an old garment  
11:38:23 10 factory that we converted into a special housing unit that  
11:38:24 11 had air conditioning in it that we put pegs in there.

11:38:28 12 Q. Mr. Hudson, is the physical year 2018 and 2019, is it  
11:38:32 13 correct at the 85th session, the legislature appropriated  
11:38:36 14 TDCJ funds during that time?

11:38:37 15 A. It is.

11:38:37 16 Q. Did they get any funds earmarked for air  
11:38:41 17 conditioning?

11:38:41 18 A. No, we did not.

11:38:42 19 Q. How much did TDCJ get for facilities or maintenance  
11:38:45 20 total?

11:38:45 21 A. You see the 40 million in deferred maintenance is  
11:38:48 22 what we got.

11:38:49 23 Q. Okay. Moving on to fiscal years 2020 to 2021, did  
11:38:55 24 TDCJ get any funds earmarked for air conditioning?

11:38:57 25 A. No, we did not.

11:38:58 1 Q. How much did the 86th legislature appropriate to TDCJ  
11:39:01 2 for entire deferred maintenance budget?

11:39:03 3 A. Fifty-four million.

11:39:04 4 Q. And how much did we spend on air conditioning?

11:39:11 5 A. 13.4 million.

11:39:13 6 Q. And how many beds did we add, do you know?

11:39:16 7 A. Roughly -- should be on that. 3,407 beds.

11:39:30 8 Q. That brings us fiscal year 2022 to 2023. The 87th  
11:39:36 9 legislature, did they earmark funds for TDCJ to use for  
11:39:39 10 air conditioning?

11:39:39 11 A. No, they did not.

11:39:40 12 Q. How much did they give TDCJ to use for the entire  
11:39:43 13 deferred maintenance budget?

11:39:44 14 A. 105.4 million and that's the most we've ever gotten.

11:39:49 15 Q. And how much did TDCJ use to air conditioning?

11:39:52 16 A. 15.5 million.

11:39:53 17 Q. Is that more than what you used in 2020?

11:39:56 18 A. Yes.

11:39:58 19 Q. Can you explain to me why we chose these facilities  
11:40:01 20 to air condition in 2022 to 2023?

11:40:08 21 A. Once session was over and we -- you know, we didn't  
11:40:11 22 have any money that was appropriated for air conditioning  
11:40:13 23 during that time, Mr. Collier came back and gathered us  
11:40:17 24 all up and said okay, we gotta come up with a plan as far  
11:40:21 25 as when we bring these inmates in from the counties until

11:40:24 1 we can get them -- until we could get those inmates  
11:40:28 2 assessed to see who's the vulnerable inmates, to see who  
11:40:31 3 isn't vulnerable, what we did is we looked at what units  
11:40:36 4 that we bring in -- where we bring inmates in from the  
11:40:39 5 county jails and this is how we adopted these units here  
11:40:43 6 in the plan there is we brought those inmates in from  
11:40:45 7 county jail and until those inmates are assessed, we put  
11:40:49 8 them all in a cool bed -- or are in a cool bed now.

11:40:54 9 Q. Moving on to fiscal year 2024-2025, does that bring  
11:40:59 10 us to current?

11:40:59 11 A. It does.

11:41:00 12 Q. Did the 88th legislature earmark any funds for TDCJ  
11:41:05 13 to use for air conditioning?

11:41:06 14 A. They did.

11:41:06 15 Q. Is that the first time the legislature has ever done  
11:41:09 16 that in history?

11:41:09 17 A. It is.

11:41:11 18 Q. How much did the deferred maintenance budget get in  
11:41:14 19 total?

11:41:14 20 A. The total deferred maintenance budget in total was  
11:41:22 21 \$280 million.

11:41:23 22 Q. And how much did they earmark for air conditioning?

11:41:26 23 A. 85.7.

11:41:27 24 Q. And when does TDCJ have to have that \$85 million  
11:41:31 25 awarded?

11:41:31 1 A. We gotta have that awarded by August 31st of 2025.

11:41:39 2 Q. So you have to spend that entire amount of money in

11:41:41 3 the two years?

11:41:42 4 A. Yes, we do.

11:41:43 5 Q. Why?

11:41:44 6 A. If not, then we'll lose that money.

11:41:48 7 Q. And is this TDCJ's plan to use that \$85 million?

11:41:51 8 A. It is.

11:41:52 9 Q. Can you explain this breakdown?

11:41:56 10 A. You know, when you talk about -- as I mentioned we

11:41:57 11 were going over the chart a while ago, the first four

11:41:59 12 units on there because we had done the Pack, we had a

11:42:02 13 conceptual idea what those units would look like. We used

11:42:06 14 the same design firm Parkhill for these four units also,

11:42:10 15 so we were able to move things through the design process

11:42:13 16 faster than we normally would. So that's why those four

11:42:16 17 units were picked.

11:42:17 18 Then you move into the thousand-bed prototypes,

11:42:20 19 again, that gives us a design of that type of unit because

11:42:24 20 we have 17 of those same type of units that once we get a

11:42:27 21 design prototype of those three units there, then we could

11:42:31 22 use that same concept as we move forward as we get

11:42:35 23 funding. The 2250s, we picked a eight building on Stiles.

11:42:39 24 We picked a three building on Polunsky. We picked those

11:42:43 25 on a 2250, again, to start putting our -- start doing that

11:42:47 1 work of what it's actually going to cost us to air  
11:42:50 2 condition one of those buildings there. But particularly,  
11:42:52 3 we picked the Stiles and the Polunsky Unit is because its  
11:42:56 4 close proximity to hospital Galveston because that will  
11:42:59 5 cut down on a lot of our transports of our inmates that  
11:43:02 6 has to be in air condition. If I air condition these two  
11:43:06 7 facilities, it will definitely help us manage those  
11:43:07 8 inmates a lot better.

11:43:09 9           Then when you look on into the other column, the  
11:43:11 10 Goodman Unit, that will be fully air conditioned, that is  
11:43:16 11 a SAFP unit. When we get done with the O'Daniel Unit,  
11:43:19 12 there's 38 beds there remaining, that unit will be fully  
11:43:21 13 air conditioned when we get done with the O'Daniel Unit.  
11:43:24 14 The Young Unit has 110 beds. When we get done with the  
11:43:28 15 Young Unit, that unit will be fully air conditioned. The  
11:43:31 16 Lopez Unit, we did 197 beds there. Again, that just gives  
11:43:35 17 them more flexibility there on the Lopez Unit. Not that  
11:43:37 18 the Lopez Unit will be fully air conditioned, but it does  
11:43:40 19 give some flexibility there.

11:43:42 20           The Byrd Unit, again, there's 15 beds there on  
11:43:46 21 one wing that we're going to fully air condition there.  
11:43:49 22 That will help out operationally on the Byrd Unit to where  
11:43:52 23 -- because that is an intake facility so now, if an inmate  
11:43:54 24 comes into the Byrd Unit and they have a heat score, we're  
11:43:57 25 having to transfer those to the Holliday Unit. The

11:44:00 1 Sanchez Unit, again, that is a Z building that we have  
11:44:02 2 that same design at the Lopez Unit, again, that's the low  
11:44:05 3 hanging fruit. We could do that fairly easy and, again,  
11:44:08 4 that adds another 197 beds.

11:44:11 5 And then, you get into Bartlett and Gurney. If  
11:44:14 6 you were to look at the dashboard that we have right there  
11:44:16 7 on the AC intake dashboard now, two months ago, you'd have  
11:44:20 8 probably seen the Beto Unit on there. However, because  
11:44:23 9 that price tag of the Beto Unit got upwards of \$20 million  
11:44:26 10 on a cost estimate and we knew we were going to be  
11:44:29 11 bringing these two units back online over the next six  
11:44:33 12 months, we have decided to go ahead because we're going to  
11:44:35 13 turn Gurney back into an AC intake whenever we bring it  
11:44:39 14 back online. So we're going the fully air condition the  
11:44:44 15 Gurney Unit. And then, we're also going to fully air  
11:44:45 16 condition the Bartlett Unit.

11:44:46 17 Q. And, Mr. Hudson, you brought up earlier that we have  
11:44:48 18 the group of engineers that are already working on these  
11:44:50 19 designs; is that correct?

11:44:50 20 A. We do.

11:44:51 21 Q. At this time, I'd just like to move to admit  
11:45:02 22 Defendants' Exhibit 19.

11:45:04 23 MR. HOMIAK: No objection, your Honor.

11:45:05 24 THE COURT: So admitted.

11:45:07 25 Q. (BY MS. CARTER) Mr. Hudson, do you believe that if

11:45:16 1 the legislature continues providing funding each session,  
11:45:20 2 TDCJ will accomplish its goal to air condition the entire  
11:45:23 3 system?

11:45:23 4 A. We do.

11:45:24 5 Q. Is that something that can be accomplished right now?

11:45:27 6 A. It's not something that can be accomplished right now  
11:45:29 7 because there's just so much design work that has to be  
11:45:32 8 done on these units, but it is something that we are  
11:45:34 9 working towards each and every day that when we do get  
11:45:37 10 that funding, that we will have that design work done on  
11:45:40 11 each one of these type of units that as we get that  
11:45:42 12 funding, we can lay that same concept design across our  
11:45:45 13 units and get that work done.

11:45:49 14 Q. Nothing further, Mr. Hudson.

11:45:51 15 MS. CARTER: Judge Pitman, at this time, I'd ask  
11:45:52 16 to preserve the demonstrative.

11:45:53 17 THE COURT: Yes. I think it's been admitted as  
11:45:56 18 an exhibit.

11:45:57 19 MR. HOMIAK: Yes, your Honor. Actually, I'd like  
11:46:01 20 the opportunity to be able to write on it because we just  
11:46:03 21 got it. And I understand they submitted to the Court a  
11:46:05 22 PDF with their exhibits since we just got it. My  
11:46:08 23 preference would be to ask the witness about it, write on  
11:46:11 24 it and then, that would be a new exhibit that we would  
11:46:13 25 enter. So I don't think that affects the exhibit that



11:46:17 1 they have submitted to be in the court record.

11:46:20 2 THE COURT: What we can do is use whatever -- if  
11:46:23 3 you have a copy that you could submit and then, once you  
11:46:28 4 write on it, we can reproduce that and that can be your  
11:46:32 5 version. That will be the official record.

11:46:34 6 MS. CARTER: That's fine.

11:46:34 7 THE COURT: Okay. Thank you. Let's do take a  
11:46:37 8 five-minute comfort break before we continue.

11:46:40 9 MR. HOMIAK: Thank you, your Honor.

11:50:23 10 (Recess.)

11:52:09 11 MS. CARTER: Your Honor, just briefly, I'd like  
11:52:11 12 to re-raise a preservation issue. It was brought to my  
11:52:14 13 attention that plaintiffs would likely put a copy on the  
11:52:17 14 Elmo and write on it there in order for us to be able to  
11:52:19 15 take this back to TDCJ. I know that there's some issue  
11:52:23 16 about the colors not printing correctly, but we actually  
11:52:27 17 gave them two copies of the -- and if your Honor would  
11:52:29 18 like to inspect them and see if that's possible for them  
11:52:31 19 to just distinguish it on the Elmo. I'd just like to  
11:52:35 20 re-raise my preservation motion.

11:52:37 21 MR. HOMIAK: Your Honor, I think our position's  
11:52:39 22 the same which is it's a different exhibit. So this will  
11:52:42 23 be submitted as Defendants' Exhibit. There's no question  
11:52:44 24 about the preservation of -- or, excuse me, it's  
11:52:45 25 Plaintiffs' Exhibit. So there's no question about the

11:52:46 1 preservation of the Defendants' Exhibit. That has already  
11:52:50 2 been submitted to the Court. This is going to be a  
11:52:51 3 separate exhibit, I had considered writing it on a sheet.  
11:52:55 4 The colors just aren't as clear. And so, I think it will  
11:52:58 5 actually be clear, closer to the witness, too, as well, to  
11:53:01 6 just be able to write it on here.

11:53:03 7 THE COURT: Can I see on the Elmo what -- you're  
11:53:05 8 saying you're not clear.

11:53:06 9 MR. HOMIAK: The color, yeah. I could provide a  
11:53:09 10 copy to the Court. I don't think the issue is with the  
11:53:14 11 Elmo. I think it's just with the printed copy, the  
11:53:17 12 differences between the blue and the green is not as  
11:53:21 13 clear.

11:53:22 14 THE COURT: That would be a problem once you try  
11:53:24 15 to reproduce that, as well?

11:53:26 16 MR. HOMIAK: It's a good question, your Honor. I  
11:53:27 17 think my hope is that we could just take a digital  
11:53:29 18 photograph of this and if that's --

11:53:39 19 THE COURT: I hate for you to write on there.  
11:53:39 20 They went to all that trouble to make this nice exhibit.  
11:53:39 21 I think I can distinguish. I think I'd rather you use  
11:53:42 22 that and write on it would be great.

11:54:06 23 CROSS-EXAMINATION

11:54:06 24 BY MR. HOMIAK:

11:54:11 25 Q. Mr. Hudson, I believe so my name is Kevin Homiak.

11:54:15 1 I'm one of the attorneys who represents the plaintiff in  
11:54:17 2 this case.

11:54:18 3 I believe you told us at the beginning of your  
11:54:21 4 examination that installing air conditioning throughout  
11:54:24 5 TDCJ is the agency's number-one priority; is that right?

11:54:28 6 A. That's correct.

11:54:29 7 Q. And then, you made a comment about how the numbers  
11:54:32 8 you are giving today, at least to some extent, were  
11:54:35 9 pie-in-the-sky numbers. Do you remember saying something  
11:54:38 10 like that?

11:54:38 11 A. That would be on if we had to temporary air condition  
11:54:42 12 everything. It's just so difficult to try to figure that  
11:54:45 13 out and put a -- to put a definite number on that, it's  
11:54:50 14 hard.

11:54:51 15 Q. So that's what I want to ask you questions about. So  
11:54:54 16 you believe the numbers you gave on temporary air  
11:54:58 17 conditioning are pie-in-the-sky numbers; is that right?

11:55:00 18 A. That is correct.

11:55:01 19 Q. And the reason that those are pie-in-the-sky numbers  
11:55:05 20 is that, as I understood your testimony, TDCJ has not  
11:55:08 21 asked for a bid or any bids for installing temporary air  
11:55:14 22 conditioning throughout the TDCJ system; is that right?

11:55:16 23 A. We currently do use rental equipment to air condition  
11:55:22 24 temporarily certain housing locations. We work with  
11:55:26 25 different vendors or companies like I mentioned earlier.

11:55:29 1 We work with Hart Reynolds, Sunbelt, Aggreko, Intex. We  
11:55:34 2 have a pretty good idea of what certain equipment cost per  
11:55:39 3 month. We do know that. We based our figures on actual  
11:55:44 4 cost of what that generator or that size generator or that  
11:55:49 5 size HVAC.

11:55:51 6           However, if you were -- you had to bid out that  
11:55:58 7 quantity of equipment, I don't even know if it would even  
11:56:00 8 be out there, or if it was out there, you could possibly  
11:56:02 9 get a better price.

11:56:03 10 Q. So, Mr. Hudson, we only have limited amount of time  
11:56:06 11 today so I'm going to ask you to do two things for me,  
11:56:09 12 okay? Number one, I'm going to ask you to listen closely  
11:56:11 13 to my questions. Can you do that?

11:56:13 14 A. Yes.

11:56:13 15 Q. Number two, I'm going to ask you, to the extent  
11:56:15 16 possible -- and I know sometimes it's not possible but I'm  
11:56:18 17 just going to ask to the extent possible, answer my  
11:56:21 18 question with a yes or no answer. Can you do that?

11:56:22 19 A. I can.

11:56:23 20 Q. Okay. So let's try that again. TDCJ has not asked  
11:56:28 21 for a bid or bids, plural, to install temporary air  
11:56:34 22 conditioning throughout the entire TDCJ system, yes or no?

11:56:36 23 A. No, we have not for the entire system.

11:56:40 24 Q. Has TDCJ asked for a bid or bids for installing  
11:56:44 25 permanent air conditioning throughout the TDCJ system?

11:56:48 1 A. No, we have not.

11:56:50 2 Q. Despite the fact that this is TDCJ's number-one  
11:56:53 3 priority; is that right?

11:56:54 4 A. That is correct.

11:56:58 5 Q. There was some discussion at the beginning of your  
11:57:05 6 direct examination about the units that were built in the  
11:57:09 7 1990s. Do you remember that testimony?

11:57:11 8 A. Yes.

11:57:12 9 Q. And I think at some point, you had said that the last  
11:57:15 10 unit built was Lopez in 1997. Did I hear you correctly?

11:57:19 11 A. Lopez was built in '97. Full unit built, what I  
11:57:24 12 understand, that's the last one we built from what I've  
11:57:27 13 looked at.

11:57:28 14 Q. Is it accurate to say that TDCJ built 38 units in the  
11:57:33 15 1990s that either were not air conditioned at all in the  
11:57:37 16 inmate housing areas or were only partially air  
11:57:41 17 conditioned in the inmate housing areas?

11:57:43 18 A. That is correct.

11:57:44 19 Q. And the Lopez Unit built in 1997, that unit was not  
11:57:51 20 built with air conditioning throughout the inmate housing  
11:57:54 21 unit, true?

11:57:55 22 A. I don't know if it was fully air conditioned or part.  
11:57:58 23 I don't have -- but it was not built with air  
11:58:00 24 conditioning, yes.

11:58:00 25 Q. And I don't want to do this as a memory test, but as

11:58:04 1 far as what we're seeing, there's about 1,200 beds in  
11:58:08 2 Lopez Unit that remain uncooled to this day. Is that  
11:58:11 3 consistent with your --

11:58:12 4 A. There are still beds on the Lopez Unit that are still  
11:58:15 5 uncooled, yes, sir.

11:58:16 6 Q. Do you have any reason to dispute that number,  
11:58:19 7 roughly 1,200 are uncooled?

11:58:20 8 A. Roughly.

11:58:22 9 Q. You spoke briefly about Operation Lone Star. What is  
11:58:25 10 that?

11:58:27 11 A. Operation Lone Star is where the -- where we work  
11:58:32 12 alongside with the state government where we have  
11:58:38 13 converted two units, the Briscoe Unit and the Segovia  
11:58:42 14 Unit, to where we house or where there are detainees that  
11:58:46 15 are housed on those two units.

11:58:48 16 Q. And why did it have an operation name? Is that  
11:58:53 17 something that came from a government official?

11:58:57 18 A. I don't know where it come from. That's just what  
11:58:59 19 everybody calls it Operation Lone Star.

11:59:00 20 Q. Are you familiar with Governor Abbott ordering  
11:59:04 21 something called Operation Lone Star and the idea, as I  
11:59:07 22 understand it, was for undocumented immigrants to be  
11:59:14 23 picked up on state criminal charges and then, housed in  
11:59:16 24 state facilities?

11:59:17 25 MS. CARTER: Your Honor I'm going to object to

11:59:19 1 this for irrelevancy. Mr. Hudson's here to talk about  
11:59:22 2 facilities and has been designated as such.

11:59:24 3 THE COURT: I'll allow the question.

11:59:26 4 Q. (BY MR. HOMIAK) So was my explanation generally  
11:59:28 5 accurate or am I missing something?

11:59:30 6 A. You're generally accurate.

11:59:31 7 Q. Okay. So Governor Abbott issued an order and said  
11:59:34 8 we're going to start picking up folks who are undocumented  
11:59:37 9 on state law charges; is that right so far?

11:59:39 10 A. You're right.

11:59:40 11 Q. And part of that meant that those folks were going to  
11:59:42 12 be housed in TDCJ facilities, right?

11:59:44 13 A. That's correct.

11:59:45 14 Q. And because of that, because they had not been  
11:59:47 15 convicted, that meant that TDCJ had to comply with the  
11:59:52 16 Texas Board of Jail Standards. Am I right so far?

11:59:55 17 A. You're correct.

11:59:56 18 Q. And one of those Texas Board of Jail Standards is a  
12:00:00 19 requirement that folks who are housed in jails be housed  
12:00:03 20 in temperatures between 65 and 85; is that right?

12:00:06 21 A. That is a jail standard, yes.

12:00:07 22 Q. And so, the reason why those facilities you  
12:00:11 23 mentioned, Briscoe, Segovia and, I think, Lopez, was that  
12:00:15 24 the completed list?

12:00:16 25 A. That's correct.

12:00:18 1 Q. So the reason why there's temporary air conditioning  
12:00:21 2 in Briscoe, Segovia and Lopez is because Governor Abbott  
12:00:25 3 ordered it as part of Operation Lone Star; is that right?

12:00:28 4 A. That's correct.

12:00:31 5 Q. And do you recall that Governor Abbott's order for  
12:00:41 6 Operation Lone Star was issued at the end of May 2021?

12:00:44 7 A. I don't know when it was ordered.

12:00:46 8 Q. Do you have any reason to dispute that?

12:00:47 9 A. I don't have any reason to dispute it.

12:00:50 10 Q. And it's my understanding the temporary air  
12:00:53 11 conditioning in those units was up and running in August  
12:00:55 12 or September 2021?

12:00:57 13 A. I don't know when.

12:00:59 14 Q. Do you have any reason to dispute that?

12:01:01 15 A. I don't have any reason to dispute that.

12:01:02 16 Q. And is it fair to say that the temporary air  
12:01:04 17 conditioning that was installed during that period of time  
12:01:06 18 is still running to this day, right?

12:01:08 19 A. It is.

12:01:09 20 Q. And are those temporarily air conditioned units being  
12:01:15 21 powered at least in part by the generators that you  
12:01:17 22 talked about on direct?

12:01:18 23 A. The Segovia is on temporary generator.

12:01:22 24 Q. Segovia is but the other two are not?

12:01:24 25 A. And the Lopez Unit is, also.



12:01:26 1 Q. Okay.

12:01:27 2 A. Briscoe is not.

12:01:29 3 Q. So Briscoe, you didn't actually need to get

12:01:32 4 generators?

12:01:32 5 A. We did have to rent generators for Briscoe, however,

12:01:35 6 if you want me to explain way.

12:01:37 7 Q. I'm just -- yeah, I'm asking. I appreciate --

12:01:43 8 A. At Briscoe, Medina Electric, which is the provider of

12:01:49 9 electric service in that part of the country down there,

12:01:51 10 notified us that they were going to be upgrading their

12:01:53 11 power lines and that they were going to be changing the

12:01:55 12 voltage of what they were going to be bringing to the

12:01:57 13 unit. So if we didn't upgrade our power on the unit, we

12:02:00 14 were going to have trouble.

12:02:02 15 So at that point, we had to send the engineers

12:02:06 16 down to the unit. They had to design to re-power up the

12:02:12 17 unit at Briscoe. So as we were re-powering up that unit,

12:02:15 18 it was about a \$400,000 project. At that time, because we

12:02:19 19 had the additional power on the unit that we could

12:02:22 20 actually not have to have generators at the time because

12:02:24 21 we had enough power then to do that. But we don't have

12:02:27 22 that luxury at all of our facilities. Only reason we were

12:02:30 23 able to do that at Briscoe was because we upgraded the

12:02:33 24 power because the power that was going to be brought in,

12:02:34 25 we had to or we would have lost the unit.

12:02:39 1 Q. Is it accurate to say, all of that was done between  
12:02:42 2 May and August of 2021?

12:02:43 3 A. The upgrade of the electrical was done later.

12:02:46 4 Q. I just want to make sure --

12:02:47 5 A. Much later. Because it ran on generators for year  
12:02:50 6 and a half, two years maybe. So the electrical upgrading  
12:02:54 7 has just taken place within the last year or less.

12:02:58 8 Q. So Briscoe was running on generator power for, sounds  
12:03:05 9 like, year, year and a half; is that fair?

12:03:08 10 A. Briscoe?

12:03:09 11 Q. Briscoe, yes.

12:03:10 12 A. Maybe a year.

12:03:11 13 Q. And then, Lopez and Segovia, still running on  
12:03:14 14 generator power to this day.

12:03:15 15 A. Yes.

12:03:16 16 Q. And who's paying for that?

12:03:19 17 A. Up until September 1, not FEMA. I've drawn a blank.  
12:03:39 18 We weren't paying for that. Who's Mr. Kia (phonetic) work  
12:03:49 19 for? Chief David Kia, who does he work for? I don't  
12:03:54 20 know.

12:03:54 21 Q. I don't know.

12:03:54 22 A. It's not FEMA.

12:03:56 23 Q. At the end of the day, those facilities did get  
12:04:01 24 temporary air conditioning and they got them quite quickly  
12:04:04 25 because there was an order from Governor Abbott to do so;

12:04:07 1 is that right?

12:04:08 2 A. That's correct.

12:04:08 3 Q. And you said earlier, I think at the beginning of  
12:04:10 4 your testimony, you can't get into a hurry because it's  
12:04:13 5 expensive. Did I hear that testimony correctly?

12:04:17 6 A. You did. To make mistakes -- when I said that if we  
12:04:20 7 get into a hurry, we make mistakes and then, that cost us  
12:04:22 8 money.

12:04:23 9 Q. So I heard that correctly.

12:04:24 10 A. You did hear that correctly.

12:04:25 11 Q. But it's fair to say that you got into a hurry and  
12:04:28 12 you did it to comply with Governor Abbott's orders; is  
12:04:31 13 that right?

12:04:31 14 A. No. I was talking about the Pack Unit.

12:04:33 15 Q. But I'm understanding as far as how quickly you  
12:04:36 16 install temporary air conditioning, you got that done in a  
12:04:38 17 hurry to comply with Governor Abbott's orders; is that  
12:04:41 18 right?

12:04:41 19 A. I don't know if it was a hurry or not, but it was --  
12:04:44 20 we had that one up and running in probably -- that unit up  
12:04:48 21 and running -- we didn't install it. We had to hire a  
12:04:51 22 vendor. So what they do is they're going to charge you a  
12:04:55 23 delivery fee. They're going to charge you a setup fee.  
12:04:57 24 They're going to charge you a turnout fee. That's going  
12:05:00 25 to be a onetime fee that they're going to pay up front and

12:05:03 1 that's pretty expensive on that first month rental. So  
12:05:07 2 actually, Aggreko is the one who it was written for them,  
12:05:10 3 they actually came out and set it all up. We didn't do  
12:05:13 4 any of that.

12:05:14 5 Q. Mr. Hudson, we heard testimony earlier this week from  
12:05:17 6 Mr. Sweetin. Do you know who Mr. Sweetin is?

12:05:20 7 A. I do.

12:05:20 8 Q. His testimony was TDCJ plans to install air  
12:05:24 9 conditioning throughout TDCJ by 2031.

12:05:26 10 A. Right.

12:05:26 11 Q. Are you familiar with that plan generally speaking?

12:05:28 12 A. I'm familiar with the one that we come up with in  
12:05:32 13 2021 going into session in 2022. I do.

12:05:34 14 Q. And that is actually a four-phase plan that has been  
12:05:39 15 published; is that fair?

12:05:40 16 A. That's fair.

12:05:41 17 Q. Okay. Can we bring up Defendants' Exhibit 21? So as  
12:06:15 18 facilities director, I assume you reviewed and approved  
12:06:18 19 this draft?

12:06:19 20 A. I don't believe I was the facilities director at that  
12:06:22 21 time. I might have been the deputy division.

12:06:24 22 Q. Okay. I apologize. You're familiar with this draft?

12:06:24 23 A. I am familiar with that draft.

12:06:26 24 Q. This is actually produced by Mr. Collier's attorneys  
12:06:36 25 in this case. So this is a fair and accurate copy of that

12:06:39 1 draft at least as far as you could tell?

12:06:40 2 A. Correct.

12:06:41 3 Q. Your Honor, at this time, I'd move to admit

12:06:43 4 Defendants' Exhibit 21.

12:06:45 5 THE COURT: Objection? Without objection, so  
12:06:48 6 admitted.

12:06:48 7 MS. CARTER: No objection.

12:06:50 8 Q. (BY MR. HOMIAK) In the second paragraph under the  
12:06:52 9 bullet points, it says -- the first sentence says,  
12:06:57 10 elevated indoor temperatures impact the correctional staff  
12:07:00 11 working in the un-air-conditioned areas and the  
12:07:04 12 incarcerated population that reside at the facilities. Do  
12:07:06 13 you see that?

12:07:06 14 A. I do.

12:07:08 15 Q. Do you agree with that statement?

12:07:10 16 A. I do believe there are elevated temperatures  
12:07:15 17 throughout Texas during certain times of the year, yes.

12:07:18 18 Q. That wasn't my question. My question was, do you  
12:07:20 19 agree with the statement that elevated indoor temperatures  
12:07:24 20 impact the correctional staff working in  
12:07:26 21 un-air-conditioned areas and the incarcerated population  
12:07:30 22 that reside at the facilities, yes or no?

12:07:33 23 A. Yes.

12:07:35 24 Q. Would you agree that elevated indoor temperatures are  
12:07:38 25 harming the correctional staff working in

12:07:41 1 un-air-conditioned areas and the incarcerated population  
12:07:44 2 that resides in TDCJ facilities?

12:07:46 3 A. I believe if they stick to their training that they  
12:07:51 4 received and do what they're supposed to do to take care  
12:07:54 5 of their selves, then it does not.

12:07:56 6 Q. I'm going to try it again, Mr. Hudson.

12:07:58 7 A. Try it again.

12:07:59 8 Q. Do your best to give me a yes or no answer.

12:08:03 9 THE COURT: That was a legitimate answer.

12:08:05 10 Q. (BY MR. HOMIAK) Would you agree that elevated indoor  
12:08:07 11 temperatures are harming the correctional staff working in  
12:08:10 12 un-air-conditioned areas and the incarcerated population  
12:08:11 13 that resides in those facilities?

12:08:12 14 MS. CARTER: Your Honor, I'm going to object as  
12:08:15 15 asked and answered.

12:08:16 16 THE COURT: Sustained.

12:08:17 17 Q. (BY MR. HOMIAK) Would you agree that heat is causing  
12:08:19 18 death and serious illnesses of TDCJ inmates?

12:08:21 19 A. I do not.

12:08:22 20 Q. You've sat in the courtroom. I think you said you  
12:08:25 21 were coming and goes most of the week; is that right?

12:08:26 22 A. That's correct.

12:08:27 23 Q. Did you listen to Dr. Vassallo's testimony yesterday?

12:08:31 24 A. Which one was that?

12:08:32 25 Q. Excuse me, two days ago, the first witness who

12:08:34 1 testified on Tuesday morning?

12:08:35 2 A. I heard parts of it.

12:08:38 3 Q. Have you heard any of the plaintiffs' expert

12:08:40 4 witnesses talk about the deaths that have been caused by  
12:08:43 5 the extreme heat?

12:08:45 6 A. I've heard some of it. I didn't hear all of it.

12:08:47 7 Q. And your position is you disagree with all that  
12:08:49 8 testimony.

12:08:51 9 A. I heard it. I mean, I don't -- I heard some of it.

12:08:54 10 Probably didn't hear enough of it to make an opinion.

12:08:57 11 Q. We heard yesterday during Mr. Ginsel's testimony that  
12:09:01 12 heat-related illness is the fifth leading cause of serious  
12:09:04 13 employee injury within the TDCJ. Do you remember that?

12:09:06 14 A. I was in and out of his testimony.

12:09:08 15 Q. Do you have any reason to dispute that?

12:09:10 16 A. I haven't seen it where it says that. I don't know.

12:09:13 17 Q. But sitting here today, you have no reason to dispute  
12:09:15 18 that?

12:09:16 19 A. If you read it somewhere, I have no reason.

12:09:20 20 Q. Do you believe that elevated indoor temperatures are  
12:09:22 21 causing TDCJ staff to suffer serious injury?

12:09:25 22 A. No.

12:09:26 23 Q. And then, it says in the very next paragraph, to  
12:09:35 24 further mitigate. Do you see that sentence?

12:09:37 25 A. I do.

12:09:37 1 Q. So it says to further mitigate these issues and in  
12:09:42 2 response to legislative direction, TDCJ has drafted a  
12:09:45 3 four-phase plan to install permanent air conditioning  
12:09:47 4 inside inmate housing areas. So the plan to install air  
12:09:56 5 conditioning is actually a response to the effects of the  
12:10:02 6 heat on TDCJ staff and inmates; is that fair?

12:10:05 7 A. We're always looking for ways to mitigate heat.

12:10:12 8 Q. So the answer to my question is yes?

12:10:13 9 A. We're always looking for ways to mitigate the heat.

12:10:16 10 Q. And one of those ways the TDCJ has identified is air  
12:10:20 11 conditioning, right?

12:10:20 12 A. That is correct.

12:10:25 13 Q. You'd agree that it's feasible to install permanent  
12:10:29 14 air conditioning in every inmate housing area throughout  
12:10:31 15 TDCJ?

12:10:32 16 A. Ask that question again.

12:10:34 17 Q. You'd agree that it's feasible to install permanent  
12:10:37 18 air conditioning in every inmate housing area in the TDCJ  
12:10:40 19 system?

12:10:40 20 A. That is my plan.

12:10:47 21 Q. And this plan actually confirms that permanent air  
12:10:50 22 conditioning can be installed in every TDCJ facility.

12:10:55 23 A. Ask that question again.

12:10:56 24 Q. This plan, the four-year plan confirms that permanent  
12:11:00 25 air conditioning can be installed in every TDCJ facility.



12:11:04 1 MS. CARTER: Objection, your Honor. That  
12:11:05 2 misstates the evidence. It's a four-phase plan, not a  
12:11:10 3 four-year plan.

12:11:11 4 MR. HOMIAK: I misspoke. I can rephrase.

12:11:13 5 Q. (BY MR. HOMIAK) The four-phase plan confirms that  
12:11:15 6 permanent air conditioning can be installed in every TDCJ  
12:11:18 7 facility, true?

12:11:18 8 A. It's very true.

12:11:19 9 Q. And you agree that temporary air conditioning can be  
12:11:25 10 installed in every TDCJ facility?

12:11:27 11 A. It can.

12:11:33 12 Q. We heard earlier this week that it took approximately  
12:11:36 13 90 days for TDCJ to get the temporary air conditioning in  
12:11:40 14 the Pack Unit up and running in response to -- to comply  
12:11:44 15 with Judge Ellison's order in that case. Is that  
12:11:46 16 consistent with your recollection?

12:11:48 17 A. I wasn't in facilities at that time and I didn't hear  
12:11:50 18 that testimony, so I can't answer yes or no to that.

12:11:52 19 Q. But you have no reason to dispute that?

12:11:53 20 A. I have no reason to dispute that if that's what  
12:11:55 21 you...

12:12:03 22 Q. You mentioned something earlier that I wanted to make  
12:12:06 23 sure that I heard correctly. In going through this list,  
12:12:10 24 you said that TDCJ plans to install air conditioning in  
12:12:14 25 Stiles and Polunsky. Did I hear that correctly?

12:12:17 1 A. Those are being designed now.

12:12:19 2 Q. And one of the reasons was that it would --

12:12:21 3 installing air conditioning would cut down on, did you

12:12:26 4 say, transports to hospital in Galveston?

12:12:29 5 A. We have a lot of transports that go -- we're always

12:12:32 6 looking for ways to cut down on our transports. So what

12:12:37 7 you heard earlier in Tiede's testimony that he was at

12:12:46 8 wherever he was -- he was at Connally, okay, or where --

12:12:47 9 as those inmates -- if we had those housing locations

12:12:51 10 available, that gives us more air condition availability

12:12:54 11 that would be closer to our primary health providers,

12:13:01 12 which would be hospital Galveston, the Estelle Unit and

12:13:04 13 all of those units there. It just gives us closer

12:13:07 14 proximity to those locations.

12:13:09 15 Q. So it's not that you think that air conditioning

12:13:11 16 would actually cut down on hospitalizations.

12:13:14 17 A. No.

12:13:29 18 Q. But it's fair to say that when the TDCJ was ordered

12:13:32 19 to do so by Judge Ellison, you got temporary air

12:13:38 20 conditioning installed in the Pack Unit, right?

12:13:40 21 A. We did.

12:13:41 22 Q. And I want to talk about where TDCJ currently stands

12:13:48 23 in terms of cool beds that have been installed, cool beds

12:13:52 24 that are currently under correction, design just so I

12:13:55 25 understand the math behind all of this. If we could put

12:14:01 1 up Plaintiffs' Exhibit 150, which I believe has already  
12:14:17 2 been admitted into evidence.

12:14:22 3 Mr. Hudson, do you recognize this?

12:14:23 4 A. I do.

12:14:23 5 Q. I think this was the dashboard you were talking about  
12:14:25 6 earlier?

12:14:26 7 A. Yes.

12:14:26 8 Q. And this is actually on TDCJ's website?

12:14:31 9 A. That's correct.

12:14:32 10 Q. Has this been updated since June 28, 2024?

12:14:35 11 A. It has not.

12:14:36 12 Q. So this is the most recent version of the dashboard?

12:14:39 13 A. Yes.

12:14:44 14 Q. TDCJ says on this dashboard that it has roughly  
12:14:49 15 45,700 cool beds available in its system; is that right?

12:14:52 16 A. 45,689.

12:14:54 17 Q. Yes. That's the number of cool beds available,  
12:14:57 18 right?

12:14:57 19 A. That's what the report says.

12:14:58 20 Q. And is that number accurate as far as you know?

12:15:01 21 A. As far as I know, that number's accurate.

12:15:03 22 Q. And how many beds are currently within the TDCJ  
12:15:06 23 system that lack air conditioning? I don't want to test  
12:15:14 24 your memory. I can put it up there. We can put up  
12:15:17 25 Exhibit 204. And this has also been admitted. So the

12:15:31 1 number on the far right of page 3 of Plaintiffs' Exhibit  
12:15:35 2 204 of 96,552 uncooled beds, is that accurate?

12:15:43 3 A. I couldn't say that's accurate but if the report says  
12:15:45 4 it is then.

12:15:46 5 Q. I guess I should explain what this is. So this  
12:15:49 6 document was produced by Mr. Collier's attorneys in  
12:15:51 7 response to our request that we made to identify the  
12:15:54 8 number of cools and uncooled beds. And so, do you have  
12:15:59 9 any reason to dispute the 96,552 uncooled beds figure?

12:16:03 10 A. I don't have any reason to.

12:16:17 11 Q. And if we could go back to Plaintiffs' Exhibit 150.  
12:16:25 12 So it's my understanding that Mr. Collier became executive  
12:16:28 13 director on August 1st, 2016; is that right?

12:16:32 14 A. I know in 2016. I don't know the exact date but it  
12:16:35 15 was 2016.

12:16:35 16 Q. Okay. Do you know how many cool beds TDCJ added  
12:16:39 17 between 2016 and 2018, or actually constructed, finished?

12:16:44 18 A. Probably about 8,900 or so.

12:16:48 19 Q. So I'm going to ask about the 8,900 from 2018 to the  
12:16:52 20 present. But I'm curious about the 2016 to 2018 period so  
12:16:56 21 I just want to make sure we're on the same page.

12:16:58 22 A. Okay.

12:16:58 23 Q. So it's your recollection that 8,900 were built  
12:17:01 24 between 2016 and 2018?

12:17:03 25 A. No.

12:17:04 1 Q. Okay.

12:17:04 2 A. I don't have any recollection 2016. I have none.

12:17:08 3 Q. That's all I wanted to make sure. So you don't know

12:17:10 4 how many cool beds were built between 2016 and 2018?

12:17:15 5 A. I do not.

12:17:16 6 Q. From 2018 to the present, if we could scroll to the

12:17:18 7 next page, TDCJ has completed 8,940 cool beds; is that

12:17:25 8 right?

12:17:25 9 A. That's correct.

12:17:27 10 Q. If any math is right, January 2018 to today, August

12:17:33 11 2nd, 2024, is a period of approximately six-and-a-half

12:17:36 12 years; is that right?

12:17:36 13 A. Yes.

12:17:37 14 Q. And installing 8,940 cool beds over six-and-a-half

12:17:42 15 years works out to 1,375 cool beds per year; is that

12:17:49 16 right?

12:17:49 17 A. I don't have a -- you're doing the math, I agree with

12:17:53 18 you.

12:17:53 19 Q. Okay. Any reason to fault that figure?

12:17:54 20 A. No reason.

12:17:57 21 Q. So at that rate of 1,375 cool beds per year with

12:18:02 22 roughly 96,500 more cool beds needed, I'm just going to

12:18:08 23 ask you to focus on my question. We're going to answer

12:18:10 24 this question first. At that rate of 1,375 cool beds per

12:18:16 25 year, that would take approximately 70 years to fully air

12:18:20 1 condition the TDCJ system at that rate?

12:18:26 2 A. Based on the information that you provided, yes.

12:18:29 3 Q. If we could please put up Defendants' Exhibit 217.

12:18:52 4 And this was a document you discussed on direct

12:18:55 5 examination. I think it has been -- it was admitted into

12:18:59 6 evidence. I will go ahead and ask you if you can confirm

12:19:11 7 that this document is accurate and complete.

12:19:13 8 A. It is.

12:19:15 9 Q. And we'll go ahead and move Defendants' Exhibit 17

12:19:19 10 into evidence.

12:19:19 11 THE COURT: Any objection?

12:19:22 12 MS. CARTER: No objection.

12:19:22 13 THE COURT: So admitted.

12:19:24 14 Q. (BY MR. HOMIAK) Thank you. So if we could look at

12:19:29 15 the fiscal years -- if we could zoom in just a little bit

12:19:32 16 more. So it says in that first paragraph that TDCJ is

12:19:53 17 adding 6,700 beds and expects them to be done by the end

12:19:57 18 of the calendar year, which I take to mean this year,

12:20:03 19 2024; is that right?

12:20:03 20 A. That was our goal.

12:20:05 21 Q. Okay. And is that -- are you still on track to

12:20:08 22 accomplish that goal?

12:20:08 23 A. We are. We have four left.

12:20:11 24 Q. Which are left?

12:20:12 25 A. We have the Gist A building. You've got Plane A,

12:20:20 1 Plane B and Plane F.

12:20:24 2 Q. You said Gist A, Plane A.

12:20:29 3 A. Plane B and Plane F.

12:20:37 4 Q. So if we can pull up the Elmo.

12:21:08 5 A. Can I go back to your question?

12:21:10 6 Q. Which one?

12:21:10 7 A. Because I think I answered it wrong.

12:21:13 8 Q. Gist A, Plane A. Oh, the one that I just asked?

12:21:16 9 A. Yes. Our plan was to be done with those beds by the

12:21:18 10 end of '23, however, we've had equipment delays is why

12:21:21 11 those projects have not been completed. It just takes

12:21:25 12 forever to get equipment in. So those are supposed to

12:21:28 13 have been done by the end of '23 was our goal, but again,

12:21:31 14 we've had a lot of equipment delays. It just takes

12:21:34 15 forever to get equipment in.

12:21:35 16 Q. I appreciate that clarification.

12:21:36 17 A. Yes.

12:21:37 18 Q. So going to this chart, you said Gist A. Is that

12:21:42 19 what this one's referring to?

12:21:43 20 A. Yes. When I highlighted those in the blue, that was

12:21:47 21 intended to just show the ones that were actually done on

12:21:50 22 the AC intake front. Now, that's just A building on

12:21:54 23 there. If it's in green, it would mean the whole unit.

12:21:57 24 Blue means partial.

12:21:58 25 Q. Understood.

12:21:58 1 A. Only partial for what we've done.

12:22:01 2 Q. Okay. So can you give us a date here today. Just a

12:22:04 3 month and a year. That you expect Gist to be fully air

12:22:08 4 conditioned?

12:22:08 5 A. To be fully air conditioned?

12:22:09 6 Q. Yes.

12:22:10 7 A. I can't give you that right now.

12:22:12 8 Q. So I'm just going to put a question mark next to

12:22:14 9 that. Plane A, where is Plane on this chart?

12:22:20 10 A. Plane is going to be in your...

12:22:27 11 Q. I'm trying to find it, too. So...

12:22:42 12 A. Plane is on your second -- on your first column.

12:22:45 13 Q. It's right under Gist. I'm sorry. So Plane is two

12:23:08 14 below Gist. Is it Gist or "Jist"?

12:23:12 15 A. Gist.

12:23:13 16 Q. Gist. So Plane is two below. Can you give us a month

12:23:16 17 and year that you expect Plane to be completed, completely

12:23:21 18 air conditioning?

12:23:21 19 A. It will be done by the end of this year, the whole

12:23:23 20 unit will be air conditioning. If you look at the housing

12:23:26 21 locations, the A, B, whatever that we elected to air

12:23:28 22 condition, we elected to air condition every building.

12:23:30 23 Q. So I can put down there 12-24 for the Plane Unit and

12:23:37 24 that includes A, B and F?

12:23:39 25 A. What we did on the Plane Unit is -- the reason we did



12:23:41 1 that is we used three different designs from our inhouse  
12:23:45 2 engineers so there's -- they were designed different  
12:23:48 3 because we wanted to see what was going to work. With air  
12:23:52 4 conditioning, we're using that design to see what design's  
12:23:55 5 going to work so we could push that out across the agency,  
12:23:57 6 all those other type units. That's why we elected to do  
12:24:02 7 more housing locations at Plane.

12:24:04 8 Q. I understand. So if we could go back to Defendants'  
12:24:07 9 Exhibit 17. If we were to add up quickly Gist A, Plane A,  
12:24:26 10 Plane B and Plane F, I think that gives us about -- Plane  
12:24:36 11 F is smaller so we're talking about 460, 460, 460 and 230.  
12:24:44 12 So fair to say about 1,500 beds -- cool beds that are  
12:24:49 13 still not complete in this fiscal year 2022 to 2023  
12:24:55 14 session?

12:24:56 15 A. Say it again.

12:24:57 16 Q. I want to make sure. So the fiscal years 2022, 2023  
12:25:01 17 the ones on this list, the only ones that are not complete  
12:25:04 18 are Gist A, Plane A, Plane B and Plane F, right?

12:25:08 19 A. Right. Yes.

12:25:10 20 Q. An I know this is rough math but to me, I put those  
12:25:15 21 all together and that seems like about 1,500 beds that are  
12:25:17 22 still -- cool beds that are still under construction in  
12:25:20 23 that.

12:25:21 24 A. That's right.

12:25:22 25 Q. Okay. So do you have a sense, sitting here today, of

12:25:47 1 what the highest average is that TDCJ has accomplished as  
12:25:54 2 far as cool beds built per year as long as you've been in  
12:25:58 3 this role?

12:25:59 4 A. Ask that question again.

12:26:00 5 Q. What's the highest number, the highest average of --  
12:26:05 6 maybe I'll just ask it more clearly. What's the highest  
12:26:08 7 number of cool beds that TDCJ has completed in a single  
12:26:11 8 year under your tenure?

12:26:13 9 A. Under my tenure.

12:26:15 10 Q. Yes.

12:26:24 11 A. It would be '22, '23, those 6,700 what we're working  
12:26:33 12 on.

12:26:34 13 Q. It sounds like minus the --

12:26:35 14 A. Well, minus the other one we're still working on.

12:26:36 15 Q. The Gist?

12:26:37 16 A. Yeah.

12:26:40 17 Q. So roughly 6,200?

12:26:41 18 A. Roughly -- yeah, roughly.

12:26:48 19 Q. Have you ever had a year where you've completed more  
12:26:51 20 than 6,200 cool beds per year?

12:26:55 21 A. I have not.

12:27:12 22 Q. Have you calculated out how long it would take for --  
12:27:22 23 oh, and this is over two years; is that right? So this  
12:27:24 24 was 2023?

12:27:25 25 A. 2022, 2023.

12:27:27 1 Q. Okay. But I guess what I'm trying to get at is the  
12:27:29 2 highest number of beds that you have completed in a single  
12:27:32 3 year. So it's not even that it's 6,200 that were  
12:27:36 4 completed in a single year; is that right?

12:27:39 5 A. That was the goal was to get that done in '22-'23.

12:27:42 6 Q. Okay.

12:27:42 7 A. However, because of equipment delays, I mean, I'm  
12:27:46 8 still waiting on transformers from two years ago to show  
12:27:50 9 up. We have a lot of equipment delays out there. So yes,  
12:27:53 10 the goal was to get done during that time but we're  
12:27:55 11 trying.

12:27:55 12 Q. Okay. And so, I'm just trying to understand the math  
12:27:58 13 on this. So 6,200 beds, we take out Gist, assume you get  
12:28:03 14 all of Plane, 6,200 beds in two years, right?

12:28:06 15 A. Okay.

12:28:08 16 Q. And that gives us an average number of beds built per  
12:28:13 17 year of 3,100. Is that roughly accurate?

12:28:15 18 A. Okay.

12:28:15 19 Q. Do you have any reason to believe that you will ever  
12:28:19 20 build more than 3,100 beds in a single year?

12:28:21 21 A. Do I believe I will?

12:28:23 22 Q. No. Have you?

12:28:24 23 A. I have not but I will.

12:28:28 24 Q. Have you done the math on how long it would take for  
12:28:32 25 TDCJ to be fully air conditioned at a rate of 3,100 cool

12:28:39 1 beds per year?

12:28:43 2 A. I'm sure you're going to tell me.

12:28:45 3 Q. The math isn't great but it's little bit less than 30

12:28:49 4 years. Do you have any reason to dispute that?

12:28:54 5 A. No reason to dispute that.

12:28:55 6 Q. So we're talking 2054?

12:28:59 7 A. Okay.

12:28:59 8 Q. So I'd like to briefly go through are the -- I think

12:29:04 9 just in the interest of time, are the ones on your list

12:29:09 10 here, Mr. Hudson, that are not highlighted -- I'm trying

12:29:16 11 to think about the best way to do this efficiently. Are

12:29:18 12 the ones that are on your list here not highlighted, units

12:29:21 13 that you cannot give us a commitment today as to when they

12:29:25 14 will be completed?

12:29:27 15 A. No. I was just laying out the plan of what we're

12:29:30 16 doing now, doing the design work in now and how we're

12:29:34 17 going to lay that out over those other units in those like

12:29:39 18 areas as we get funding and we feel like there's going to

12:29:42 19 be appetite for more funding, we can take those designs

12:29:44 20 and that's what I was trying to show y'all today is

12:29:46 21 there's going to be designs on every type of facility

12:29:49 22 across the board that we'll be able to move faster moving

12:29:53 23 forward.

12:29:53 24 We had to get to that point first. You can't air

12:29:57 25 condition a unit without a design. So part of our plan

12:30:00 1 was to get each type of these units designed so we can  
12:30:04 2 move forward quicker and faster. So we're doing it faster  
12:30:08 3 than 90 years or 54 years, whatever math, whatever that  
12:30:12 4 is.

12:30:12 5 Q. And maybe I'll ask the question this way, which is of  
12:30:16 6 the units that are not highlighted in green, how many of  
12:30:22 7 them other than Plane can you give us a solid commitment  
12:30:25 8 on as to when they will be done, when they will be fully  
12:30:29 9 air conditioned. So we take out the green, we take out  
12:30:33 10 Plane, we have a question mark next to Gist. How many of  
12:30:37 11 those that are left over can you give us a solid  
12:30:39 12 commitment in a month and year the air conditioning will  
12:30:42 13 be done?

12:30:42 14 A. I could give you a solid commitment on the ones we  
12:30:45 15 have designed now that we're going to be moving forward  
12:30:47 16 with and as we get money, then we will move forward. So  
12:30:53 17 if legislation comes back and they give us another \$85.7  
12:30:58 18 million again, then we'll move forward with the designs  
12:31:00 19 that we have and we'll build those. If they give us \$200  
12:31:05 20 million, then we'll move forward with that \$200 million  
12:31:07 21 and we'll get that many more beds done. But we'll be so  
12:31:11 22 much further ahead because we've got designs on most of  
12:31:15 23 the stuff. And don't forget about the system ones over  
12:31:17 24 here. We are investigatory and those are the most  
12:31:23 25 challenging ones. Those are challenging, I'm just telling

12:31:27 1 you.

12:31:28 2 Q. I'm going to try to get through this quickly and I'm

12:31:31 3 going to try to ask, to the extent possible, if you can

12:31:34 4 tell me. Sounds like you can give us a month and a year

12:31:37 5 that you'll commit to fully air conditioning every

12:31:40 6 facility highlighted in yellow. Can you do that for all

12:31:43 7 the ones highlighted in yellow, yes or no?

12:31:45 8 A. Not knowing how much money I got.

12:31:48 9 Q. Okay. So you can't do that for any of the ones

12:31:49 10 highlighted in yellow.

12:31:50 11 A. For the ones in yellow?

12:31:50 12 Q. Yes.

12:31:51 13 A. You're talking about when they're going to be

12:31:52 14 completed?

12:31:52 15 Q. Yes, month and year.

12:31:53 16 A. I can give you our goal is to have most of them done

12:31:56 17 in '25.

12:31:56 18 Q. Not asking for your goal. I'm asking for whether you

12:31:59 19 could commit, sitting here today, to a month and year by

12:32:02 20 which any of --

12:32:03 21 A. Oh, I couldn't give you a month and year. No.

12:32:05 22 Q. So you can't do that for any of the facilities

12:32:08 23 highlighted in yellow.

12:32:10 24 A. Because --

12:32:10 25 MS. CARTER: Your Honor, I'd object to asked and

12:32:12 1 answered at this point.

12:32:13 2 THE COURT: I'll let him ask one more time. Go  
12:32:16 3 ahead.

12:32:16 4 Q. (BY MR. HOMIAK) You can't give us a month and year by  
12:32:18 5 which any of the facilities in yellow will be fully air  
12:32:21 6 conditioned, yes or no?

12:32:21 7 A. If I knew that I could get the equipment once it's  
12:32:24 8 awarded, I could give you a more definite timeframe.

12:32:28 9 However, like I mentioned earlier, I have two chiller  
12:32:31 10 projects in progress right now, those are awarded. You  
12:32:33 11 know what the lead time is on those chillers to come in?  
12:32:35 12 Sixty weeks.

12:32:38 13 Q. Can you give us a month and year by which any of the  
12:32:42 14 facilities highlighted in gray will be fully air  
12:32:42 15 conditioned?

12:32:46 16 A. I could not, because those are in investigatory and  
12:32:50 17 they're not even moved into design yet.

12:32:51 18 Q. Can you give us a month and year by which any of the  
12:32:55 19 facilities that are not highlighted at all in any color  
12:32:58 20 will be fully air conditioned?

12:32:59 21 A. I cannot.

12:32:59 22 Q. No further questions, your Honor.

12:33:03 23 RE-DIRECT EXAMINATION

12:33:03 24 BY MS. CARTER:

12:33:06 25 Q. Very briefly, Mr. Hudson, plaintiffs' counsel asked

12:33:25 1 you about the 8,940 beds that have been done since 2016.

12:33:29 2 Do you remember that?

12:33:30 3 A. Yes.

12:33:31 4 Q. Or 2018, I believe. I'm sorry.

12:33:34 5 A. We.

12:33:34 6 Q. Did we get funding earmarked for air conditioning in

12:33:37 7 2018?

12:33:37 8 A. We did not.

12:33:38 9 Q. Did TDCJ get funding earmarked for air conditioning

12:33:41 10 in 2019?

12:33:42 11 A. We did not.

12:33:43 12 Q. In 2021?

12:33:44 13 A. We did not.

12:33:45 14 Q. And 2021?

12:33:46 15 A. We did not.

12:33:47 16 Q. In 2022?

12:33:48 17 A. Did not.

12:33:50 18 Q. Did TDCJ get earmarked funds for air conditioning in

12:33:56 19 2023?

12:33:56 20 A. We did.

12:33:56 21 Q. How much money?

12:33:57 22 A. 85.7 million.

12:34:00 23 Q. And, Mr. Hudson, do you remember plaintiffs' counsel

12:34:03 24 asking you about the four-phase plan?

12:34:05 25 A. I do.



12:34:06 1 Q. Do you know if Mr. Collier presented that to the  
12:34:08 2 legislature?  
12:34:09 3 A. I do.  
12:34:10 4 Q. Did the legislature give you the funding to execute  
12:34:13 5 this plan?  
12:34:13 6 A. No, they did not.  
12:34:18 7 Q. Mr. Hudson, is air conditioning one unit simpler than  
12:34:21 8 AC-ing the entire system?  
12:34:22 9 A. One unit is lot simpler than doing the entire system.  
12:34:26 10 Q. Is AC-ing two units simpler than A-ing the entire  
12:34:31 11 system?  
12:34:31 12 A. Yes.  
12:34:31 13 Q. Why haven't you asked for a bid to air condition the  
12:34:34 14 entire system?  
12:34:36 15 A. Because we wouldn't have the funds to do it.  
12:34:40 16 Q. If you had a billion dollars today, could you air  
12:34:44 17 condition the entire system in a year?  
12:34:45 18 A. No.  
12:34:45 19 Q. Could you air condition it in two years?  
12:34:47 20 A. No.  
12:34:48 21 Q. Could you air condition it in three years?  
12:34:49 22 A. No.  
12:34:53 23 Q. Mr. Hudson, you told Mr. Homiak that it takes forever  
12:34:57 24 to get equipment. Why?  
12:34:58 25 A. Coming out of COVID -- and I'm not going to blame

12:35:02 1 everything on COVID, but since then, there's just such a  
12:35:05 2 delay in generators, air conditioner, chillers. There's  
12:35:09 3 just a huge delay getting that equipment. Whenever you  
12:35:14 4 buy certain tonnage over certain tons, those tonnage  
12:35:16 5 aren't just setting on a shelf. You could go down and you  
12:35:19 6 could buy a 12-and-a-half ton or lower and you could get  
12:35:21 7 that fairly quickly. But when you jump into the 20 tons,  
12:35:24 8 40 tons, 50 tons, hundred-ton chillers like what we use,  
12:35:27 9 those type of equipment just -- it's just not sitting on  
12:35:29 10 the shelf; that has to be made.

12:35:32 11 Q. Can you explain what a water chiller is?

12:35:36 12 A. A water chiller? It's a water chilling system. It's  
12:35:39 13 a type of air conditioning system.

12:35:40 14 Q. And how many tons does TDCJ need?

12:35:44 15 A. To air condition the whole system based on what I'm  
12:35:47 16 being told by engineering, probably about 65,000 tons of  
12:35:51 17 air conditioning to do the whole system.

12:35:52 18 Q. Are these air conditioning units you could walk into  
12:35:55 19 Home Depot and get?

12:35:56 20 A. No.

12:35:56 21 Q. Did you say they have to be built?

12:35:57 22 A. They do.

12:35:59 23 Q. What's the lead time on those?

12:36:01 24 A. You heard my testimony a while ago, we're still  
12:36:05 25 waiting on for just A building for Gist A, we waited on

12:36:10 1 that equipment for well over a year for one building. For  
12:36:14 2 buildings A, B and F at Plane, we've been waiting well  
12:36:17 3 over a year just on that equipment to show up. Well over  
12:36:19 4 a year.

12:36:21 5 I have a generator project right now going on at  
12:36:23 6 the Johnston Unit. We fully air conditioned the Johnston  
12:36:27 7 Unit that we brought online last year from these projects  
12:36:29 8 up here at the same time we bought four generators to back  
12:36:33 9 up all of those air conditioning units to put the unit on  
12:36:35 10 full generator power. Those generators just showed up and  
12:36:47 11 that's been on order over two years.

12:36:49 12 Q. Mr. Hudson, if we had the billion dollars today from  
12:36:52 13 the legislature, why could TDCJ not air condition the  
12:36:55 14 entire system in two years?

12:36:57 15 A. Because every facility we have on that list up there  
12:37:01 16 has to go through a design phase.

12:37:04 17 Q. After its design, do you have to find contractors to  
12:37:07 18 do that work?

12:37:08 19 A. You do. Contract procurement has to do their part,  
12:37:11 20 that takes time; and then, from there, you have to find  
12:37:14 21 contractors to do the work.

12:37:16 22 Q. After getting contractors, do you have vendors to  
12:37:19 23 fulfill those orders?

12:37:20 24 A. Yes.

12:37:21 25 Q. How long does install take?

12:37:25 1 A. Install the unit, the whole entire unit could take a  
12:37:29 2 year or longer.

12:37:32 3 Q. And how many units are in TDCJ?

12:37:34 4 A. 101.

12:37:36 5 Q. Thank you, Mr. Hudson. No further questions.

12:37:38 6 THE COURT: Anything further?

12:37:39 7 MR. HOMIAK: Very briefly, hopefully, your Honor.

12:37:41 8 THE COURT: Sure.

12:37:42 9 RE-DIRECT EXAMINATION

12:37:42 10 BY MR. HOMIAK:

12:37:46 11 Q. Did TDCJ have to undergo a design phase to comply  
12:37:51 12 with Governor Abbott's order for Operation Lone Star, the  
12:37:54 13 temporary air conditioning?

12:37:55 14 A. That was just temporary.

12:37:57 15 Q. So you did not -- the answer to my question is no,  
12:38:00 16 TDCJ did not have to go through a design phase to comply  
12:38:03 17 with Governor Abbott's order for Operation Lone Star.

12:38:06 18 A. No.

12:38:07 19 Q. No further questions.

12:38:09 20 THE COURT: Anything further?

12:38:10 21 MS. CARTER: Nothing further.

12:38:11 22 THE COURT: Thank you, sir. You may step down.

12:38:14 23 All right. I'm getting a little worried as I'm  
12:38:17 24 sure you all are. We do need to take a lunch break. And  
12:38:21 25 so, my question to you is whether or not -- and I would

12:38:24 1 understand if that's the case but if anybody would be --  
12:38:28 2 would object to perhaps a 30-minute lunch.

12:38:32 3 MR. EDWARDS: No objection, your Honor.

12:38:35 4 MS. CARTER: No objection, your Honor.

12:38:35 5 THE COURT: So let's take 30 minutes that I think  
12:38:38 6 that's the minimum that we need to take a rest and refresh  
12:38:41 7 and then, we'll be back in 30 minutes.

12:38:56 8 (Lunch recess.)

13:10:37 9 THE COURT: Thank you for taking an abbreviated  
13:10:39 10 break. I want to do our best to get this accomplished by  
13:10:42 11 4:00. So with that, your next witness.

13:10:46 12 MR. EDWARDS: Your Honor, I just -- given the  
13:10:48 13 time and Ms. Grossman is doing the cross but if -- as I  
13:10:54 14 understand it, we were going to have equal time for  
13:10:57 15 Director Collier. Is that still the Court's position?

13:10:59 16 THE COURT: Yes.

13:11:01 17 MR. EDWARDS: I just am concerned with the time  
13:11:05 18 that that be enforced. That's my only ask.

13:11:07 19 MS. CARTER: Can I have clarity on equal time?  
13:11:09 20 So he's expecting to take the exact same time on cross as  
13:11:13 21 we put on our direct?

13:11:14 22 THE COURT: I think he would like at least as  
13:11:15 23 much time as you have on your direct. I think that's  
13:11:18 24 probably what -- that would be aspirationally what we want  
13:11:21 25 to do today.

13:11:23 1 MS. CARTER: And, your Honor, as defendants are  
13:11:25 2 entitled for a redirect, how are we going to accomplish  
13:11:29 3 that built in?

13:11:30 4 THE COURT: Let's just go. I'll call audibles as  
13:11:39 5 we go.

13:11:40 6 MS. CARTER: Okay.

13:11:43 7 THE COURT: Next witness.

13:11:44 8 MS. CARTER: Defendants call Mr. Bryan Collier to  
13:11:48 9 the stand.

13:11:56 10 THE COURT: Before you take a seat, could you  
13:12:00 11 raise your right hand to be sworn.

13:12:03 12 THE CLERK: You do solemnly swear or affirm that  
13:12:03 13 the testimony which you may give in the case now before  
13:12:03 14 the Court shall be the truth, the whole truth, and nothing  
13:12:05 15 but the truth?

13:12:05 16 THE WITNESS: I do.

13:12:06 17 THE COURT: Please be seated.

13:12:09 18 BRYAN COLLIER, called by the Defendant, duly sworn.

13:12:09 19 DIRECT EXAMINATION

13:12:09 20 BY MS. CARTER:

13:12:32 21 Q. Good morning -- or good afternoon.

13:12:33 22 A. Good afternoon.

13:12:34 23 Q. Will you state your name for the record, please?

13:12:36 24 A. Bryan Collier.

13:12:38 25 Q. Mr. Collier, what is your position at TDCJ?

13:12:48 1 A. I'm the Executive Director of the Texas Department of  
13:12:52 2 Criminal Justice.

13:12:52 3 Q. And how long have you worked for TDCJ?

13:12:55 4 A. Thirty-nine years.

13:12:57 5 Q. Can you give the Court a very brief background of  
13:13:05 6 what roles you served in TDCJ?

13:13:08 7 A. Sure. I started with the agency in 1985 when I was a  
13:13:11 8 college student. I started as a switchboard clerk. After  
13:13:13 9 I graduated from Sam Houston State, I became a  
13:13:16 10 correctional officer. After some time, I became a parole  
13:13:20 11 officer and then, I promoted up in the parole area of the  
13:13:23 12 agency. Then I worked in our programs and services  
13:13:25 13 division of the agency. I later then promoted to the  
13:13:28 14 parole division again and I progressed in that division to  
13:13:32 15 the deputy director and the division director for the  
13:13:35 16 parole division. And then, I was promoted to deputy  
13:13:37 17 executive director and I served in that role for nine  
13:13:39 18 years, then I became Executive Director in 2016.

13:13:42 19 Q. And, Mr. Collier, in your 30-plus-year career at the  
13:13:49 20 agency, have you seen the agency's attitudes toward air  
13:13:54 21 conditioning the system change?

13:13:55 22 A. Significantly, yes, ma'am.

13:13:56 23 Q. Are you appointed by anyone, Mr. Collier?

13:14:00 24 A. I'm appointed by the Texas Board of Criminal Justice.  
13:14:03 25 It's a nine-member board that are appointed by the

13:14:06 1 governor.

13:14:08 2 Q. Who reports to you directly, Mr. Collier?

13:14:13 3 A. We have 16 divisions that -- of TDCJ that report to  
13:14:16 4 me directly. I have other auxiliary staff that do, as  
13:14:21 5 well. In the agency total and I guess you could parlay to  
13:14:24 6 that, 30,000 employees in the agency totalling.

13:14:29 7 Q. Do you communicate with the unit level like with the  
13:14:32 8 wardens regularly?

13:14:34 9 A. Yes, ma'am.

13:14:35 10 Q. Are wardens able to reach out to you about concerns  
13:14:37 11 they may be facing at the units?

13:14:39 12 A. Yes, ma'am. As I visit units but, also, every time I  
13:14:42 13 talk to a warden, I always ask them to let me know if they  
13:14:45 14 need anything and sometimes they reach out.

13:14:48 15 Q. Have you listened to all the witness testimony  
13:15:02 16 developed this week, Mr. Collier?

13:15:05 17 A. Yes, ma'am, except for a few times when I was out,  
13:15:07 18 but yes, ma'am.

13:15:08 19 Q. Who provides inmate medical care?

13:15:15 20 A. The University of Texas Medical Branch and the Texas  
13:15:18 21 Tech Health Science Center provide medical care for the  
13:15:22 22 Texas Department of Criminal Justice.

13:15:24 23 Q. What is the role those agencies serve at the units?

13:15:28 24 A. They actually perform the clinical -- they do the  
13:15:30 25 clinical functions on the unit so they have medical staff



13:15:33 1 that are assigned to the unit. They also have contracted  
13:15:35 2 or direct employees that are specialty care. And then,  
13:15:38 3 they also on the UTMB side operate a hospital in  
13:15:41 4 Galveston. So they take care of essentially all the  
13:15:44 5 medical services related to an inmate.

13:15:47 6 Q. Does TDCJ have its own medical division?

13:15:51 7 A. We do have a health services division. They are  
13:15:54 8 responsible for essentially coordinating the contract with  
13:15:57 9 the UTMB and Texas Tech Health Science Center. They're  
13:16:01 10 also participants in a variety of committees. There's a  
13:16:03 11 master committee called the correctional managed  
13:16:06 12 healthcare committee that essentially oversees healthcare  
13:16:09 13 in the system. It's made up of appointed members, but we  
13:16:12 14 have staff from our health services division that work  
13:16:15 15 with that committee and the two healthcare partners on  
13:16:18 16 various committees to look at standards of care, quality  
13:16:22 17 of care, many different levels of operation.

13:16:25 18 Q. And does the health services division, do they have  
13:16:31 19 an open communication with UTMB and Texas Tech?

13:16:34 20 A. Yes, ma'am, absolutely.

13:16:36 21 Q. Are you involved in any of that communication?

13:16:40 22 A. I communicate with our health services division  
13:16:43 23 regularly. I communicate with UTMB and Texas Tech not  
13:16:46 24 nearly as frequently, but I do on a fairly regular basis.  
13:16:49 25 I'm pretty familiar with lots of the folks that work on

13:16:52 1 both sides.

13:16:53 2 Q. Mr. Collier, were you in the courtroom when

13:17:00 3 plaintiffs' counsel was questioning Dr. Leonardson about

13:17:02 4 the heat score system that was developed?

13:17:05 5 A. Yes, ma'am.

13:17:06 6 Q. Do you recall plaintiffs' counsel alleging that that

13:17:10 7 heat score was developed as a result of a settlement?

13:17:13 8 A. Yes.

13:17:14 9 Q. Are you aware of that settlement?

13:17:16 10 A. I am.

13:17:17 11 Q. When did that settlement take place?

13:17:19 12 A. 2018.

13:17:22 13 Q. Are you aware of the terms of that settlement?

13:17:25 14 A. Yes, ma'am. We were required to air condition the

13:17:29 15 Pack Unit. First, initially, we were required to

13:17:31 16 temporarily air condition it during the months of April

13:17:33 17 through October of that year and April 15th through

13:17:37 18 October 15th of each year, we were required to install

13:17:39 19 permanent air conditioning by, I believe, April of 2020.

13:17:44 20 We also had subclass instructions in the settlement. I

13:17:47 21 don't remember if that was in the final judgment or not,

13:17:49 22 but we had that that laid out some of the elements that

13:17:52 23 Dr. Leonardson talked about the other day that were part

13:17:55 24 of what the heat score is comprised of.

13:17:59 25 Q. And did you hear plaintiffs' counsel essentially say

13:18:02 1 that TDCJ handed a set of categories to Dr. Leonardson?

13:18:06 2 Is that accurate?

13:18:08 3 A. When we were working on the settlement agreement, we  
13:18:10 4 contracted with an expert doctor, Dr. Rieger, who came in  
13:18:15 5 and looked at -- he had helped with the Cole case, but he  
13:18:18 6 also helped us with that issue, as well, to help look at  
13:18:21 7 how we could take -- we have a concept of trying to move  
13:18:23 8 the more vulnerable inmates into the cool beds that we  
13:18:28 9 had.

13:18:28 10 Prior to that, our air-conditioned beds didn't  
13:18:31 11 necessarily house inmates that had a medical need. So we  
13:18:34 12 looked at how could we identify the inmates that we could  
13:18:37 13 best use in those air-conditioned beds that we already  
13:18:39 14 had. We had close to 30,000 beds at that time. So we  
13:18:42 15 hired Dr. Leonardson -- or, excuse me, Dr. Rieger to  
13:18:47 16 actually help us develop a method and what he did was he  
13:18:50 17 went back and looked at the heat deaths from 2010 and  
13:18:55 18 2011, heat illness cases as well as many other factors  
13:18:57 19 that he knew from his background and other areas and then,  
13:19:00 20 together, brought that information to us and we proposed  
13:19:02 21 that information in the settlement as the subclass.

13:19:07 22 Q. Is this Dr. Rieger, is he a medical doctor?

13:19:09 23 A. Yes, ma'am.

13:19:10 24 Q. And did you just testify that he reviewed the data  
13:19:13 25 from the 2011 and 2012 heat deaths?

13:19:16 1 A. He did.

13:19:17 2 Q. So TDCJ didn't create a list of categories on its  
13:19:28 3 own, did it?

13:19:29 4 A. TDCJ is an agency. We extended out to get an expert  
13:19:34 5 in to help do that.

13:19:35 6 Q. Did plaintiffs have to agree to these categories  
13:19:38 7 before the settlement was agreed to?

13:19:39 8 A. Yes. The language was agreed upon before we went to  
13:19:43 9 the final.

13:19:44 10 Q. Do you know if the heat score system has been updated  
13:19:49 11 since 2018?

13:19:50 12 A. Yes, ma'am, but I'm not sure how many times.

13:19:52 13 Q. Are you aware of why the heat score might be updated  
13:20:00 14 since 2018?

13:20:01 15 A. Yes, ma'am. Initially, and Dr. Leonardson explained  
13:20:05 16 a little bit of that, there were categories give to the  
13:20:07 17 University of Texas Medical Branch. They had to -- and  
13:20:10 18 Texas Tech, they had to then go in and identify how to  
13:20:13 19 pull that information from the health record. In that as  
13:20:16 20 well, they also were able to add because they have free  
13:20:18 21 rein to add anything they need to to that heat score. So  
13:20:21 22 if they identified a medical condition that they felt like  
13:20:24 23 might need to be in there, they could add it.

13:20:26 24 I believe, the other day, they talked about  
13:20:27 25 muscular dystrophy being added as a condition as one that

13:20:31 1 they've added to it but there's -- they have the ability  
13:20:33 2 to add conditions if they identify conditions that they  
13:20:37 3 feel like are heat vulnerable or if medication changes, if  
13:20:40 4 they add a medication or identify that a medication has  
13:20:44 5 effect that may cause someone to be heat vulnerable, then  
13:20:47 6 they could add that and we can modify the score.

13:20:49 7 Q. How is the need to add more communicated to TDCJ?

13:20:54 8 A. Essentially, they just do it. They will meet  
13:20:56 9 essentially as a group of physicians, they meet with -- I  
13:20:58 10 believe our healthcare staff are involved in the meetings,  
13:21:02 11 as well. They'll come to their conclusion and make their  
13:21:04 12 recommendation and then move forward.

13:21:10 13 Q. When the heat score is first implemented, did TDCJ  
13:21:15 14 have 45,000 air-conditioned beds?

13:21:17 15 A. No, ma'am. We had closer to -- I want to say it was  
13:21:19 16 28, 28 to 30,000 air-conditioned beds at the time.

13:21:23 17 Q. And how long ago was that?

13:21:24 18 A. That was in '18.

13:21:27 19 Q. How many inmates have a heat score today, Mr.  
13:21:37 20 Collier?

13:21:37 21 A. Roughly about 12,500.

13:21:40 22 Q. Are there more inmates in air-conditioned beds than  
13:21:43 23 there are inmates who have a heat score?

13:21:44 24 A. Yes, ma'am.

13:21:46 25 Q. Did you hear testimony about the dashboard on TDCJ's

13:21:50 1 website?

13:21:50 2 A. Yes, ma'am.

13:21:51 3 Q. Is that information accurate?

13:21:52 4 A. It is.

13:21:53 5 Q. Is it updated regularly?

13:21:55 6 A. It's updated when we have information to update. I

13:21:57 7 don't know the frequency. I know the last update, I

13:22:00 8 believe, was June 28. But I know as we make adjustments

13:22:03 9 as we have this year, we've added a couple of facilities,

13:22:05 10 like Mr. Hudson talked about. Bartlett and Gurney were

13:22:08 11 added in exchange for others so we added those to that

13:22:11 12 chart. So I don't know that it's a monthly or weekly. I

13:22:14 13 think it's as changes occur, we update it.

13:22:17 14 Q. Did you hear Mr. Tim Fitzpatrick's testimony this

13:22:20 15 week, Mr. Collier?

13:22:21 16 A. I did.

13:22:21 17 Q. Is it accurate that the heat score system is

13:22:24 18 constantly updating classifications of any changes in an

13:22:27 19 inmate's heat score?

13:22:28 20 A. Yes, ma'am. I believe it uploads several times a

13:22:31 21 day.

13:22:32 22 Q. What does TDCJ do to protect their inmates besides

13:22:44 23 air conditioning?

13:22:44 24 A. Besides air conditioning, we do a wide variety of

13:22:47 25 things to help mitigate the heat for those that are not

13:22:49 1 housed in air conditioning. We go through and we provide  
13:22:54 2 -- we go through a protocol of training inmates and staff  
13:22:56 3 on the effects of heat and how to watch for it, but  
13:23:00 4 essentially then, also, what precautions can you take to  
13:23:02 5 deal with the heat. That would include providing extra  
13:23:05 6 water, extra ice water, providing cool showers, providing  
13:23:09 7 relaxed dress codes so that they can wear basically their  
13:23:11 8 boxers in the dayroom areas, or others, they don't have to  
13:23:15 9 be in their inmate uniform.

13:23:16 10 We also, prior to the heat season, we go through  
13:23:19 11 and update fans. If inmates don't have fans but they're  
13:23:23 12 in an area where they could use a personal fan, we provide  
13:23:26 13 that. We go through every year to double check all that.  
13:23:29 14 We also meet with everyone in advance of that. We  
13:23:34 15 provided them cups, cooling towels, lots of other things,  
13:23:38 16 as well, to help mitigate the heat.

13:23:42 17 Q. Did you hear testimony over the last week from  
13:23:45 18 plaintiffs' experts?

13:23:46 19 A. Yes, ma'am.

13:23:47 20 Q. Did you hear some of them say that there's literature  
13:23:50 21 that fans don't actually work?

13:23:51 22 A. I did.

13:23:52 23 Q. Do inmates request fans, Mr. Collier?

13:23:55 24 A. Regularly.

13:23:56 25 Q. Do inmates ask for cold water?

13:23:59 1 A. Yes.

13:23:59 2 Q. Do inmates ask for cold showers?

13:24:01 3 A. Yes.

13:24:02 4 Q. Do inmates ask for ice?

13:24:04 5 A. Yes.

13:24:05 6 Q. Do you know how many ice machines TDCJ has as a

13:24:09 7 system?

13:24:09 8 A. I believe roughly about 400.

13:24:13 9 Q. Do you know how many respite areas there are across

13:24:17 10 the system?

13:24:17 11 A. I believe around 800.

13:24:21 12 Q. Do you recall testimony, Mr. Collier, about inmates

13:24:27 13 who may be in restrictive housing?

13:24:28 14 A. Yes, ma'am.

13:24:30 15 Q. Do you recall testimony about their level of access

13:24:33 16 to respite and water?

13:24:35 17 A. Yes, ma'am.

13:24:36 18 Q. Do inmates have access to water without going outside

13:24:39 19 of their cells?

13:24:40 20 A. Yes, in an inmate cell, there's a -- you have

13:24:44 21 essentially a sink and a toilet in the cell so you do have

13:24:47 22 running water inside the cell. The ice water comes around

13:24:50 23 and is distributed to those -- if they're in restrictive

13:24:53 24 housing or in a cell, then it's handed out to them

13:24:56 25 individually. If they're in a dorm area, the bucket with



13:24:58 1 the ice water is placed in the dayroom area where they can  
13:25:02 2 access it.

13:25:08 3 Q. What kind of cups does TDCJ give the inmates to use  
13:25:12 4 to be able to refill it with water?

13:25:14 5 A. We manufacture a cup that's -- I can't describe the  
13:25:18 6 material but essentially it's a reusable cup that we made  
13:25:21 7 and we distribute it to each inmate and if they lost it or  
13:25:24 8 something happens to it, we replace it. But it's  
13:25:27 9 essentially a cup -- I forgot how many ounces it holds but  
13:25:30 10 essentially, that way they don't have to worry about  
13:25:31 11 trying to use a paper cup or having any trouble finding a  
13:25:35 12 way to hold the water that they're getting.

13:25:35 13 Q. Do inmates have to pay for that cup?

13:25:37 14 A. No, ma'am.

13:25:38 15 Q. Mr. Collier, I want to circle back to the health  
13:25:46 16 services division of TDCJ. Did they take any concerns  
13:25:51 17 from UTMB and Texas Tech and relay them to you?

13:25:54 18 A. In reference to?

13:25:56 19 Q. Anything.

13:25:57 20 A. They do bring issues to us from time to time. So if  
13:26:00 21 the universities make recommendations to health services  
13:26:03 22 or if they bring up an issue, then sometimes that does  
13:26:06 23 come to me.

13:26:08 24 Q. Has health services ever identified anything more  
13:26:11 25 that the agency could be doing short of air conditioning

13:26:14 1 that you're not already doing to protect inmates from  
13:26:16 2 heat?

13:26:18 3 A. What I don't know is how much they were involved in  
13:26:20 4 actually working with the work groups on the heat score so  
13:26:24 5 they very well may have been in those discussions, those  
13:26:26 6 joint discussions with the universities as they formulate  
13:26:29 7 things that they think may need to be added. So I'm not  
13:26:32 8 sure if they are done that. I can't think of any other --  
13:26:36 9 certainly could be but nothing comes to mind immediately.  
13:26:42 10 Sorry.

13:26:47 11 Q. Mr. Collier, do you recall some testimony about the  
13:26:50 12 different versions of Administrative Directive 1064?

13:26:54 13 A. Yes, ma'am.

13:26:54 14 Q. Do you mind explaining to Judge Pitman the different  
13:26:57 15 changes in the medication policies recently?

13:26:59 16 A. Sure. I think -- we will update policies on a  
13:27:06 17 regular basis. 1064 gets a little extra attention because  
13:27:09 18 of what it deals with. So we looked at 1064, made changes  
13:27:13 19 this past spring -- it was just testified to but I'm  
13:27:16 20 trying to remember exactly what changed. It wasn't  
13:27:19 21 substantial on the -- there were grammatical changes made  
13:27:22 22 but there was one change made that was more important than  
13:27:25 23 that and, I'm sorry, I'm forgetting that.

13:27:26 24 Q. If an inmate comes back to TDCJ after being  
13:27:29 25 discharged?

13:27:30 1 A. Yes. I'm sorry. Thank you. Basically if an inmate  
13:27:32 2 left the system with a heat score, then the modification  
13:27:35 3 1064 would say when you come back in the system,  
13:27:38 4 regardless of the intake score or anything else, you're  
13:27:41 5 going to be placed in cool beds until they do their final  
13:27:44 6 determination through medical.

13:27:45 7 Q. Besides the ice buckets, we'll call them, or the  
13:27:51 8 sports jugs of some sort, are there other water fountains  
13:27:55 9 at TDCJ?

13:27:56 10 A. Yes, ma'am. We have water fountains in the units.  
13:27:59 11 Not every dorm has necessarily water fountains but some  
13:28:02 12 do. Some have even the newer where you can fill your  
13:28:04 13 water bottle. Some of the dorms have that. We have those  
13:28:07 14 also being installed on some of our facilities now so we  
13:28:10 15 started that process this summer.

13:28:15 16 Q. Does TDCJ take more temperature logs than they used  
13:28:20 17 to?

13:28:20 18 A. Yes, ma'am. We take temperature logs daily on all  
13:28:23 19 facilities.

13:28:24 20 Q. Do you report those to the legislature?

13:28:26 21 A. We do.

13:28:27 22 Q. Do you have any reason to misrepresent those  
13:28:33 23 temperature logs to the legislature, Mr. Collier?

13:28:35 24 A. No, ma'am.

13:28:37 25 Q. Does the legislature depend on those logs to

13:28:39 1 determine how serious of an issue heat is for the agency?

13:28:44 2 A. I think it certainly helps advise them of how serious

13:28:47 3 that issue is. I think it clearly shows them what is

13:28:50 4 actually happening on those facilities.

13:28:52 5 Q. How does the agency address consecutive days of high

13:28:56 6 heat index?

13:28:57 7 A. If you have three or more days of temperatures that

13:29:00 8 are above 105 or a heat index of, I believe, 113, we go

13:29:04 9 into incident command mode on that unit or that area of

13:29:08 10 units, and what that basically means is we go in and

13:29:12 11 re-evaluate all the work assignments. We may shut down

13:29:14 12 the kitchen and not do hot meals. We may do sack lunch.

13:29:18 13 We may double down on everything that we're doing to take

13:29:18 14 a mitigation effort.

13:29:24 15 So we make sure that there's no gaps in any way

13:29:25 16 in any of the things we do to provide for the inmate

13:29:27 17 population. We don't do outside recreation at that time

13:29:30 18 and we will limit their activities based on what the

13:29:33 19 warden's assessment is. Our emergency management team is

13:29:37 20 also involved in that. So out of Huntsville, they will

13:29:40 21 coordinate that and then, coordinate with the unit if

13:29:42 22 there's anything else we can do to help support the unit

13:29:45 23 during that time.

13:29:47 24 Q. Mr. Collier, did you hear testimony about the bus

13:29:50 25 routes at TDCJ?

13:29:51 1 A. Yes, ma'am.

13:29:52 2 Q. Why is a unit's proximity to hospital Galveston  
13:29:57 3 important?

13:29:57 4 A. We have a lot of inmates because a lot of the  
13:29:59 5 specialty care is done at hospital Galveston. So, for  
13:30:02 6 instance, if I needed to go to an orthopedic surgeon, I  
13:30:05 7 may go to Galveston likely for that appointment. There's  
13:30:08 8 not community specialists that typically do it. So  
13:30:11 9 inmates that have chronic needs or chronic care where  
13:30:14 10 they're regularly seeing specialists, it's good to have  
13:30:17 11 them as close to Galveston as we can because it makes the  
13:30:21 12 transport much simpler for the inmate and the system.

13:30:22 13 Q. And are all the buses at TDCJ air conditioned?

13:30:25 14 A. They are.

13:30:25 15 Q. When did that happen?

13:30:27 16 A. We started in 2018, if I remember right. I believe  
13:30:31 17 that was something else we did around the Cole litigation  
13:30:35 18 but we started -- we initially started with Pack but we've  
13:30:37 19 done it with all the buses since then. We've replaced all  
13:30:40 20 our buses as we've done replacements, they all come with  
13:30:44 21 air conditioning. So what we have now in our fleet are  
13:30:46 22 air-conditioned buses. The vans are air conditioned.  
13:30:48 23 Wheelchair vans, air conditioned, as well.

13:30:50 24 Q. Do you know what budget replacing buses comes out of,  
13:30:57 25 Mr. Collier?

13:30:57 1 A. It's typically in a item the legislature funds for  
13:31:01 2 vehicles. So it's a specific item within our overall  
13:31:05 3 budget. We sometimes get -- we typically would get base  
13:31:08 4 funding in the amount of about \$13 million and that would  
13:31:11 5 be for all vehicles. So that's buses, semi-trucks and  
13:31:16 6 trailers as we have but, also, vehicles, cars, trucks,  
13:31:19 7 things of that nature, that come out of that budget.

13:31:21 8 Sometimes the legislature adds additional funding  
13:31:24 9 to that but typically it's a base budget in a vehicle  
13:31:32 10 item.

13:31:32 11 Q. Is TDCJ a for-profit organization, Mr. Collier?

13:31:50 12 A. No, ma'am.

13:31:51 13 Q. Where do you get your funding?

13:31:53 14 A. State legislature.

13:31:54 15 Q. Can you explain to me the process how that works?

13:31:56 16 A. Sure. So the Texas Department of Criminal Justice as  
13:31:59 17 a state agency, we receive our funding through essentially  
13:32:02 18 the legislature. Most of our funding, almost all of our  
13:32:06 19 funding is general appropriations, which is coming from  
13:32:09 20 the general appropriations fund. We go in every other  
13:32:12 21 year into the legislative cycle and we request funds --  
13:32:17 22 before we go in, we actually get instructions on what we  
13:32:19 23 can ask for or if you have to do a reduction scenario.  
13:32:22 24 Sometimes you have to actually come into a legislative  
13:32:24 25 session with reductions like in 2021, we had to reduce our

13:32:28 1 budgets by five percent, so we had to do cuts before we  
13:32:31 2 got in. But they may tell you -- you come in and ask for  
13:32:33 3 everything in your current base budget or you may come in  
13:32:36 4 and ask for everything that's 95 percent of your base  
13:32:39 5 budget.

13:32:39 6 In the current cycle, there's no restriction on  
13:32:41 7 the base budget, which we're able to come in and ask for  
13:32:44 8 that. Above your base budget -- and your base budget is  
13:32:47 9 factored on what funding you received last session, it's  
13:32:52 10 not -- doesn't have any built-in multiplier so it's  
13:32:54 11 basically what you got last session is going to be in that  
13:32:57 12 same item. This are exceptional items which you could ask  
13:33:00 13 for, which are things above your base budget that you can  
13:33:03 14 ask for. One of the items we talked about was our  
13:33:06 15 deferred maintenance budget. Up until about two sessions  
13:33:09 16 -- well, two sessions ago, that was always an exceptional  
13:33:12 17 item so it was something that was never in our base budget  
13:33:14 18 until '21.

13:33:18 19 Q. And, Mr. Collier, when the legislature appropriates  
13:33:26 20 money to TDCJ, is there a timeframe when that money has to  
13:33:30 21 be spent?

13:33:31 22 A. It has to be obligated or spent within a two-year  
13:33:33 23 window within the biennium essentially. So by the end of  
13:33:38 24 the biennium, you have to have that money spent. Now, if  
13:33:41 25 it's obligated -- I know Mr. Hudson talked a lot about

13:33:43 1 contracts. If we have the money obligated with a  
13:33:45 2 contractor in place, then it can lap over the window of  
13:33:48 3 time of the fiscal year, but it has to be obligated on a  
13:33:52 4 project if it's in that fund.

13:33:54 5 Q. Is there a concern for TDCJ in not being able to  
13:33:57 6 fulfill those obligations and getting less money the next  
13:34:03 7 session?

13:34:03 8 A. Typically, we rarely have that problem because we  
13:34:05 9 rarely get enough money so it's not like we typically have  
13:34:08 10 that issue. But definitely, you have to pay attention to  
13:34:11 11 the amount of money you might receive and can you get that  
13:34:15 12 money spent or even obligated within that 24-month  
13:34:18 13 period. If you can't, it goes back to the general fund.

13:34:22 14 Q. Do you petition the legislature for money?

13:34:31 15 A. Yes.

13:34:32 16 Q. How often do you go?

13:34:33 17 A. I go during legislative session, I'm there every day.  
13:34:36 18 But during like right now, in a non-session time, even in  
13:34:39 19 the interim, I meet with offices every other month, talk  
13:34:41 20 about right now, we have a significant \$250 million  
13:34:44 21 shortfall in the agency and I'm talking with them about  
13:34:47 22 the shortfall that we have to make sure that they know  
13:34:50 23 what's causing that shortfall and what we are trying to do  
13:34:52 24 to reduce it.

13:34:55 25 Q. Do you have conversations with legislators during a



13:34:58 1 session and out of session about concerns TDCJ may have or  
13:35:03 2 any thoughts they have about what TDCJ may be asking for  
13:35:06 3 in the next session?

13:35:08 4 A. Some, yes, ma'am. We keep -- I guess I should caveat  
13:35:14 5 that with this. We go forward before -- as we're  
13:35:18 6 developing our requests, we go forward and make sure that  
13:35:20 7 we're talking to everybody before we're able to make that  
13:35:23 8 official. So we talk to them in advance. Sometimes they  
13:35:25 9 do talk to us about things they would like to see and the  
13:35:28 10 budget, as well.

13:35:44 11 Q. Mr. Collier, have you asked the legislature for  
13:35:47 12 moneys specifically to air condition the system?

13:35:49 13 A. Yes. In 2022, based on our request with the House  
13:35:54 14 Appropriations Committee and based on discussions we had  
13:35:56 15 had with that committee, they asked us to propose a plan  
13:35:59 16 of how we could air condition that whole system. We did  
13:36:02 17 propose that plan. That was a four-phase plan that would  
13:36:04 18 have included amounts that we felt like we could  
13:36:07 19 accomplish in a two-year biennium. It's about a 10-year  
13:36:12 20 plan, but it would have gave a systemic way to go through  
13:36:15 21 the system and air condition all the beds in the system.  
13:36:17 22 That was used in the '23 session as they made their budget  
13:36:22 23 decisions and as some of the budget numbers came out.

13:36:25 24 Q. Mr. Collier, is this a draft of that four-phase plan?

13:36:56 25 A. Yes, ma'am.

13:36:59 1 Q. You mentioned that this was broken down by what TDCJ  
13:37:14 2 believed it could accomplish in a biennium; is that  
13:37:18 3 correct?

13:37:18 4 A. Correct.

13:37:21 5 Q. About when did you propose this in the legislature?

13:37:24 6 A. We provided it to them in an overview in the summer  
13:37:27 7 of 2022 in advance of the '23 session.

13:37:32 8 Q. Why did you propose this plan, Mr. Collier?

13:37:39 9 A. In talking with the House Appropriations Committee,  
13:37:42 10 they wanted to identify if we could do it, then what would  
13:37:46 11 it need to look like. Working with the committee, that's  
13:37:48 12 how we prepared this and brought that to them was a plan  
13:37:51 13 basically how could we air condition the whole system,  
13:37:53 14 what would that need to look like.

13:37:55 15 Q. Did you hear Mr. Hudson's testimony?

13:37:57 16 A. Yes, ma'am.

13:37:58 17 Q. Why did you choose Mr. Hudson as your head of  
13:38:00 18 facilities?

13:38:02 19 A. Lots of reasons. I think he's a very strong leader.  
13:38:04 20 He's passionate leader. Y'all learned that this morning.  
13:38:07 21 But he's also very focused and great with logistics. He  
13:38:11 22 can take projects from engineers and engineering language,  
13:38:15 23 pardon my French, and put it into terms that everyone else  
13:38:18 24 could understand and he's had a great track record of  
13:38:21 25 helping get things accomplished in the agency. So I felt

13:38:24 1 like -- I put him in facilities as a deputy division  
13:38:26 2 director when I knew the division director was going to be  
13:38:28 3 leaving in about a year and then, he proceeded and he took  
13:38:30 4 that role.

13:38:31 5 Q. Do you believe that Mr. Hudson's goal was to AC the  
13:38:34 6 entire system?

13:38:34 7 A. Absolutely.

13:38:35 8 Q. Is that your goal, Mr. Collier?

13:38:37 9 A. Absolutely.

13:38:38 10 Q. So you proposed this plan to the legislature?

13:38:46 11 A. Yes, ma'am.

13:38:46 12 Q. How much money did you tell the legislature you  
13:38:49 13 needed to implement phase one?

13:38:51 14 A. I think it's 225 million, I believe, is the first  
13:39:02 15 phase. Yes, ma'am, 225,860,000.

13:39:11 16 Q. And how many beds would that have been able to  
13:39:14 17 obtain?

13:39:16 18 A. Phase one would have -- so 24,825. But I guess what  
13:39:27 19 I need to caveat -- I don't remember right off the cuff.  
13:39:31 20 So each of the phases include except phase four, I  
13:39:35 21 believe. Phase four might have some design in it, too.  
13:39:38 22 Some have design and/or construction so I don't know that  
13:39:40 23 -- I can't remember if 24,8 was the actual, in other  
13:39:43 24 words, at the end of that biennium that would be done or  
13:39:46 25 you'd have some portion of those done and some portion --

13:39:49 1 design and construction, 16. So 16 of the facilities, I  
13:39:52 2 don't know the bed count. Sorry. Design only would have  
13:39:55 3 been 20. So the bed count would be design and  
13:39:58 4 construction of the 16.

13:40:01 5 Q. And when did you propose this?

13:40:02 6 A. In June, I believe, or July of '22.

13:40:05 7 Q. And how much did you actually get from the  
13:40:07 8 legislature in 2023 for air conditioning?

13:40:11 9 A. We got \$85 million and we didn't just get it, we got  
13:40:15 10 it earmarked, which was, to me, substantially significant  
13:40:19 11 because that's the first time that's ever happened. We've  
13:40:22 12 been talking about air conditioning since the session in  
13:40:25 13 '17. We've talked about it as part of our deferred  
13:40:28 14 maintenance funding. We've talked about that we wanted to  
13:40:30 15 use some of that funding to help increase air conditioning  
13:40:33 16 in the system. This was the first time they ever  
13:40:35 17 earmarked it specifically for it. So -- and I know as  
13:40:39 18 they batted back and forth between the House and the  
13:40:41 19 Senate, there was much discussion about this plan and how  
13:40:43 20 they could move forward.

13:40:44 21 Q. But this plan isn't in effect, isn't it?

13:40:49 22 A. No, ma'am. Unfortunately, it's not fully funded in  
13:40:53 23 phase one. We are moving ahead with 85 and progressing as  
13:40:57 24 far as we can go with that. We're also designing forward  
13:41:00 25 ahead because I feel confident that since we received 85

13:41:03 1 this session that I hope will continue to be an increase  
13:41:07 2 as we move forward; and as we do that, if we have more  
13:41:10 3 funds that come next session, we would be able to put much  
13:41:12 4 of that at play so that we can move as quickly as we can.  
13:41:16 5 Q. I want to talk a little bit more about that deferred  
13:41:20 6 maintenance budget. Did you hear Mr. Homiak asking Mr.  
13:41:26 7 Hudson about the 8,000 beds that were established  
13:41:29 8 post-2018?  
13:41:30 9 A. Yes, ma'am.  
13:41:32 10 Q. Did we get funding for the legislature earmarked in  
13:41:35 11 2018?  
13:41:35 12 A. No, ma'am.  
13:41:36 13 Q. 2019?  
13:41:37 14 A. No, ma'am.  
13:41:37 15 Q. 2020?  
13:41:38 16 A. No. And you're speaking about air conditioning but  
13:41:40 17 no.  
13:41:40 18 Q. 2021?  
13:41:41 19 A. No.  
13:41:42 20 Q. 2022?  
13:41:43 21 A. No.  
13:41:45 22 Q. During those years, do you know what our deferred  
13:41:48 23 maintenance budget was?  
13:41:49 24 A. I don't recall each year. I remember a 40, a 52.  
13:41:54 25 The highest we got was 105 and that was actually land

13:41:57 1 marked. Most people won't understand what I'm talking  
13:41:59 2 about, but they actually put that in the base for the  
13:42:00 3 first time in 2021, which was significant, because in our  
13:42:05 4 history of our agency, we've never had base funding for  
13:42:07 5 those major deferred maintenance projects.

13:42:11 6 So in '21, they actually put that in as a base  
13:42:14 7 number, which should mean we would start with 105 as we go  
13:42:16 8 into the next legislative session as a baseline and be  
13:42:20 9 able to add to that. So that was huge. But 40, 52, I  
13:42:24 10 remember the 105, I think those are maybe the three  
13:42:26 11 numbers. Or 54, I'm sorry.

13:42:30 12 Q. So in 2018, you just testified they gave you \$40,000  
13:42:34 13 for deferred maintenance.

13:42:35 14 A. Forty million, I believe.

13:42:36 15 Q. Forty million for the deferred maintenance and is  
13:42:40 16 that for the entire system?

13:42:41 17 A. It is. That's for all the projects that we can  
13:42:42 18 coordinate. We essentially have to plan projects. We  
13:42:45 19 give the legislature a plan of deferred maintenance  
13:42:47 20 projects that goes out several years. If you take the  
13:42:50 21 totality of all those projects, it's about 1.9 billion  
13:42:54 22 dollars of all the projects from the day forward that we  
13:42:56 23 could do if we had the funds essentially. That doesn't  
13:42:59 24 necessarily include air conditioning. So they have those  
13:43:03 25 deferred projects in hand, they see those, and we give

13:43:06 1 them a two-year window of the ones that we prioritize in  
13:43:09 2 that two-year window.

13:43:11 3 Q. Now, Mr. Hudson, did you hear -- or, Mr. Collier, did  
13:43:48 4 you hear Mr. Hudson testify about this document?

13:43:50 5 A. Yes, ma'am.

13:43:52 6 Q. If we had \$40 million in deferred maintenance  
13:43:56 7 funding, why did we only spend 1.2 million for air  
13:44:00 8 conditioning?

13:44:00 9 A. That was what we identified that we could spend on  
13:44:02 10 air conditioning because we had so many other projects  
13:44:05 11 which ere really critical and have to be done, as well.

13:44:07 12 Q. And what are those projects that come out of the  
13:44:09 13 deferred maintenance budget?

13:44:10 14 A. We did everything from water, wastewater. It can be  
13:44:14 15 repairs to roofs that are currently leaking or other major  
13:44:17 16 repairs that are in issue, as well. I can't remember if  
13:44:20 17 '18 or '19 was when we had Harvey or if we're still  
13:44:24 18 following up on Harvey after that. But the hurricane  
13:44:26 19 repairs that we had to make following Harvey might have  
13:44:28 20 come out of that, as well.

13:44:30 21 Q. So is it fair to say that 2023 was a record year in  
13:44:39 22 funding for air conditioning for TDCJ?

13:44:41 23 A. Absolutely. Not just a numerical but, as I said  
13:44:47 24 earlier, the fact that they earmark funds is a great sign  
13:44:50 25 from the legislature.

13:44:56 1 Q. Let's talk about the bills that failed in the  
13:45:10 2 legislature. Are you aware of bills that the House may  
13:45:12 3 have tried to pass?

13:45:13 4 A. Yes, ma'am.

13:45:14 5 Q. Did TDCJ take a position on those bills in support or  
13:45:18 6 against?

13:45:18 7 A. As a state agency, we can't take a for or against  
13:45:21 8 position. We testify on bills in the legislature. I can  
13:45:25 9 tell you, we worked with the authors of those bills and  
13:45:27 10 certainly were hopeful that they might pass, but we don't  
13:45:32 11 essentially lobby for or against a bill in the  
13:45:36 12 legislature. I think they clearly knew we were not  
13:45:40 13 opposed, but we didn't voice an opposition at all. We  
13:45:43 14 voiced hope that they would do it.

13:45:49 15 Q. Do you work with the legislature to make sure they  
13:45:53 16 understand your need?

13:45:53 17 A. Yes, ma'am. Anytime there's a bill that's drafted,  
13:45:56 18 we go through and look at the impact that bill would have  
13:45:58 19 on the agency and we usually have discussions on a bill  
13:46:01 20 like that with the staff or the legislator themselves.

13:46:05 21 Q. Are you as an agency director allowed to lobby?

13:46:08 22 A. No, ma'am.

13:46:09 23 Q. Mr. Collier, plaintiffs' counsel seemed to believe  
13:46:16 24 that TDCJ just doesn't care that you're throwing up your  
13:46:19 25 hands and saying we don't have the money, sorry. Is that



13:46:21 1 accurate?

13:46:22 2 A. No, ma'am. Not at all.

13:46:24 3 Q. Are you going to ask for more money from the

13:46:27 4 legislature this session?

13:46:27 5 A. Yes. We're developing our legislative appropriation

13:46:31 6 requests now and although we haven't settled the final

13:46:34 7 number, it will be well north of the 85 million that we

13:46:36 8 received last time with hopes that we would have that much

13:46:38 9 more funded for air conditioning.

13:46:59 10 Q. Have you seen the attitudes change in the legislature

13:47:03 11 when it comes to providing money for air conditioning to

13:47:05 12 improving the system?

13:47:06 13 A. Significantly, yes, ma'am. I think 25 years ago, no

13:47:09 14 one would even mention it. Today, you have a lot of

13:47:12 15 support. More so in the House. But you have a

13:47:15 16 significant amount of support for air conditioning in

13:47:17 17 looking at that for the system.

13:47:20 18 Q. Do you believe that the legislature continues

13:47:24 19 providing the requested funding each session that TDCJ

13:47:26 20 will accomplish its goal to air condition the entire

13:47:28 21 system?

13:47:30 22 A. I believe they will continue to provide the funding

13:47:33 23 in that area. Yes, ma'am.

13:47:34 24 Q. Is TDCJ going to continue to seek funding?

13:47:37 25 A. Yes.

13:47:38 1 Q. I want to talk about a couple of points that  
13:47:44 2 plaintiffs' counsel brought up through the week, Mr.  
13:47:55 3 Collier.

13:47:55 4 Did you hear plaintiffs' attorneys asking  
13:47:57 5 different witnesses, their own and some of your employees,  
13:48:00 6 how TDCJ decides the difference between a death caused by  
13:48:04 7 heat and a death where heat was a contributing factor?

13:48:07 8 A. Yes.

13:48:09 9 Q. Do you know where that distinction comes from?

13:48:11 10 A. I know that the rider language requires us to report,  
13:48:16 11 I believe, a heat-related death or those deaths that were  
13:48:23 12 exacerbated by heat. The report that we provide to the  
13:48:27 13 legislature.

13:48:27 14 Q. Will you explain to me what a rider is?

13:48:29 15 A. A rider is basically much like a passed bill but it's  
13:48:33 16 actually placed in your budget. So it's a requirement  
13:48:35 17 that passes through your budget but it basically can  
13:48:38 18 require the agency to do certain things.

13:48:41 19 In '21 -- or no, excuse me, '19, I believe, there  
13:48:45 20 was a rider that passed that required us to start taking  
13:48:49 21 temperatures. So we began that process. Based on that  
13:48:52 22 rider, we produced a report to the legislature based on  
13:48:55 23 that rider's instruction. That rider was modified in '21,  
13:49:00 24 I believe, in the legislative session in '21 to also  
13:49:03 25 include the heat-related illnesses and the heat-related

13:49:06 1 deaths so it's -- excuse me. I said illnesses but I don't  
13:49:10 2 think the rider requires that but we put it in there. But  
13:49:13 3 we are required to provide information on temperatures,  
13:49:16 4 any heat-related death or deaths that are exacerbated by  
13:49:19 5 heat.

13:49:20 6 Q. Is it accurate that this rider requires reporting on  
13:49:25 7 the following: Environmental hyperthermia, death caused  
13:49:29 8 by heat and exacerbated by heat?

13:49:32 9 A. Yes.

13:49:32 10 Q. Did TDCJ determine to distinguish the second and  
13:49:36 11 third options? Did TDCJ write this language?

13:49:41 12 A. No, ma'am.

13:49:42 13 Q. Who wrote this?

13:49:43 14 A. I'm not sure of the writer but I think that Moody,  
13:49:47 15 Representative Moody originated the rider. I can't  
13:49:51 16 remember how it got modified.

13:49:53 17 Q. Does the rider define this?

13:49:56 18 A. I don't think it provides a definition. The agency  
13:49:58 19 looked at those instructions and then, basically  
13:50:01 20 categorized people in those categories as we could.

13:50:06 21 Q. I want to ask you about another thing that  
13:50:08 22 plaintiffs' counsel brought up. Did you see the two  
13:50:11 23 studies they talked about the last few days, the Texas A &  
13:50:15 24 M study and then, the JAMA study written by Dr. Skarha and  
13:50:19 25 Dr. Zanobetti?

13:50:19 1 A. I saw both, yes, ma'am.

13:50:20 2 Q. Is that the first time you've seen those?

13:50:22 3 A. No, ma'am. I saw them when they -- can't remember  
13:50:25 4 how I got each of them but I know I got them shortly after  
13:50:28 5 they were published or maybe at the same time they were  
13:50:30 6 published. I got one by e-mail -- maybe even got them  
13:50:33 7 both by e-mail. When I got the reports, I gave them to  
13:50:36 8 Andy Barbee, our research director.

13:50:39 9 Q. Who is Andy Barbee?

13:50:40 10 A. Andy Barbee is our Director of Research and  
13:50:42 11 Development for TDCJ. I gave them to Andy to look at.  
13:50:46 12 Also perused them myself. And then, I know on the A & M  
13:50:50 13 study, it's mostly surveys or, I think, almost all surveys  
13:50:53 14 that are anonymous. It has a couple of units mentioned.  
13:50:56 15 Mr. Lumpkin took that information and then, worked with  
13:50:58 16 his management team to help try to reenforce doing those  
13:51:02 17 things. We need to obviously double down and verify we're  
13:51:05 18 not doing these things. But it doesn't necessarily tell  
13:51:07 19 you who made the complaint or where it's coming from.  
13:51:10 20 That was the A & M piece.

13:51:13 21 The other study, the JAMA study, had some -- not  
13:51:16 22 questioning what it did but it didn't look very far into  
13:51:19 23 what TDCJ did with its facilities. So, for instance, it  
13:51:24 24 studied deaths from '01 through, I think, 2019 that were  
13:51:28 25 either in air conditioning or not air conditioning.

13:51:30 1 During that window of time, the majority of our -- the  
13:51:33 2 only fully air conditioned not -- I shouldn't say only but  
13:51:35 3 the majority of our fully air-conditioned facilities were  
13:51:38 4 our private facilities or operated by a private vendor.

13:51:43 5 Our private facilities held our lowest-risk  
13:51:45 6 medical and lowest-risk classification inmates because  
13:51:48 7 they only operated eight-hour clinic on those locations  
13:51:51 8 and the vendors operated the medical. So in an effort to  
13:51:54 9 keep the cost under control on the private facilities to  
13:51:56 10 come in within the per diem ranges, we put our least  
13:52:01 11 medical people in those beds.

13:52:04 12 In addition to that, we have like a micro unit,  
13:52:05 13 which is a partial air-conditioned unit that also is a  
13:52:09 14 hospice unit. It had several hundred deaths during that  
13:52:11 15 window of time. The study doesn't know that because it  
13:52:14 16 didn't really dig down that deep, so it had some issues  
13:52:16 17 that, in my opinion, probably skewed the study.

13:52:20 18 Q. Why did you send these studies to Mr. Andy Barbee?

13:52:24 19 A. To help him rear identify for me are these valid  
13:52:28 20 study cans you look at me and tell me what we may need to  
13:52:31 21 do about those studies.

13:52:32 22 Q. What is Mr. Barbee's background?

13:52:34 23 A. Mr. Barbee's a researcher, he has master's degree,  
13:52:38 24 but he also worked for the Texas Criminal Justice Policy  
13:52:41 25 Council many, many years ago, but then, he left and was

13:52:44 1 Health and Human Services as a researcher. But then, Andy  
13:52:47 2 was also the director of research for the Council of State  
13:52:50 3 Governments Justice Center for several years working on  
13:52:53 4 projects throughout the country. We hired him from that  
13:52:55 5 agency.

13:52:59 6 Q. And do you know how many inmates the Texas A & M  
13:53:04 7 studies surveyed?

13:53:04 8 A. I don't know how many received the survey, but I  
13:53:07 9 believe it was between 3 and 400 that responded.

13:53:17 10 Q. Do you know if the JAMA study knew which deaths  
13:53:20 11 occurred in AC housing?

13:53:23 12 A. I don't recall.

13:53:25 13 Q. Do you know if the JAMA study had access to the  
13:53:29 14 individual deaths' medical records?

13:53:30 15 A. I don't believe so but I don't recall.

13:53:33 16 Q. Did either of these studies request information from  
13:53:35 17 TDCJ?

13:53:36 18 A. Not to my knowledge.

13:54:16 19 Q. Mr. Collier, are inmate grievances taken seriously?

13:54:19 20 A. Yes, ma'am.

13:54:20 21 Q. How are they monitored?

13:54:21 22 A. Grievances go -- so we have grievance investigators  
13:54:24 23 on every unit. So a step one grievance that's written by  
13:54:27 24 an inmate goes initially to a unit grievance administrator  
13:54:31 25 -- investigator. Their role is to try to resolve the

13:54:33 1 grievance in the first step. If they're unable to do  
13:54:37 2 that, they return a response to the inmate or they --  
13:54:39 3 excuse me, they will return a response to the inmate  
13:54:41 4 within a certain window of time according to policy.

13:54:44 5 They will also talk to the warden at the  
13:54:46 6 facility, depending on what the grievance is referencing  
13:54:49 7 and what the issue is within a grievance. So if it's  
13:54:51 8 something that the warden needs to be involved in making a  
13:54:54 9 decision to address the grievance or meet the requested  
13:54:57 10 relief, then they could talk to the warden about the  
13:55:00 11 ability to do that, or they may bring to it the warden, as  
13:55:03 12 well, to say this looks like a significant issue and it's  
13:55:06 13 pointed out in this grievance.

13:55:08 14 They return that to the inmate. The inmate then  
13:55:10 15 has an opportunity to go to a second step grievance, which  
13:55:12 16 they can file. It comes to our central office location in  
13:55:16 17 our administrative review and risk management division.

13:55:20 18 Q. Do you know how many grievances were filed in TDCJ  
13:55:23 19 this year alone?

13:55:25 20 A. I think the annual number's over a hundred thousand.

13:55:41 21 Q. Does someone at TDCJ respond to constituent concerns  
13:55:44 22 or concerns from the legislature about some things that  
13:55:47 23 may be going on in TDCJ?

13:55:49 24 A. Lots of people to include me. I get direct requests  
13:55:52 25 from legislators. I get direct requests from families. I

13:55:55 1 get e-mails regularly from families or people with  
13:55:58 2 concerns. We have the family liaison program that works  
13:56:02 3 out of my office that are staffed that just do work  
13:56:04 4 directly with families, legislators and others.

13:56:07 5           And then, on 12 of our largest units, we have  
13:56:10 6 family liaison staff who are there just to take calls from  
13:56:13 7 family members or concerned individuals about the  
13:56:15 8 population. So those offices respond, but within our  
13:56:19 9 division directors, many of them interact regularly with  
13:56:22 10 legislators or legislative offices to respond to  
13:56:27 11 inquiries, as well.

13:56:30 12 Q. Mr. Collier, similar to how you referred the studies  
13:57:04 13 that you received to Mr. Barbee, is there anyone that you  
13:57:08 14 forward concerns from the constituents or senators to in  
13:57:12 15 your office?

13:57:13 16 A. It depends on the issue, but if I get a concern in  
13:57:18 17 reference to something on the correctional institutions,  
13:57:19 18 then I may go directly to Mr. Lumpkin with that concern  
13:57:22 19 and ask him to investigate it. I have other staff. The  
13:57:26 20 administrative review and risk management division,  
13:57:28 21 sometimes I have them actually go and investigate it on  
13:57:31 22 the unit. I may call the warden directly, depending on  
13:57:33 23 what the issue here. If it goes to medical claim, I could  
13:57:36 24 contact the universities or contact our health services  
13:57:39 25 division for help, as well. But I reach out to



13:57:42 1 essentially the -- where I feel like the problem either is  
13:57:45 2 occurring or the division that should be able to address  
13:57:48 3 the issue.

13:58:08 4 Q. Mr. Collier, do you remember testimony from  
13:58:10 5 yesterday, I believe it was, there was a grievance from  
13:58:12 6 the Stiles Unit that alleged that the temperature reached,  
13:58:18 7 I believe, 136 heat index?

13:58:21 8 A. Yes.

13:58:23 9 Q. Is the Stiles Unit one of the units that we did  
13:58:26 10 temperature check logs on?

13:58:27 11 A. Yes.

13:58:28 12 Q. Do we do temperature check logs on all units?

13:58:30 13 A. Yes.

13:58:30 14 Q. Did we do temperature check logs in 2022?

13:58:38 15 A. Yes, ma'am, I believe so. And I need to correct one  
13:58:42 16 thing because I can't remember a hundred percent if the  
13:58:44 17 units without -- the units with air conditioning, if we do  
13:58:47 18 temperature checks there, I'm not sure.

13:58:54 19 Q. Mr. Collier, have you seen the reports that we gave  
13:59:12 20 to the leg about the units' temperature logs?

13:59:13 21 A. Yes, ma'am.

13:59:23 22 Q. Do you have any reason to dispute that the grievance  
13:59:26 23 that plaintiffs introduced yesterday was July 12, 2022?

13:59:31 24 A. No, ma'am.

13:59:32 25 Q. Does that sound accurate to you?

13:59:34 1 A. I wouldn't dispute it.

13:59:36 2 Q. And can we go to page 28. Does this look like the  
13:59:45 3 temperature log that you report, Mr. Collier?

13:59:49 4 A. Yes, ma'am, but I'll tell you, I can't read it very  
13:59:52 5 well.

13:59:52 6 Q. We'll get it zoomed in. But at this time, I move to  
13:59:54 7 admit Defendants' Exhibit 70.

14:00:00 8 MS. GROSSMAN: No objection.

14:00:01 9 THE COURT: No objection, so admitted.

14:00:03 10 Q. (BY MS. CARTER) Mr. Collier, do you see on the left  
14:00:07 11 column where that's broken down by units?

14:00:08 12 A. Yes, ma'am.

14:00:09 13 Q. And can we scroll to 12 column. That would be July  
14:00:15 14 12.

14:00:15 15 A. Okay. 92.6.

14:00:29 16 Q. Thank you, Mr. Collier. James, you could take that  
14:00:37 17 down. Can we actually pull up Defendants' Exhibit 76 now?  
14:01:06 18 Mr. Collier can you tell me what this log is?

14:01:18 19 A. So that's the manual log essentially that reports in  
14:01:22 20 about the unit temperatures.

14:01:24 21 Q. Is this log filled out at the unit?

14:01:25 22 A. It is and that's measuring outside temperature.

14:01:29 23 Q. What date is that?

14:01:43 24 A. Looks like July 1st.

14:02:09 25 Q. Is this the date, July 12th, Mr. Collier?

14:02:12 1 A. Looks that way, yes, ma'am.

14:02:16 2 Q. And can you tell me under the column that says heat  
14:02:20 3 index, what's the highest it reached that day, or humidity  
14:02:23 4 and wind speed?

14:02:25 5 MS. GROSSMAN: Your Honor, if I could just  
14:02:27 6 object. I don't believe we've ever seen this before. We  
14:02:31 7 haven't been provided a copy, have we?

14:02:32 8 MS. CARTER: I'm using this as rebuttal evidence  
14:02:34 9 to the grievance that was introduced yesterday about the  
14:02:36 10 Stiles Unit and they're sending you a copy.

14:02:38 11 MS. GROSSMAN: Okay.

14:02:40 12 MS. CARTER: At this time, I'm going to move to  
14:02:41 13 admit Defendants' Exhibit 76.

14:02:44 14 MS. GROSSMAN: No objection.

14:02:44 15 THE COURT: So admitted.

14:02:52 16 Q. (BY MS. CARTER) Mr. Collier, do you see 130 degrees  
14:02:56 17 on that chart?

14:02:56 18 MS. GROSSMAN: Your Honor, we just -- we have not  
14:02:59 19 -- in looking at my e-mail, I'm trying to be -- it's hard  
14:03:02 20 to be able to follow the questions and try to pull this up  
14:03:05 21 to see about the e-mail --

14:03:08 22 MS. CARTER: I'm fine waiting. We're looking at  
14:05:50 23 page 11 or 12, actually.

14:06:20 24 THE COURT: Counsel, can I ask a question while  
14:06:21 25 we're waiting just for my clarification?

14:06:25 1 MS. CARTER: Yes, your Honor.

14:06:25 2 THE COURT: Is this July the 12th?

14:06:28 3 MS. CARTER: Yes, your Honor. And I can have us  
14:06:31 4 scroll to the page before so you can see that it's 11 and  
14:06:35 5 then, 12. I think it's just sloppy handwriting.

14:06:37 6 THE COURT: No, no, no. That's fine. I was  
14:06:38 7 curious because if it was in Beaumont, Texas on July 12th,  
14:06:43 8 it was 79 degrees at 2:30 in the afternoon? I'll take  
14:06:46 9 judicial notice that that -- there's something wrong with  
14:06:49 10 this document. I mean, I'm just saying. Have you ever  
14:06:52 11 been to Beaumont in July?

14:06:54 12 MS. CARTER: I haven't.

14:06:56 13 THE COURT: Was it ever 79 degrees? I mean,  
14:07:00 14 that's my --

14:07:01 15 MS. GROSSMAN: There has been no foundation laid  
14:07:03 16 and there's been no authentication for this document.

14:07:06 17 MR. JAMES: And we don't have it.

14:07:08 18 THE COURT: Okay. Well, you see it.

14:07:10 19 Q. (BY MS. CARTER) Mr. Collier, do the -- Mr. Collier,  
14:07:21 20 are the units required to take temperature logs?

14:07:23 21 A. Yes. They take outside temperature logs and then,  
14:07:28 22 for a different purpose, we measure indoor temperatures.

14:07:34 23 Q. Is this the form that they use to fill these out?

14:07:38 24 A. I would not argue. Yes, I believe that's correct.

14:07:46 25 Q. Do you see anywhere on there that says 130 percent?

14:08:08 1 A. No, ma'am.

14:08:09 2 Q. Okay. You can take it down, James.

14:08:20 3 Mr. Collier, do you have any reason to believe

14:08:22 4 that your employees are falsifying temperature counts?

14:08:26 5 A. No, ma'am.

14:08:34 6 Q. Why do you give temperature counts to the

14:08:37 7 legislature, Mr. Collier?

14:08:38 8 A. So they know what temperatures are inside of our

14:08:40 9 facilities. The log that you were referencing I don't

14:08:43 10 believe is part of the legislative report. What's part of

14:08:46 11 the legislative report is the Kestrels that we have inside

14:08:50 12 the unit in the housing areas that we monitor on

14:08:53 13 temperatures every day so they get that information.

14:08:54 14 THE COURT: Let me ask, can you put that back up?

14:08:57 15 I think that said outside temperature.

14:09:00 16 THE WITNESS: It is. I'm sorry.

14:09:01 17 THE COURT: Okay.

14:09:02 18 A. Apologize if I misspoke, but the chart you were

14:09:05 19 referencing is not part of what we send the legislature

14:09:08 20 because that's an outside temperature.

14:09:09 21 Q. (BY MS. CARTER) Exhibit 70 was part of that, correct,

14:09:12 22 the legislative report that was up?

14:09:14 23 A. Yes. The one that showed every -- or the daily

14:09:17 24 numbers, yes.

14:09:19 25 Q. But these logs, the handwritten logs are what is

14:09:23 1 given to you or to your office to give to the legislature?

14:09:28 2 A. Not the handwritten log, no, ma'am.

14:09:30 3 Q. Are the indoor logs?

14:09:33 4 A. The indoor log that you showed, I believe, is the

14:09:36 5 monitoring of outdoor temperatures in a facility. In

14:09:41 6 other words, when they announce that at the facility, what

14:09:42 7 we report to the legislature based on the rider are the

14:09:45 8 indoor temperatures that we take daily.

14:09:47 9 Q. And you monitor both?

14:09:49 10 A. Yes, ma'am.

14:09:50 11 Q. Did you see on that chart anywhere that said 130

14:09:55 12 degrees?

14:09:55 13 A. No, ma'am. But the chart you have there, the July

14:09:59 14 daily, that's referencing the daily temperature taken at

14:10:02 15 the same time every day in the housing area.

14:10:04 16 Q. And for Stiles, July 12th?

14:10:08 17 A. So Stiles, it was 92.6 in the housing area.

14:10:12 18 Q. Thank you. You can take it down, James.

14:10:23 19 Mr. Collier, do you have any reason to

14:10:25 20 misrepresent the temperature logs to the legislature?

14:10:28 21 A. No, ma'am.

14:10:28 22 Q. Does it suit your purpose to lie about temperatures

14:10:32 23 to the legislature?

14:10:33 24 A. No, ma'am.

14:10:34 25 Q. What do you want the legislature ultimately to do?

14:10:37 1 A. I want them to -- one, I want to comply with the  
14:10:39 2 rider and make sure I give them accurate information.

14:10:44 3 Q. What was that second part?

14:10:50 4 A. I want to give them accurate information.

14:10:53 5 Q. Do you want the legislature to appropriate more  
14:10:55 6 money?

14:10:56 7 A. Yes, and if that helps them do so, then that helps  
14:10:59 8 then facilitate that because that gives them some of the  
14:11:02 9 justification.

14:11:05 10 Q. Mr. Collier, are you relying on medical staff to  
14:11:20 11 alert you any concerns that inmates have?

14:11:24 12 A. Any concerns?

14:11:25 13 Q. Health concerns?

14:11:27 14 A. Medical staff can advise me of issues specific to an  
14:11:32 15 inmate, or a group of inmates, or classification of  
14:11:34 16 inmates. But I also regularly get correspondence from  
14:11:39 17 families, from inmates directly, and if that includes a  
14:11:42 18 medical component, then we would look at that, as well.

14:11:45 19 Q. Do you rely at the unit level for your employees and  
14:11:47 20 your wardens to let you know if something is going on at  
14:11:50 21 that unit?

14:11:50 22 A. I do, but I have many cross checks. So I don't just  
14:11:53 23 rely on what they're going to tell me at the unit level.  
14:11:55 24 That's where the administrative review and risk management  
14:11:57 25 division comes in. They're somewhat of an oversight area

14:12:00 1 of the agency so I use them to help sometimes fact check  
14:12:04 2 what I'm trying to find out on units. Or I may send other  
14:12:07 3 people to go look at incidents or issues.

14:12:09 4 Q. Do you remember Mr. Morales' testimony yesterday, Mr.  
14:12:12 5 Collier?

14:12:12 6 A. I do.

14:12:14 7 Q. Did you hear him testify about heat strike teams?

14:12:20 8 A. Yes, ma'am.

14:12:21 9 Q. When were heat strike teams first initiated?

14:12:25 10 A. Toward the end of the summer in '23, we did it  
14:12:27 11 through our emergency management staff, actually had them  
14:12:32 12 coordinate the strike teams to go out on facilities and  
14:12:36 13 identify are they actually following protocols that we're  
14:12:39 14 required to follow as it relates to heat mitigation.

14:12:42 15 Q. And why did the agency start doing strike teams?

14:12:47 16 A. It's another crosscheck for me. I was the one that  
14:12:49 17 asked for them. Our risk manager goes out every week and  
14:12:54 18 complete an audit. I think Mr. Lumpkin talked about that  
14:12:56 19 when he was testifying that they complete an audit each  
14:12:59 20 week of the mitigation efforts, but I wanted an  
14:13:01 21 unannounced visit on units that are having either high  
14:13:04 22 grievances, or if they're having heat-related illnesses,  
14:13:06 23 or if they're having complaints or other things or high  
14:13:09 24 temperatures in a certain area, I wanted to have staff  
14:13:12 25 that aren't tied to the unit go out and just verify for me



14:13:15 1 we're doing what we say we're doing.

14:13:16 2 Q. You used the word "crosscheck." Why do you, Bryan  
14:13:21 3 Collier, care about crosschecking?

14:13:22 4 A. Helps validate the information that I'm getting and  
14:13:25 5 helps me make sure that I'm getting information that's  
14:13:27 6 accurate.

14:13:29 7 Q. Do you take complaints seriously?

14:13:37 8 A. Yes, ma'am.

14:13:40 9 Q. Do you take your inmates' health and safety  
14:13:43 10 seriously?

14:13:44 11 A. Absolutely.

14:13:45 12 Q. To you take your employees' health and safety  
14:13:51 13 seriously?

14:13:51 14 A. Absolutely.

14:13:53 15 Q. What if a strike team came back and told you this  
14:13:55 16 unit's not doing everything that needs to be done?

14:13:58 17 A. That has happened and my immediate response --  
14:14:01 18 because before the strike team leaves the unit, they're to  
14:14:03 19 meet with the warden and talk about their findings. So my  
14:14:06 20 expectation is that the majority of those issues have been  
14:14:08 21 resolved at that point. If it can't be resolved there,  
14:14:12 22 then Mr. Lumpkin also gets that. Mr. Hudson would also  
14:14:14 23 get it if it's a maintenance issue. But I would follow up  
14:14:17 24 with Mr. Lumpkin to verify has that been done, have all  
14:14:21 25 those issues gotten squared away. Might call the warden

14:14:25 1 directly and ask him myself.

14:14:29 2 Q. What would happen if you realize there was a

14:14:44 3 pervasive problem with units not complying more than one?

14:14:47 4 If you had a strike team go out and units across the state

14:14:51 5 were not complying.

14:14:52 6 A. If I find a common issue, then I'm going to quickly

14:14:55 7 be meeting with Mr. Lumpkin and his team to find out how

14:14:58 8 we're going to rectify that, how we're going to resolve

14:15:01 9 that, and I would want to know if I went out with strike

14:15:03 10 teams, because they're going on targeted units, I'd want

14:15:06 11 to know is that more pervasive than what I'm finding on

14:15:08 12 the strike team. So I would probably want to know

14:15:10 13 statewide, are we having the same issue on all facilities

14:15:13 14 versus maybe the 10 that the strike team represents. So I

14:15:16 15 would want to know that number but, at the same time, meet

14:15:19 16 quickly with them to find out how are we resolving that,

14:15:22 17 how are we addressing that.

14:15:24 18 Q. Thank you. Mr. Collier, do you deny that there were

14:15:42 19 three deaths last year?

14:15:45 20 A. Three deaths.

14:15:46 21 Q. Were the three deaths that plaintiffs' counsel has

14:15:49 22 talked about over the last week?

14:15:50 23 A. There were three deaths last year that showed heat as

14:15:53 24 a additional factor. I'm not saying that right.

14:15:58 25 Q. For those three deaths reported to the legislature?

14:16:01 1 A. Yes, ma'am.

14:16:08 2 Q. Are you going to go to the legislature this year, Mr.  
14:16:12 3 Collier?

14:16:12 4 A. Yes, ma'am.

14:16:13 5 Q. Do you intend to ask for additional funds to air  
14:16:16 6 condition the system?

14:16:17 7 A. Yes. We will be submitting our legislative  
14:16:21 8 appropriation request to the legislature in the coming  
14:16:25 9 months. That will be a -- essentially a preview of what  
14:16:29 10 we're asking for as we enter the legislative session in  
14:16:32 11 January of '25.

14:16:42 12 Q. Mr. Collier, why are you asking the legislature for  
14:16:45 13 more money?

14:16:46 14 A. To continue the momentum toward moving toward air  
14:16:50 15 conditioning the system.

14:16:51 16 Q. Is air conditioning the system this agency's  
14:16:54 17 number-one priority?

14:16:55 18 A. We have many, many priorities. Staffing, reducing  
14:16:59 19 suicides, reducing homicides, reducing contraband on our  
14:17:03 20 facilities. Air conditioning is a key priority, no doubt,  
14:17:06 21 but to say it's the number one, the only priority that  
14:17:08 22 we're focused on -- it's a key priority definitely and in  
14:17:11 23 certain areas of the agency, it would be a number-one  
14:17:14 24 priority, but there are many priorities that we have in  
14:17:16 25 the agency to try to address.

14:17:17 1 Q. And how many resources did the agency have? Do we  
14:17:24 2 have unlimited resources, Mr. Collier?

14:17:25 3 A. No, ma'am. We have essentially, obviously staff is a  
14:17:29 4 resource, but at the same time, funding-wise, we're funded  
14:17:32 5 by the legislature and that's the amount of money that we  
14:17:34 6 essentially can spend and it basically is they give you  
14:17:37 7 the funding, they tell you where you could spend it.

14:17:50 8 Q. Do you believe that if the legislature continues  
14:17:53 9 funding and providing funding for each session, will TDCJ  
14:17:56 10 be able to accomplish its goals to air condition the  
14:17:58 11 entire system?

14:17:59 12 A. I do.

14:18:00 13 Q. Is that your goal, Mr. Collier?

14:18:02 14 A. It is.

14:18:02 15 Q. Nothing further.

14:18:26 16 MS. GROSSMAN: Your Honor, before I begin, we  
14:18:29 17 haven't been able to see the exhibit yet and I was going  
14:18:34 18 to have my co-counsel be able to pull up the exhibit.

14:18:36 19 THE COURT: Sure.

14:19:22 20 CROSS-EXAMINATION

14:19:23 21 BY MS. GROSSMAN:

14:19:23 22 Q. Good afternoon, Mr. Collier.

14:19:26 23 A. Good afternoon, ma'am.

14:19:27 24 Q. I know it's been a long week. I just want to start  
14:19:29 25 off with a few general principles I think we can agree on.

14:19:34 1 I think there's a fair amount we might be able to agree  
14:19:37 2 on.

14:19:37 3 Can we agree that summers are hot in Texas?

14:19:39 4 A. Yes, ma'am.

14:19:40 5 Q. And that they've been hot for years?

14:19:42 6 A. Yes, ma'am.

14:19:43 7 Q. And they're likely to continue to be hot? Heat waves  
14:19:47 8 are likely to continue?

14:19:48 9 A. I would agree.

14:19:48 10 Q. And could we also agree that it's very hot in Texas  
14:19:51 11 prisons that don't have air conditioning?

14:19:52 12 A. Yes.

14:19:52 13 Q. And because of the very hot and high temperatures  
14:19:57 14 outside, the temperatures inside Texas prisons that don't  
14:19:59 15 have air conditioning also reach very high temperatures in  
14:20:02 16 the summer. Can we agree on that?

14:20:04 17 A. They do have -- I think you're asking if it's hot  
14:20:07 18 outside, it's hot inside, yes, ma'am.

14:20:09 19 Q. Yes. Fair to say that there are over 90,000 cells  
14:20:11 20 without air conditioning throughout Texas?

14:20:13 21 A. I'll agree.

14:20:14 22 Q. And of course, you're aware that temperature inside  
14:20:17 23 the cells is routinely -- the temperature inside of cells  
14:20:22 24 can routinely exceed 90 or even a hundred degrees.

14:20:26 25 A. It can definitely exceed 90. I don't know how

14:20:29 1 frequently it's over a hundred. But I'm not arguing.

14:20:31 2 Q. With humidity, heat indexes reach even higher than

14:20:34 3 that.

14:20:34 4 A. Possibly.

14:20:34 5 Q. And temperatures are so hot in and so extreme during

14:20:38 6 the summer that mitigation measures are required. Can we

14:20:40 7 agree on that?

14:20:41 8 A. Yes, ma'am.

14:20:41 9 Q. And can we also agree that extreme heat can cause

14:20:45 10 death and injuries?

14:20:46 11 A. To certain individuals.

14:20:48 12 Q. For all individuals, heat can cause death and

14:20:51 13 injuries, right? We can agree on that?

14:20:52 14 A. I don't think heat causes for everyone, no.

14:20:58 15 Q. I'm not asking it causes injuries for everyone. I'm

14:21:01 16 saying that extreme heat can cause death and can cause

14:21:04 17 sickness and injuries to people.

14:21:07 18 A. For some people, yes.

14:21:09 19 Q. And not just the medically vulnerable but people.

14:21:12 20 A. I would say the medically vulnerable or people who

14:21:15 21 have conditions can be more vulnerable.

14:21:17 22 Q. Certainly more vulnerable but certainly people can

14:21:21 23 still get sick and suffer injuries even if they're not

14:21:25 24 suffering from medically vulnerable heat-related

14:21:28 25 conditions, right?

14:21:28 1 A. I'm not arguing with you.

14:21:29 2 Q. That includes heat exhaustion, heat cramps, heat  
14:21:35 3 stroke?

14:21:35 4 A. Could.

14:21:36 5 Q. And as you've just, said people with medical  
14:21:38 6 conditions and vulnerabilities are more susceptible to  
14:21:41 7 illness and death from the heat, right?

14:21:43 8 A. I believe that's right.

14:21:44 9 Q. We can also agree you testified that heat has caused  
14:21:48 10 the death or contributed to the death of TDCJ inmates in  
14:21:51 11 the past, right?

14:21:51 12 A. Yes, ma'am.

14:21:52 13 Q. I know that we disagree about the number on that but  
14:21:57 14 let's just start what we agree on, okay?

14:21:59 15 A. Sure.

14:21:59 16 Q. 2007, you agree that at least two inmates died of  
14:22:03 17 hyperthermia in TDCJ facilities, right?

14:22:07 18 A. I'm not arguing with you if that's documents, but I'm  
14:22:11 19 familiar from '11 forward but I'm not familiar with '07.  
14:22:14 20 I'm not arguing you're wrong, don't get me wrong, but at  
14:22:17 21 the same time.

14:22:17 22 Q. Let's go to 2011. The summer of 2011, you agree that  
14:22:23 23 at least 10 people died of heat stroke, right?

14:22:24 24 A. Yes, ma'am. That's correct.

14:22:24 25 Q. And in 2012, you agree that at least two people died

14:22:26 1 of heat stroke.

14:22:26 2 A. That is correct.

14:22:28 3 Q. And there have been various heat mitigation measures

14:22:31 4 and policies over years, right?

14:22:33 5 A. Been different versions of it, yes, ma'am, throughout

14:22:35 6 the years.

14:22:36 7 Q. And I think you testified in the Cole case in 2011,

14:22:39 8 even before autopsies and litigation happened, I think you

14:22:43 9 said that you actually suspected that some of the deaths

14:22:45 10 were heat-related and you looked into implementing

14:22:49 11 mitigation measures; is that right?

14:22:49 12 A. I don't know that I testified to that.

14:22:52 13 Q. Well, did you suspect in 2011 that some deaths were

14:22:55 14 heat-related?

14:22:55 15 A. In 2011, did I suspect that some of those deaths

14:23:01 16 could be heat-related?

14:23:02 17 Q. Yes.

14:23:03 18 A. As it was occurring, yes, I believe we began to

14:23:06 19 suspect that.

14:23:06 20 Q. Before lawsuits happened.

14:23:07 21 A. Yes, ma'am.

14:23:08 22 Q. What made you suspect that?

14:23:09 23 A. Many of them were at intake facilities so they had

14:23:12 24 just come in from jails. Many of them had significant or

14:23:16 25 almost all of them had sought health issues and they had



14:23:21 1 come in from a -- essentially a controlled climate into a  
14:23:24 2 facility where it wasn't controlled and it was a hot  
14:23:26 3 summer.

14:23:27 4 Q. In each year, TDCJ issues a memo and directive giving  
14:23:34 5 staff and inmates various instructions on how to combat  
14:23:37 6 extreme heat, right?

14:23:38 7 A. We do the annual heat memo or heat notice. We do  
14:23:43 8 training, sometimes videos, as well, but a wide variety of  
14:23:47 9 things every year.

14:23:47 10 Q. And these manuals basically include access to respite  
14:23:52 11 rooms, access to cold water and ice, access to additional  
14:23:55 12 showers, fans, and resting or working less during periods  
14:23:58 13 of extreme heat; is that right?

14:24:00 14 A. Yes, ma'am. We may reduce work hours. We also talk  
14:24:03 15 about dress code where they can basically not have to  
14:24:06 16 worry about wearing their full uniform in the housing  
14:24:08 17 areas and some other areas.

14:24:09 18 Q. Did I miss any really important ones?

14:24:14 19 A. Transportation during coolest times of the day. We  
14:24:17 20 do the wellness checks, as well.

14:24:23 21 Q. And these measures that we talked about, respite  
14:24:27 22 rooms, cold water, ice, additional showers, personal fans,  
14:24:33 23 resting more, TDCJ has been using these mitigation  
14:24:37 24 measures for years, right?

14:24:38 25 A. They've evolved so the respite rooms came in after

14:24:42 1 '18, I believe, or maybe around '17, '18. So not like  
14:24:45 2 decades but certainly over the last few years, we have  
14:24:48 3 added -- made sure that every facility has respite areas,  
14:24:52 4 made sure that staff understand what the instructions are.  
14:24:54 5 With the cold water and ice, we've gone through a variety  
14:24:57 6 of how we deliver that and what we do. And then, as we --  
14:25:00 7 if learn something next week that would really be  
14:25:02 8 monumental that we could do, then we would be modifying  
14:25:06 9 accordingly.

14:25:06 10 Q. I didn't mean to imply these measures have been used  
14:25:09 11 for decades, but those tools we described certainly have  
14:25:13 12 been in place certain since at least 2018, '19?

14:25:16 13 A. I would think so. Yes, ma'am.

14:25:17 14 Q. Certainly in place last summer?

14:25:18 15 A. Yes, ma'am.

14:25:19 16 Q. And so, we can agree that despite these mitigation  
14:25:22 17 measures, inmates still die from heat?

14:25:25 18 A. There were three that had other conditions but died  
14:25:27 19 of heat exasperated their -- I'm not saying that right but  
14:25:30 20 heat contributed to the death.

14:25:37 21 Q. I believe you identified those three individuals in  
14:25:40 22 your responses to discovery, right?

14:25:42 23 A. Yes, ma'am.

14:25:43 24 Q. If we pull up Exhibit 254, please, which are your  
14:25:52 25 answers to interrogatories with the signed verification

14:25:54 1 page at the end. I move to admit that.

14:25:58 2 MS. CARTER: No objection, your Honor.

14:25:59 3 THE COURT: So admitted.

14:26:02 4 Q. (BY MS. GROSSMAN) Go to page 22. These are the three  
14:26:15 5 people where heat was mentioned as a contributory  
14:26:18 6 important factor in the death, right?

14:26:19 7 A. Yes, ma'am.

14:26:20 8 Q. And that is Elizabeth Hagerty where she died June  
14:26:24 9 30th, 2023 in the Murray Unit. John Castillo died on  
14:26:29 10 August 5th in 2023 in the Hughes Unit. And Patrick Womack  
14:26:33 11 died August 21st in 2023 in the Coffield Unit, right?

14:26:37 12 A. Yes, ma'am.

14:26:38 13 Q. Okay. And TDCJ also included those heat-related  
14:26:48 14 deaths in its required report to the legislature, as well,  
14:26:50 15 right?

14:26:50 16 A. Correct.

14:26:56 17 Q. You also in connection with these deaths, you  
14:27:00 18 routinely received autopsies and death investigations as  
14:27:03 19 part of your duty as executive director, right?

14:27:04 20 A. I get briefed on autopsies that have to do if we have  
14:27:07 21 an autopsy that identified heat as a factor or heat as a  
14:27:11 22 direct, that I would definitely be advised of it. I  
14:27:14 23 probably would have read the report, as well.

14:27:16 24 Q. So when it has to do with heat, you would have --  
14:27:21 25 you'd be advised about it and you'd also read the report

14:27:24 1 and the underlying investigation?

14:27:25 2 A. Yes, ma'am.

14:27:25 3 Q. That would be important to you to read?

14:27:27 4 A. Can you finish the last part of your sentence? So  
14:27:30 5 you said something about investigation --

14:27:32 6 Q. Like the OIG report, the underlying investigation,  
14:27:35 7 witness statements?

14:27:35 8 A. Autopsy essentially compiles that information so  
14:27:38 9 sometimes I might have asked for that but others -- but if  
14:27:40 10 an incident occurs on the facility so if we have an inmate  
14:27:44 11 death, I would typically be notified as that happens  
14:27:47 12 unless it's a natural death or one that's in hospice or  
14:27:49 13 somewhere that's doctor attended. So I would know about  
14:27:52 14 it at that point, but I wouldn't necessarily know autopsy  
14:27:54 15 for it another couple of months. So I may know  
14:27:57 16 circumstances around a death early but not necessarily the  
14:28:00 17 autopsy results for a couple of months.

14:28:02 18 Q. Would it be fair to say, then, if people die in  
14:28:05 19 hospice, you're not necessarily going to delve into that  
14:28:08 20 autopsy report?

14:28:09 21 A. That's correct.

14:28:10 22 Q. Or wouldn't even have an autopsy necessarily. But if  
14:28:13 23 it's possibly suspected heat, you're going to really spend  
14:28:17 24 more attention, more time looking at that autopsy and  
14:28:18 25 looking at that full investigation?

14:28:19 1 A. Certainly.

14:28:20 2 Q. And reading all those witness statements and reading  
14:28:22 3 all those --

14:28:22 4 A. I don't go and read all the witness statements and do  
14:28:25 5 the other part because essentially in the autopsy, that's  
14:28:27 6 a compilation of that information.

14:28:29 7 Q. I misspoke, I'm sorry. Not necessarily going to  
14:28:31 8 underlying documents but reading the investigatory file.

14:28:34 9 A. Reading the autopsy report and the file that comes  
14:28:37 10 with it. Yes, ma'am.

14:28:38 11 Q. So let's look at those three deaths then from last  
14:28:41 12 year. If you could pull up Exhibit 161, this is the death  
14:28:44 13 of John Castillo on August 5th, 2023. Says John Castillo  
14:29:12 14 is a 32-year-old Hispanic TDCJ inmate with a past medical  
14:29:16 15 history of epilepsy, mood disorder/depression, with prior  
14:29:21 16 suicide attempts. His medications include oxybutynin,  
14:29:27 17 phenytoin, sertraline. On August 6, 2023, at  
14:29:30 18 approximately 22:42, he was found unresponsive with  
14:29:34 19 shallow breathing. In the medical unit, a pulse was not  
14:29:37 20 detected and CPR was initiated but was ultimately not  
14:29:41 21 successful. He was pronounced dead at 23:30 on August 6,  
14:29:48 22 2023. So you read that when it came into you.

14:29:50 23 A. I read that autopsy report, yes, ma'am.

14:29:52 24 Q. And you can see from his autopsy report that his body  
14:29:56 25 temperature, according to the investigative report in the

14:30:00 1 Office of the Inspector General, was 107.5, right?

14:30:02 2 A. I do.

14:30:03 3 Q. It's a very high body temperature. Can we agree on  
14:30:05 4 that?

14:30:05 5 A. I would agree.

14:30:07 6 Q. If you look at that second paragraph, it shows that  
14:30:10 7 he was housed in an un-air-conditioned unit, fans, access  
14:30:14 8 to water, and the video shows him going to the water  
14:30:17 9 cooler 23 times in the 24 hours before he died. Do you  
14:30:21 10 see that?

14:30:21 11 A. I do.

14:30:22 12 Q. If you go down to the conclusion, if you look at what  
14:30:36 13 they concluded was the cause of death says based on the  
14:30:41 14 available clinical history, investigation, toxicology and  
14:30:45 15 autopsy findings, it is our consensus opinion that the  
14:30:48 16 cause of death is epilepsy seizure disorder with high  
14:30:51 17 environmental temperature, heat stress, hyperthermia as an  
14:30:54 18 important contributory factor, right?

14:30:56 19 A. Yes, ma'am.

14:30:56 20 Q. And you read that when it came in, took it seriously,  
14:31:00 21 obviously?

14:31:00 22 A. Correct.

14:31:00 23 Q. You're telling it was important -- heat was an  
14:31:07 24 important contributory factor, right? Not just potential  
14:31:10 25 or possible but important?

14:31:11 1 A. Yes, ma'am.

14:31:12 2 Q. Okay. So of course, then you were aware last year  
14:31:18 3 that UTMB doctors had concluded that heat was an important  
14:31:21 4 contributory factor in John Castillo's death in prison,  
14:31:25 5 right?

14:31:25 6 A. Yes, ma'am.

14:31:27 7 Q. Can we go to Elizabeth Hagerty's death, which is 169,  
14:31:31 8 please. That was June 30th, 2023 and if we go to page 6,  
14:31:43 9 please. Can we look at that second paragraph in clinical  
14:31:53 10 summary, it says on June 23rd, 2023, the patient  
14:31:56 11 complained to nursing staff of her need for heat  
14:31:59 12 precautions and a heat-related rash affecting her whole  
14:32:02 13 body, submitting a sick call request to be evaluated. Do  
14:32:10 14 you see that?

14:32:10 15 A. Yes, ma'am.

14:32:13 16 Q. Then it says the temperature in the patient's cell  
14:32:19 17 was 95.7 but no core body temperature was available. Do  
14:32:24 18 you see that?

14:32:25 19 A. I'm not following where you're writing but I'm not  
14:32:28 20 arguing that it's not there. Sorry, it's not on my  
14:32:31 21 screen.

14:32:33 22 Q. Let's go to page 12. So here, it concludes that  
14:32:46 23 based on the clinical history and investigation, the cause  
14:32:51 24 of death is severe hypernatremia due to a recent  
14:32:57 25 gastrointestinal illness like related to a COVID-19

14:32:59 1 infection. And then, it says, elevated environmental  
14:33:01 2 temperatures, heat stress, obesity and diabetes may be  
14:33:03 3 contributory factors, right?

14:33:04 4 A. Yes, ma'am.

14:33:05 5 Q. So you're aware last year, then, 37-year-old  
14:33:10 6 Elizabeth Hagerty died, that she had been sick complaining  
14:33:13 7 of heat rash and that UTMB doctors had concluded that heat  
14:33:16 8 may have been a contributory factor in her death, right?

14:33:18 9 A. Correct.

14:33:19 10 Q. Let's go to the last one, Patrick Womack's death,  
14:33:29 11 Exhibit 200, please. It says this 50-year-old man with a  
14:33:48 12 long history of antisocial behavior, impulse control  
14:33:53 13 disorder, recurrent major depressive disorder, intentional  
14:33:56 14 self-harm and medication was found half naked in his cell  
14:33:59 15 on 8-21-23 and could not be resuscitated. Do you see  
14:34:03 16 that?

14:34:04 17 A. Yes, ma'am.

14:34:04 18 Q. And his rectal temperature's 106 degrees. Do you see  
14:34:07 19 that?

14:34:07 20 A. I do.

14:34:08 21 Q. That's also a pretty high core body temperature?

14:34:10 22 A. It is.

14:34:12 23 Q. Not compatible with life?

14:34:17 24 A. High chance he might die with 106 degrees. Not  
14:34:20 25 arguing with you at all. Yes, ma'am.



14:34:22 1 Q. If you go to the last paragraph. Classic heat stroke  
14:34:32 2 caused by elevated environmental temperatures can also  
14:34:35 3 occur in combination with drug-induced hyperthermia.  
14:34:37 4 Although the ambient temperature in un-air-conditioned  
14:34:39 5 cell were not measured, it had been a very hot day in the  
14:34:43 6 region with a heat index up to 113 degrees -- 113  
14:34:46 7 Farenheit. Do you see that?  
14:34:47 8 A. I do.  
14:34:49 9 Q. It says cannot rule out environmental hyperthermia as  
14:34:52 10 a contributory cause in that case?  
14:34:54 11 A. Yes, ma'am.  
14:34:59 12 Q. Does it make sense to you that the heat index might  
14:35:02 13 be 113 degrees in August in Texas?  
14:35:06 14 A. Certainly.  
14:35:07 15 Q. Okay. Heat indexes can get way high, can't they?  
14:35:12 16 A. They can, yes, ma'am.  
14:35:13 17 Q. They can get up to 136, right?  
14:35:15 18 A. I'm not sure. I mean, depending on area of Texas,  
14:35:18 19 I'm not sure.  
14:35:19 20 Q. We can bring up Defendants' Exhibit 76, please. And  
14:35:40 21 your attorney showed you one page of Defendants' Exhibit  
14:35:42 22 76, right?  
14:35:43 23 A. Yes, ma'am.  
14:35:44 24 MS. CARTER: Your Honor, this wasn't actually  
14:35:45 25 admitted.

14:35:47 1 THE COURT: I think it's about to be. Go ahead.

14:35:53 2 MS. GROSSMAN: I'd like to look at the rest of

14:35:55 3 that exhibit, okay?

14:35:56 4 Q. (BY MS. GROSSMAN) First, let's look at page 9, which

14:35:59 5 are the temperatures and heat index for July 9, 2022,

14:36:03 6 okay?

14:36:03 7 A. Uh-huh.

14:36:04 8 Q. Can you read it?

14:36:10 9 A. Generally, yes, ma'am.

14:36:18 10 Q. Do you see that the heat index was 130 at 3:30 p.m.

14:36:22 11 on July 9, 2022?

14:36:26 12 A. Yes, I do.

14:36:28 13 Q. Let's go to the next page, please. On July 10, 2022,

14:36:36 14 do you see that the heat index was 134 at 3:30 p.m. on

14:36:40 15 July 10, 2022?

14:36:42 16 A. I do, yes.

14:36:43 17 Q. Let's go to the next page, please, on July 11, 2022.

14:36:52 18 Do you see that the reported heat index by TDCJ was -- at

14:36:55 19 5:30 p.m. was 125?

14:36:56 20 A. I do.

14:36:57 21 Q. Let's go to next day, July 12, 2022. This is the

14:37:07 22 only one your attorney showed you; is that right?

14:37:09 23 A. Correct.

14:37:17 24 Q. Sorry. Move to admit this exhibit, which is

14:37:20 25 Defendants' 76.

14:37:22 1 THE COURT: So admitted.

14:37:34 2 Q. (BY MS. GROSSMAN) I want to go back to Patrick  
14:37:37 3 Womack's death. Fair to say that you were told from the  
14:37:41 4 autopsy last year that Patrick Womack had died from  
14:37:45 5 possible heat-related causes with 106 body temperature in  
14:37:51 6 Coffield?

14:37:51 7 A. I think it says there was an overdose of Benadryl and  
14:37:54 8 then, also, heat; is that right?

14:37:56 9 Q. Yeah. I wasn't -- I was saying -- are you saying  
14:37:58 10 Benadryl?

14:37:58 11 A. I thought that's what it was.

14:38:00 12 Q. Did you see that on Patrick Womack? I think you  
14:38:13 13 might be talking about John Southards but we could go back  
14:38:19 14 to it. Let's go back to Exhibit 200. And I think just to  
14:38:28 15 make it easier, I can tell you what pages I showed you so  
14:38:31 16 we don't have to scroll through the whole thing. I showed  
14:38:33 17 you page 11. I just want to know if you see Benadryl.

14:38:49 18 A. Serotonin, okay.

14:38:52 19 Q. Is that what you were referring to?

14:38:54 20 A. I'm sorry. Yes.

14:38:57 21 Q. Okay. That's okay. Do you want me to show the rest  
14:38:59 22 of the pages or do you trust there's not a Benadryl  
14:39:02 23 reference in that?

14:39:03 24 A. No, ma'am. I'm sorry.

14:39:03 25 Q. Let's go to the death investigation of Patrick Womack

14:39:07 1 and look to what some of the statements the investigators  
14:39:11 2 found. If you go to Exhibit 200B, page 42, this is a  
14:39:47 3 statement probably from an inmate because there's a number  
14:39:50 4 next to it, right?

14:39:51 5 A. Yes, ma'am.

14:39:51 6 Q. And according to the inmate in this investigation to  
14:39:56 7 Patrick Womack's death, he's saying about Patrick Womack,  
14:40:00 8 he was denied his respite shower and not checked on during  
14:40:05 9 count. Nothing unusual for Coffield. The excuse is  
14:40:08 10 always we are understaffed. The next day after he died,  
14:40:11 11 we didn't have cold water the whole day. This place ain't  
14:40:15 12 for humans. Of course people are going to die, three  
14:40:17 13 exclamation points. Do you see that?

14:40:19 14 A. I do.

14:40:22 15 Q. Then if you go to page 8, please. So here, it says  
14:40:38 16 Investigator Laura interviewed inmates on each side of  
14:40:40 17 inmate Womack and the only information given by these  
14:40:43 18 inmates was that he had asked for a shower in the middle  
14:40:45 19 of the night on August 20th, 2023 but the officer would  
14:40:49 20 not give him a shower. Do you see that?

14:40:52 21 A. I can't read it but I'm not arguing that you --

14:40:54 22 Q. Oh, I can make it bigger for you.

14:41:00 23 A. I see it. Yes, ma'am.

14:41:01 24 Q. So that is the night before he died. He's pronounced  
14:41:05 25 dead on August 21st, 2023, right?

14:41:07 1 A. I believe that's correct.

14:41:12 2 Q. So according to the death investigation, Patrick  
14:41:14 3 Womack was found dead on August 21, 2023 and witnesses  
14:41:18 4 reported him asking and being denied a respite shower the  
14:41:21 5 night before; is that right?

14:41:23 6 A. That's what the information shows from the inmates  
14:41:25 7 next door.

14:41:26 8 Q. Okay. So I think it's fair to say that despite  
14:41:30 9 TDCJ's heat mitigation policies and measures, heat was a  
14:41:35 10 factor in at least three people's death last summer,  
14:41:37 11 right?

14:41:39 12 A. Yes.

14:41:41 13 Q. Now, in addition to these three deaths, despite -- is  
14:41:44 14 it fair to say that despite TDCJ's mitigation policies and  
14:41:49 15 measures, we can agree that thousands of inmates submitted  
14:41:52 16 heat-related grievances, right?

14:41:55 17 A. Despite the mitigation efforts --

14:41:58 18 Q. Despite the mitigation measures and policies,  
14:42:00 19 thousands of inmates --

14:42:01 20 A. Yes, filed grievances.

14:42:03 21 Q. Thousands of inmates submitted heat-related  
14:42:06 22 grievances.

14:42:06 23 A. Correct.

14:42:07 24 Q. Let's go to Exhibit 102, page 4, please. This is the  
14:42:18 25 report to the legislature. So according to TDCJ, inmates

14:42:36 1 submitted 5,202 heat-related grievances in 2023; is that  
14:42:40 2 right?

14:42:40 3 A. I believe that's correct, yes, ma'am.

14:42:43 4 Q. We can also agree that despite TDCJ's mitigation  
14:42:47 5 policies and measures, inmates still suffered heat-related  
14:42:50 6 illness last summer, right?

14:42:51 7 A. Yes. But I guess as you say despite, I have no  
14:42:55 8 knowledge of how well those individuals were compliant  
14:42:58 9 with those mitigation efforts, so I don't know if anyone  
14:43:01 10 is taking any of those measures. I realize that Mr.  
14:43:03 11 Womack asked for a shower, according to the inmates next  
14:43:06 12 door is what they were reporting, but at the same time, I  
14:43:08 13 don't have any knowledge to know if someone is doing what  
14:43:10 14 we recommend you do.

14:43:13 15 Q. So I think the distinction you're making is whether  
14:43:14 16 the policy's just written down on paper, whether it's  
14:43:17 17 actually implemented, right?

14:43:18 18 A. No, ma'am. That's not what I mean. I'm just saying  
14:43:21 19 -- you're saying despite the mitigation efforts, people  
14:43:24 20 still died -- or have heat illnesses. I'm saying  
14:43:27 21 mitigation efforts were in place. We did have  
14:43:29 22 heat-related illnesses. I don't know in each of those  
14:43:32 23 instances to what level those mitigation efforts were  
14:43:34 24 taken by those individuals.

14:43:41 25 Q. I do want to understand you. Are you saying that you

14:43:43 1 don't know whether or not officers were compliant with the  
14:43:51 2 measures with those individuals?

14:43:52 3 A. I don't know if the inmate's drinking water, if the  
14:43:54 4 inmate is trying to do the things that they need to do to  
14:43:57 5 help mitigate it, as well. And I don't -- same on the  
14:44:00 6 other side. I don't know if, for some reason, they  
14:44:02 7 weren't able to get what they thought they needed to get.

14:44:04 8 Q. Well, we do know some of that, right? Because  
14:44:06 9 according to the autopsy and death packet for John  
14:44:09 10 Castillo on video, video from TDCJ, he was seen going to  
14:44:12 11 the water cooler 23 times in 24 hours right before he  
14:44:16 12 died, right?

14:44:16 13 A. Right.

14:44:18 14 Q. And so -- and we know with Patrick Womack that he had  
14:44:23 15 asked for a respite shower, right?

14:44:25 16 A. According to the inmates next door, yes. Whether  
14:44:28 17 that alone was the only thing he did for mitigation. And  
14:44:32 18 then, Mr. Castillo, he was also, if I remember right, not  
14:44:35 19 talking his epileptic medicine for some period of time.

14:44:39 20 Q. Those aren't TDCJ heat mitigations and measures,  
14:44:42 21 though, are they?

14:44:43 22 A. No, ma'am.

14:44:43 23 Q. And again I don't think anyone here is saying that  
14:44:47 24 it's a -- heat is the only cause.

14:44:48 25 A. No, ma'am. I guess -- I apologize if I've gotten off

14:44:51 1 course but when you said there -- we have mitigation  
14:44:54 2 efforts, which we do. We have heat-related illnesses,  
14:44:57 3 which we did all. I'm saying is if anyone had a  
14:45:00 4 heat-related illness, they may have done everything  
14:45:02 5 perfectly or they may not have taken any mitigation  
14:45:06 6 efforts. I do not know that answer.

14:45:07 7 Q. Well, let's go back to what we're agreeing on, which  
14:45:09 8 is that inmates suffered heat-related illnesses last year.

14:45:13 9 A. Yes, ma'am.

14:45:13 10 Q. And according to this report on page 5, how many  
14:45:25 11 inmates suffered heat-related illnesses in 2023?

14:45:36 12 A. Inmates, 17, if I'm reading right.

14:45:41 13 Q. Seventeen?

14:45:42 14 A. Yes, ma'am.

14:45:42 15 Q. And according to this report to the legislature, how  
14:45:45 16 many inmates suffered heat-related illnesses in June of  
14:45:48 17 2023?

14:45:50 18 A. Four.

14:45:52 19 Q. I believe you testified that the legislature relies  
14:46:02 20 on your reports to take into account how serious to  
14:46:07 21 consider an issue; is that right?

14:46:09 22 A. They do.

14:46:09 23 Q. And how serious to consider the issue of heat in  
14:46:13 24 Texas prisons is.

14:46:14 25 A. Correct.



14:46:15 1 Q. And they rely on those reports, right?

14:46:17 2 A. Yes, ma'am.

14:46:18 3 Q. They rely on them being accurate?

14:46:20 4 A. Correct.

14:46:20 5 Q. Truthful, complete?

14:46:22 6 A. Yes.

14:46:22 7 Q. The legislature, of course, controls the funding,  
14:46:28 8 right?

14:46:28 9 A. They do.

14:46:29 10 Q. I'd like to look at the heat injury report for June  
14:46:39 11 2023 sent on June 30th, 2023 from UTMB to TDCJ leadership,  
14:46:45 12 including witness David Sweetin, which are Exhibits 84 and  
14:46:50 13 85, which I'd like to move to admit, as well.

14:46:54 14 A. Yes, ma'am.

14:46:55 15 THE COURT: Any objection? Without objection, so  
14:46:58 16 admitted.

14:46:58 17 MS. CARTER: No objection, your Honor.

14:47:06 18 Q. (BY MS. GROSSMAN) Do you see this e-mail? It's  
14:47:13 19 attaching -- this e-mail on June 30, 2023 is attaching the  
14:47:20 20 June 23rd heat injury report, right?

14:47:23 21 A. Right.

14:47:23 22 Q. Where Mr. Sweetin is the TDCJ 30(b)(6) witness  
14:47:27 23 designated in the case; is that right?

14:47:30 24 A. That's correct.

14:47:30 25 Q. And he's a listed recipient on this e-mail?

14:47:33 1 A. Yes, ma'am.

14:47:35 2 Q. It says attached is the heat injury report for June.

14:47:42 3 Beginning next Monday, these reports will be weekly. The

14:47:44 4 June report has 37 inmates with a heat-related diagnosis.

14:47:49 5 A. Yes, ma'am.

14:47:52 6 Q. We just looked at where TDCJ told the legislature

14:47:56 7 that it was --

14:47:57 8 A. No, ma'am. This report that you're talking about,

14:47:59 9 the reference is we've had significant issues with

14:48:01 10 accuracy of the data. We started working with UTMB last

14:48:06 11 year on that. They have since significantly improved the

14:48:09 12 data. It is in this year's reporting. But we go back and

14:48:13 13 forth with UTMB on the information that they compile for

14:48:15 14 that report. So it goes to our executive services

14:48:19 15 division, who then tries to verify the data back with

14:48:22 16 UTMB. As they do that, they identified in the time period

14:48:25 17 you're talking about, and I think even before that, the

14:48:28 18 report had serious reporting issues. UTMB has worked with

14:48:33 19 TDCJ, they have addressed that and I think even though

14:48:37 20 they addressed it, we still have some but overall, much,

14:48:39 21 much better data coming in from UTMB.

14:48:42 22 Q. I understand. I think this is your explanation but

14:48:45 23 let me just at least -- at least we can agree that UTMB is

14:48:53 24 giving data reporting 37 heat-related illnesses among

14:48:58 25 inmates for the month of June. Can we agree on that?

14:49:01 1 A. In that report, I think that's exactly what the data  
14:49:05 2 says.

14:49:05 3 Q. And we can agree that you told the legislature, TDCJ  
14:49:21 4 told the legislature that there were four heat-related  
14:49:23 5 illnesses in June 2023.

14:49:24 6 A. Going back to the data that wants to be accurate,  
14:49:28 7 yes, which is what we knew was accurate. Thirty-seven  
14:49:30 8 reported here was not accurate.

14:49:31 9 Q. Let's show Exhibit 85, which is the actual attached  
14:49:35 10 report to this e-mail. These are names of inmates and  
14:49:42 11 dates and listed illnesses. Do you see that?

14:49:45 12 A. I do.

14:49:46 13 Q. And if you go back to the report, Exhibit 102, page  
14:50:06 14 5, from this report, it says that no inmate got heat  
14:50:08 15 cramps in June 2023. Do you see that?

14:50:10 16 A. I do.

14:50:10 17 Q. And then, if you go back to Exhibit 85, which lists  
14:50:14 18 the illnesses on page 2, according to this report, three  
14:50:20 19 people got heat cramps for just the month of June, right?

14:50:23 20 A. And I would not rely on that three at all because I  
14:50:25 21 know the data from that report today may be correct, but I  
14:50:28 22 know at the time you're talking about, that data was not  
14:50:30 23 accurate. I don't know which ones were inaccurate but  
14:50:32 24 there were significant inaccuracies in that report. That  
14:50:36 25 UTMB has acknowledged that. They've met with us. We've

14:50:38 1 covered that with them to try to resolve it and I think  
14:50:42 2 we've improved it significantly but we've had lots of data  
14:50:45 3 issues.

14:50:45 4 Q. To be clear, this isn't accurate but -- and then,  
14:50:48 5 what you reported to the legislature, you're saying, is  
14:50:51 6 accurate?

14:50:51 7 A. We verify it -- when we get a report that our  
14:50:55 8 executive services division then monitors, goes back and  
14:50:58 9 verifies that information before we put it in the  
14:51:00 10 information. We do the same thing with the UTMB  
14:51:03 11 information but much of that data was not synced up and  
14:51:09 12 not correct.

14:51:09 13 Q. And you checked that out before you issued your  
14:51:11 14 report. You went and you looked at all these illnesses,  
14:51:14 15 which were 37 just for the month of June, and whatever  
14:51:18 16 happened, you're saying it was inaccurate. Then you went  
14:51:22 17 to the legislature and you're saying that was accurate; is  
14:51:26 18 that right?

14:51:26 19 A. I'm saying when we identified there are a lot  
14:51:29 20 inaccuracies with the report, we started talking to UTMB.  
14:51:31 21 We met with UTMB over the course of the following end of  
14:51:34 22 the year and then, I think have corrected the majority of  
14:51:40 23 those issues. So it is included in what we do now but,  
14:51:42 24 again, we still find some level of inaccuracy with it.

14:51:47 25 Q. Regardless, I think it's fair to say that last year,

14:51:52 1 with policies in place and mitigation measures, inmates  
14:51:55 2 were still getting sick, is that right, from heat?  
14:51:57 3 A. Yes.  
14:51:59 4 Q. Is it fair to say that even with the mitigation  
14:52:04 5 measures, it's not just the inmates who are getting sick  
14:52:07 6 but, also, correctional officers; is that right?  
14:52:11 7 A. That is correct.  
14:52:12 8 Q. And in addition to inmates, heat-related illness  
14:52:15 9 among staff is also tracked as part of the annual report  
14:52:17 10 TDCJ gives to the legislature?  
14:52:20 11 A. I don't think it's required by rider but we put that  
14:52:23 12 information in on the staff.  
14:52:23 13 Q. Okay. Can you go to Exhibit 102, page 6, please?  
14:52:34 14 According to this report, how many staffs have  
14:52:37 15 heat-related illnesses?  
14:52:37 16 A. Thirty-five.  
14:52:44 17 Q. That's in 2023?  
14:52:46 18 A. Yes, ma'am.  
14:52:48 19 Q. And then, TDCJ officers have gotten so sick from the  
14:52:52 20 heat that they filed workers' compensation claims, many,  
14:52:56 21 right?  
14:52:56 22 A. Yes, ma'am. If they indicate a heat-related illness  
14:52:58 23 at work, we typically will work with them to file the  
14:53:01 24 workman's compensation report. They could also not tell  
14:53:04 25 us a thing and then, go and file a workman's compensation

14:53:08 1 report and go to their own physician.

14:53:09 2 Q. If they suffer a heat-related illness, is it

14:53:12 3 automatic that they file -- or is it automatic --

14:53:13 4 A. No, ma'am. We work with the employee because it's

14:53:15 5 considered a work injury. So we sit down with the

14:53:18 6 employee and help them with the workman's compensation

14:53:19 7 packet if they have a heat-related injury at work. What

14:53:23 8 I'm saying is there are people that we may not ever know

14:53:26 9 they have a -- they felt bad or they had a heat-related

14:53:28 10 illness. They go to their own physician and then, they

14:53:31 11 begin the workman's compensation process outside of the

14:53:34 12 agency.

14:53:35 13 Q. You've seen the exhibit of the workers' compensation

14:53:41 14 complaints, right?

14:53:41 15 A. Sure.

14:53:42 16 Q. Would it be fair to say that generally speaking, it

14:53:50 17 showed that correctional officers filed more than 80

14:53:54 18 workers' compensation claims related to heat exposure and

14:53:58 19 heat illness over the last year?

14:54:00 20 A. I think that's right.

14:54:01 21 Q. And it shows complaints related to heat exhaustion,

14:54:04 22 dehydration, dizziness, fainting and vomiting?

14:54:06 23 A. I don't recall that.

14:54:07 24 Q. Would that be consistent with what you understand to

14:54:10 25 be generally what they say in the workers' compensation

14:54:13 1 claims?

14:54:13 2 A. Potentially, it would be, yes, ma'am. The 35 are the  
14:54:19 3 ones that we identified at the agency, in other words, at  
14:54:21 4 work and help identified that and if we had tied a  
14:54:25 5 workman's compensation number to it, it would have been  
14:54:27 6 tied to that injury at work.

14:54:36 7 Q. Either way, fair to say that you know that for a  
14:54:41 8 while, the last couple of years and more than that,  
14:54:43 9 correctional officers were suffering from heat-related  
14:54:46 10 illness in the prisons they work, right?

14:54:47 11 A. Yes, ma'am.

14:54:48 12 Q. We've just gone over some of what you and TDCJ admits  
14:54:56 13 with respect to heat-related deaths and illness. I want  
14:54:59 14 to turn to what's been brought to your attention over the  
14:55:01 15 years regarding the effects of extreme heat, okay? What's  
14:55:06 16 been brought to TDCJ's attention on the effects of extreme  
14:55:09 17 heat, okay?

14:55:10 18 A. Okay. Over the what? Go ahead.

14:55:14 19 Q. I believe you testified that TDCJ health services has  
14:55:17 20 never suggested to do more to mitigate the risk of heat  
14:55:21 21 illness and death. Did I hear that correctly?

14:55:23 22 A. No, ma'am. What I said is I don't know if -- I think  
14:55:26 23 our health services division staff, their physicians,  
14:55:29 24 maybe even the nurses, they may be involved in the heat  
14:55:32 25 score process and evaluated the heat score and making

14:55:35 1 recommendations for the heat score. And I don't recall  
14:55:38 2 specifically anything recent that they've reached out and  
14:55:41 3 said, hey, we need to be doing this or that, but I know  
14:55:43 4 they work closely with the university. So I can't answer  
14:55:45 5 that they have not been involved in all of that  
14:55:48 6 discussion.

14:55:49 7 Q. They said to you -- or no. They said -- it's in your  
14:55:54 8 awareness that to TDCJ, you know what would really help is  
14:56:00 9 air conditioning and I think that's what needs to happen.  
14:56:02 10 Short of doing that, there's not much more to do besides  
14:56:08 11 mitigation measures, we have to cool the units, that type  
14:56:11 12 of thing?

14:56:11 13 A. Probably the best example I would have for you there  
14:56:13 14 is the Hodge Unit, which is the second unit that we air  
14:56:17 15 conditioned. Dr. Linthicum recommended to me that we air  
14:56:20 16 condition the Hodge Unit is the first one we do past Pack  
14:56:23 17 because that's our developmentally disabled offender  
14:56:26 18 population. We also made sure that the female population  
14:56:28 19 was also in air conditioned housing. We did that because  
14:56:31 20 she advised me sometimes, cognitively, they don't know to  
14:56:33 21 take the mitigation efforts. So we selected that as the  
14:56:35 22 second unit that we air conditioned based on her telling  
14:56:40 23 me that's what she felt like we needed to do.

14:56:41 24 Q. Are you aware of the result of Ricky Roberson's death  
14:56:46 25 20 years ago, Dr. Linthicum, Director of Health Services,



14:56:52 1 wrote that short of building new facilities with temperate  
14:56:56 2 air, air conditioning I do not know what else could be  
14:56:57 3 done?

14:56:58 4 A. I'm not familiar with that.

14:57:04 5 Q. 2018, the House Committee On Corrections expressly  
14:57:08 6 stated in its interim report that TDCJ cannot rely only on  
14:57:12 7 mitigation measures to ensure the well being of inmates  
14:57:15 8 and corrections personnel; is that right?

14:57:17 9 A. I wouldn't disagree.

14:57:19 10 Q. That's the -- the report Exhibit 34, which I'd like  
14:57:22 11 to move to admit.

14:57:22 12 THE COURT: Any objection?

14:57:24 13 MS. CARTER: No objection, your Honor.

14:57:25 14 THE COURT: So admitted.

14:57:32 15 Q. (BY MS. GROSSMAN) If you go to page 58, please. Says  
14:58:05 16 based on the medical information knowing about human  
14:58:10 17 health and heat-related health risks, TDCJ cannot rely  
14:58:14 18 only on the mitigation factors to ensure the well-being of  
14:58:17 19 inmates and corrections personnel, right?

14:58:21 20 A. I see it, yes, ma'am.

14:58:22 21 Q. And you are Executive Director at the time; is that  
14:58:25 22 correct?

14:58:25 23 A. Correct.

14:58:26 24 Q. Despite this report, TDCJ did, in fact, continue to  
14:58:34 25 rely on heat mitigation measures; is that true?

14:58:37 1 A. Despite this report, we didn't get the funding that  
14:58:39 2 we asked for, so we didn't receive the funding that the  
14:58:41 3 report was tied back to in the four-phase plan to put air  
14:58:44 4 conditioning in the system. That's what the report was  
14:58:46 5 recommending if I'm not mistaken.

14:58:48 6 Q. Fair to say you want the funding?

14:58:55 7 A. Yes.

14:58:57 8 Q. That was 2018 and then, you also received a 2022  
14:59:04 9 Texas A & M study, right?

14:59:05 10 A. So what you just showed me was 1'8?

14:59:08 11 Q. Of the Texas A & M study?

14:59:10 12 A. Oh, I'm sorry. I was reading what you had there.

14:59:14 13 Q. I'm sorry. The Texas A & M study?

14:59:16 14 A. Yes, ma'am.

14:59:17 15 Q. Dr. Purdum?

14:59:18 16 A. Uh-huh.

14:59:19 17 Q. That was '22. You received that, right?

14:59:21 18 A. Right.

14:59:22 19 Q. You received it on July 11, the day before you were  
14:59:24 20 going to testify at the House Appropriations Committee,  
14:59:26 21 right?

14:59:26 22 A. I don't remember the exact date I received it. I may  
14:59:29 23 have gotten it before then. I do remember they testified  
14:59:31 24 at the same hearing I was at.

14:59:32 25 Q. Let's just pull up 265, which is an e-mail to you

14:59:38 1 sending this 2022 Texas A & M study. I'd like to move to  
14:59:41 2 admit it.

14:59:50 3 MS. CARTER: No objection, your Honor.

14:59:53 4 THE COURT: Admitted.

14:59:55 5 Q. (BY MS. GROSSMAN) This shows you got the e-mail  
14:59:57 6 attaching the study on July 11, 2022, right?

15:00:02 7 A. Yes, ma'am.

15:00:02 8 Q. Thank you. We've gone over that study here in the  
15:00:06 9 last few days?

15:00:07 10 A. Yes, ma'am.

15:00:09 11 Q. Pull up Exhibit 55, please, page 18, which is the  
15:00:21 12 Texas A & M study. Do you see where it says when asked if  
15:00:47 13 they knew of any heat-related deaths, nearly a third of  
15:00:50 14 participants, 29 percent, answered that they knew of at  
15:00:54 15 least one heat-related death which occurred either in  
15:00:56 16 their own unit or other. Do you see that?

15:00:58 17 A. I do.

15:00:58 18 Q. Fair to say that in July of 2022, you were given a  
15:01:01 19 study by Texas A & M which was reporting that 29 percent  
15:01:05 20 of the incarcerated participants answered that they knew  
15:01:08 21 of at least one heat-related death in their own unit or  
15:01:10 22 another?

15:01:10 23 A. That's what it says, yes, ma'am.

15:01:12 24 Q. Go to page 12, please. There, it's talking about  
15:01:31 25 people that are medically vulnerable with heat sensitivity

15:01:34 1 and restrictions, right?

15:01:35 2 A. Yes, ma'am.

15:01:36 3 Q. And it says as of August 31st, 2020, there were

15:01:44 4 11,885 incarcerated people within TDCJ who were scored as

15:01:49 5 heat sensitive and designated as cool bed priority

15:01:51 6 offenders, prioritized to get into air-conditioned housing

15:01:56 7 unit. Then it goes down, it says, however, at the time,

15:01:59 8 22 percent, or approximately 2,615 of those with a the CBP

15:02:06 9 designation were documented as lacking access to cool

15:02:09 10 beds. If you go down, it says furthermore, there are tens

15:02:12 11 of thousand of other incarcerated people in TDCJ units

15:02:14 12 with increased vulnerability to heat-related illness. Do

15:02:18 13 you see that?

15:02:18 14 A. I do.

15:02:18 15 Q. Is it fair to say that in July of 2022, you were

15:02:22 16 given a study by Texas A & M which was reporting that

15:02:25 17 inmates with medically vulnerable heat conditions did not

15:02:29 18 have access to cool beds?

15:02:30 19 A. By the time the report was published? So when we

15:02:32 20 initiated the heat score process, we had a three-year plan

15:02:35 21 to move the heat score individuals into cool beds. It was

15:02:39 22 going to take some time because some of those beds were

15:02:42 23 dedicated to programming or other initiatives and we had

15:02:44 24 to shut those down, move people out and then, be able to

15:02:47 25 reallocate those beds for the cool bed inmates. We beat

15:02:50 1 the three years. Didn't take three years to get there.

15:02:51 2 So by the time A & M issued the report, those

15:02:55 3 cool bed inmates were in cool beds but it took -- we

15:02:57 4 didn't have it done in '20, which I think is the window of

15:03:01 5 time that you were talking about. We were working toward

15:03:03 6 the three-year plan to get that knocked out.

15:03:05 7 Q. Do you think, currently, everyone with medically

15:03:09 8 vulnerable heat sensitive conditions are housed in cool

15:03:13 9 beds at TDCJ?

15:03:13 10 A. I think everyone with a heat score and that's based

15:03:16 11 on our medical partners' advice to us on who is medically

15:03:19 12 vulnerable and needs to be in air conditioning is in a

15:03:22 13 cool bed.

15:03:22 14 Q. Would that be your same answer for 2023?

15:03:24 15 A. Yes, ma'am.

15:03:26 16 Q. Okay. And if you go to page 14, please. Wellness

15:03:48 17 checks. Yes. Thank you. So wellness checks is a heat

15:03:54 18 mitigation measure, right?

15:03:55 19 A. Uh-huh.

15:03:55 20 Q. And here, it's talking about percentage of time it's

15:03:58 21 being reported as not being done by inmates, right?

15:04:04 22 A. I don't know that an inmate knows when his wellness

15:04:08 23 check is done or not done because I don't think someone

15:04:10 24 comes up and says, hi, Bryan, I'm doing a wellness check.

15:04:13 25 Q. Well, you might doubt the accuracy but fair to say

15:04:15 1 that inmates reported 60 percent of the time that wellness  
15:04:18 2 checks weren't taking place?

15:04:19 3 A. I see that, yes, ma'am, absolutely, based on the  
15:04:21 4 survey.

15:04:21 5 Q. And do you think that the 2022 study -- do you think  
15:04:30 6 that wellness checks are consistently done at TDCJ?

15:04:33 7 A. To the best of our ability, I do, yes, ma'am, but I  
15:04:37 8 don't believe that every time it's announced, hey, I'm  
15:04:39 9 coming to do your wellness check.

15:04:41 10 Q. You heard Brittany Robertson's testimony on  
15:04:44 11 Wednesday. Do you remember when she talked about Jason  
15:04:47 12 Wilson's death?

15:04:48 13 A. Yes. I sure do.

15:04:49 14 Q. You remember that she we heard her voice recording  
15:04:52 15 where she called for having a wellness check done on Jason  
15:04:56 16 Wilson, which was her team member?

15:04:57 17 A. Wellness check.

15:04:59 18 Q. In July of this year?

15:05:01 19 A. Right.

15:05:03 20 Q. And you heard TDCJ staff tell her that Jason Wilson  
15:05:08 21 was fine on July 7th of this year?

15:05:10 22 A. I did hear the phone call just like you did and I had  
15:05:13 23 staff begin to investigate that because I was not happy at  
15:05:16 24 all with the way that phone call was handled. I don't  
15:05:19 25 have a good explanation other than he was not on the unit

15:05:21 1 at that time and not on the housing rosters. There was  
15:05:23 2 another inmate with the same first initial and last name,  
15:05:27 3 whether they checked and said the wrong inmate was there,  
15:05:29 4 okay, I do not know, but I'm still investigating that and  
15:05:32 5 will continue to follow up.

15:05:34 6 Q. The reason it bothered you, I assume --

15:05:37 7 A. I mean, it's not professional. It wasn't handled  
15:05:40 8 professionally in my opinion.

15:05:41 9 Q. Because he told her he was fine two days after he'd  
15:05:44 10 actually died?

15:05:45 11 A. The delay, lots of things about it.

15:05:46 12 Q. And that being one of them?

15:05:48 13 A. Yes, ma'am. But we very well may have checked on the  
15:05:53 14 wrong inmate because he wasn't there, he wasn't on a  
15:05:55 15 roster, so they wouldn't have been able to check on him,  
15:05:58 16 so to speak.

15:05:58 17 Q. And there are staffing shortages at Coffield and  
15:06:02 18 throughout TDCJ; is that right?

15:06:03 19 A. We do have staffing shortage, yes, ma'am.

15:06:05 20 Q. That makes doing wellness checks, whether it's  
15:06:08 21 initiated by someone who calls or initiated by something  
15:06:11 22 that's required, difficult to implement at all times?

15:06:14 23 A. Two different kinds of wellness checks. I'm trying  
15:06:18 24 to explain. The wellness check that we require staff to  
15:06:20 25 do would be something we require as part of their duty.

15:06:22 1 We don't have staff to be able to do a wellness check  
15:06:26 2 every time a family member calls. I wish we did.

15:06:28 3 But we don't have staff who could stop -- because  
15:06:30 4 many times, especially since we implemented the tablet  
15:06:32 5 system, if someone doesn't get a call today from their  
15:06:36 6 loved, they may call the unit and say, can you do a  
15:06:38 7 wellness check? And unfortunately, we're not staffed in a  
15:06:40 8 way to be able to necessarily do that. Every time -- many  
15:06:42 9 of our units do the best they can to help do that, but  
15:06:46 10 we're not staffed to do that.

15:06:47 11 I'm not arguing anything about the Coffield  
15:06:49 12 situation. I'm just saying when we tell staff to go do  
15:06:52 13 wellness checks because these are heat-vulnerable, inmates  
15:06:55 14 or they may be inmates that we need to make sure we're  
15:06:57 15 watching, then, that would be different.

15:06:59 16 Q. If you go to the report on page 20, please. Just  
15:07:11 17 talks about reports of access to water. Inmates are  
15:07:16 18 supposed to be getting consistent access to cold water,  
15:07:18 19 right?

15:07:18 20 A. Yes, ma'am.

15:07:19 21 Q. And this is saying 11 percent don't receive  
15:07:24 22 distributed water. Do you see that?

15:07:25 23 A. I do.

15:07:26 24 Q. Do you believe that inmates are given consistent  
15:07:31 25 access to cold water during the extreme -- during the



15:07:34 1 summertime?

15:07:35 2 A. I believe we do the very best we can to do that. I  
15:07:38 3 think we provide water in the dayrooms and areas. We also  
15:07:40 4 have water that we provide south side for those that are  
15:07:43 5 in restrictive housing that are not already in  
15:07:47 6 air-conditioned housing.

15:07:48 7 Q. I understand that you believe you're doing the best  
15:07:50 8 you can. I'm not even -- I understand that you're saying  
15:07:53 9 you do the best you can. But I'm just asking, do you  
15:07:57 10 think that the best you can, given what's the reality of  
15:07:59 11 the situation, leads to inmates not getting access  
15:08:03 12 consistently to water?

15:08:04 13 A. Not necessarily consistently, no, ma'am. But I do  
15:08:07 14 believe there's instances probably where we don't meet  
15:08:09 15 everything we're supposed to meet. This was difficult to  
15:08:13 16 follow up on because it doesn't tell you where necessarily  
15:08:16 17 that occurred or who might have been -- or even just the  
15:08:19 18 unit and the time would have been very helpful.

15:08:20 19 Q. You heard or you saw the messages.

15:08:22 20 A. I did.

15:08:23 21 Q. That Jason Wilson sent to Brittany Robertson where  
15:08:26 22 they weren't getting water for hours.

15:08:27 23 A. I did --

15:08:29 24 Q. I think 12 hours --

15:08:30 25 A. -- investigating that, as well.

15:08:32 1 Q. That would be very concerning to you, right?

15:08:34 2 A. It would be.

15:08:35 3 Q. Not getting access to water during the summertime for

15:08:39 4 that long of a time is -- substantially disregards the

15:08:44 5 health of someone, right?

15:08:45 6 A. Right. Keeping in mind, they still have water in

15:08:47 7 their cell, but again, bringing the ice water around is

15:08:50 8 important.

15:08:51 9 Q. You're saying they have water in their cell at all

15:08:54 10 times?

15:08:54 11 A. They have a sink and they have -- they have a sink

15:08:56 12 that they can get -- all I want to make sure you don't

15:08:59 13 think that's the only way they can get water.

15:09:01 14 Q. Is the water in their cell their sink and toilet?

15:09:03 15 A. It would be sink and toilet.

15:09:05 16 Q. Okay. The sink cold water or hot? What's the

15:09:15 17 temperature of the sink water?

15:09:16 18 A. Sink, I couldn't tell you. It shouldn't be hot but I

15:09:20 19 think it's regulated. I can't remember if it was cold --

15:09:22 20 depending on the cell, it may be a cold and a hot valve.

15:09:24 21 Q. Have you heard of inmates flooding their cells with

15:09:28 22 toilet water in order to stay --

15:09:29 23 A. I have.

15:09:30 24 Q. Do you believe that?

15:09:31 25 A. I wouldn't doubt it. I think that happens sometimes.

15:09:34 1 I'm not sure if it happens as often as it said because it  
15:09:36 2 would spill out onto the run in front of the cell and we  
15:09:40 3 don't have that issue as significantly as it sounds.

15:09:42 4 Q. And why wouldn't you doubt it? You seem to  
15:09:46 5 believe --

15:09:47 6 A. I wouldn't doubt that inmates make the water on the  
15:09:50 7 floor but flooding the cell is a little bit different than  
15:09:52 8 that. It does happen but it's not many, many times a day  
15:09:58 9 if that makes any sense.

15:10:09 10 Q. In 2022, you also received a copy of Julie Skarha's  
15:10:15 11 study, right?

15:10:15 12 A. Yes, ma'am.

15:10:15 13 Q. And you received a copy personally in November of  
15:10:18 14 2022; is that right?

15:10:20 15 A. Yes. I wouldn't argue with that. Yes, ma'am.

15:10:27 16 Q. So in addition to the Texas A & M study, you had a  
15:10:31 17 study from an epidemiologist reporting that between 2021  
15:10:34 18 and 2019, 13 percent of the 2,083 inmate deaths in the  
15:10:40 19 facilities without air conditioning. Loss of 271 lives in  
15:10:45 20 Texas prisons is likely attributable to extreme heat,  
15:10:48 21 right?

15:10:49 22 A. As I testified earlier, that study has lots of issues  
15:10:52 23 that I think skew the data. So I'm not sure that's  
15:10:55 24 accurate in any way because of the way they did the study.

15:10:57 25 Q. I'm not here to argue with you about that study. I

15:11:00 1 just want to make sure that it's clear --

15:11:01 2 A. I did get the study.

15:11:02 3 Q. It's clear that you received that study and that's  
15:11:03 4 what the study said and you knew this was what the study  
15:11:06 5 said.

15:11:06 6 A. Yes. And I had a research director look at it, as  
15:11:10 7 well.

15:11:10 8 Q. In 2022?

15:11:11 9 A. Yes, ma'am.

15:11:13 10 Q. Who did you have look at it?

15:11:18 11 A. Mr. Barbee, our research director.

15:11:23 12 Q. And Mr. Barbee is -- what is his qualifications?

15:11:27 13 A. He's master's level but he's been in criminal justice  
15:11:31 14 research for probably 35 years. Prior to us hiring him,  
15:11:34 15 he was director of research for the Council of State  
15:11:38 16 Governments Justice Center where he had been there for  
15:11:40 17 several years. And he's had research roles in several  
15:11:42 18 other entities.

15:11:45 19 Q. Master's level in what?

15:11:47 20 A. I can't remember.

15:11:48 21 Q. Not epidemiology?

15:11:49 22 A. No, I don't think he's that, no, ma'am.

15:11:54 23 Q. Did you have anyone with scientific qualifications?  
15:12:00 24 Epidemiologist or anyone with qualifications?

15:12:03 25 A. Outside in my opinion, he meets all that. He may not

15:12:08 1 be an epidemiologist but he can look at a criminal justice  
15:12:12 2 study and tell me if it's accurate and if the data was  
15:12:14 3 compiled correctly.

15:12:14 4 Q. I'm not trying to argue with you, but just for the  
15:12:17 5 record, I just want my question to be clear because I  
15:12:18 6 think the answer's no. I just want to get my question out  
15:12:20 7 because I'm pretty sure you didn't have anyone with a  
15:12:23 8 scientific epidemiology degree look into that study,  
15:12:27 9 right?

15:12:27 10 A. I don't recall at UTMB, if I asked Dr. Linthicum or  
15:12:34 11 anyone at UTMB to look at it.

15:12:35 12 Q. You were also here for Dr. Vassallo's testimony,  
15:12:38 13 right?

15:12:38 14 A. I was trying to remember who was who.

15:12:41 15 Q. Toxicologist, an ER doctor.

15:12:44 16 A. Yes, ma'am.

15:12:45 17 Q. And she said that core body temperature should always  
15:12:48 18 be taken?

15:12:49 19 A. I heard that. Yes.

15:12:50 20 Q. And you heard Dean's testimony, as well?

15:12:54 21 A. I did.

15:12:54 22 Q. And he also said during these investigations that  
15:12:56 23 core body temperature should also be taken.

15:12:59 24 A. I did.

15:13:00 25 Q. And he said that in the summer months, that would

15:13:04 1 include the core body temperature and ambient temperature  
15:13:07 2 and heat index.

15:13:08 3 A. I don't remember everything he said but I'm not  
15:13:10 4 arguing you're wrong.

15:13:12 5 Q. Do you agree with Mr. Williams that investigations  
15:13:15 6 should include a core body temperature and ambient  
15:13:18 7 temperature heat index?

15:13:19 8 A. I trust the medical providers that we have and I know  
15:13:21 9 our medical providers can take core temperatures at their  
15:13:24 10 discretion if they feel like it's potentially a  
15:13:26 11 heat-related death. They do take core body temperatures.  
15:13:28 12 I don't tell our medical providers how to practice their  
15:13:31 13 medicine or how they do what they do. They're  
15:13:34 14 correctional medical experts, they've been doing this for  
15:13:37 15 a long time so I trust their judgment on how they do that.

15:13:39 16 Q. And you mean the medical responders in the jail,  
15:13:43 17 right?

15:13:43 18 A. Yes, ma'am.

15:13:45 19 Q. And they work in the TDCJ jail, right?

15:13:47 20 A. They work for the University of Texas Medical Branch,  
15:13:50 21 and yes, ma'am, they operate on our clinics at our  
15:13:54 22 facilities.

15:13:56 23 Q. Do you understand the duty to provide medical care?

15:13:59 24 A. Yes, ma'am.

15:14:01 25 Q. And you still have that duty even if you contract it

15:14:05 1 out, it still also falls on you.

15:14:06 2 A. Yes, ma'am. That's how we facilitate that through  
15:14:09 3 those providers.

15:14:10 4 Q. You could tell people and first responders and people  
15:14:14 5 that are doing investigations, we need to have core body  
15:14:19 6 temperatures and heat indexes taken during investigations,  
15:14:21 7 right? You could do that?

15:14:23 8 A. I would talk to our medical providers and ask them  
15:14:25 9 about that process and identify if we're not doing it, do  
15:14:28 10 we need to do it. Basically investigate whether we should  
15:14:31 11 or shouldn't change that protocol and then, if we did, who  
15:14:34 12 would be doing it, how we record it.

15:14:40 13 Q. Can you think of any legitimate reason why core body  
15:14:43 14 temperatures wouldn't be taken during the summer?

15:14:46 15 A. When you're responding to a person who's in distress,  
15:14:50 16 I'm not a medical provider at all so all the things that  
15:14:52 17 they're trying to do to work with someone who's in  
15:14:55 18 distress, I don't know if you're talking about right then,  
15:14:57 19 they need to take a core temperature because my  
15:14:59 20 understanding is when they bring them into the clinic,  
15:15:01 21 they may do that, but at the same time, I'm not sure at  
15:15:04 22 what point in the process you're talking about.

15:15:06 23 I don't know if Mr. Williams was suggesting the  
15:15:08 24 correctional staff try to do that at the time we find  
15:15:11 25 someone versus trying to respond to their medical need or

15:15:15 1 whether medical staff should be doing that. But medical  
15:15:17 2 staff absolutely do that. I'm not sure if it's every  
15:15:22 3 time, but they have absolute control over that and the  
15:15:25 4 ability to do that.

15:15:25 5 Q. So you trust them to tell you when core body  
15:15:28 6 temperatures need to be taken?

15:15:29 7 A. I do.

15:15:30 8 Q. And you review the autopsy anytime there is a  
15:15:44 9 concerning death during the summer that you think maybe  
15:15:46 10 this is heat-related; is that right?

15:15:47 11 A. If there's a autopsy that indicates anything  
15:15:52 12 heat-related or if we see circumstances that might look  
15:15:54 13 like it just upon the event, I would ask to see the  
15:15:59 14 autopsy when it's completed. But also, my chief of staff,  
15:16:02 15 Mr. Clark, reads every autopsy and will bring those to my  
15:16:05 16 attention, as well. So, for instance, the three in '23,  
15:16:11 17 he brought me and we talked about those.

15:16:13 18 Q. Let's look at Exhibit 191, which is John Skinner's  
15:16:18 19 death. And he died on July 30th of last year. I move to  
15:16:30 20 admit that.

15:16:32 21 THE COURT: Any objection?

15:16:35 22 MS. CARTER: No objection, your Honor.

15:16:36 23 THE COURT: So admitted.

15:16:40 24 Q. (BY MS. GROSSMAN) If you go to page 4, you can see  
15:16:50 25 that John Skinner was 45 years old and suffered a sudden



15:16:56 1 unexpected death on July 30th, 2023, right?

15:17:05 2 A. Okay.

15:17:21 3 Q. If you go down, you can see sudden unexpected death,  
15:17:24 4 found unresponsive in cell. Do you see that?

15:17:27 5 A. Where are you?

15:17:29 6 Q. So final autopsy -- yeah, there you go.

15:17:31 7 A. Gotcha. It's hard for me to read it that far. I'm  
15:17:38 8 sorry. Yes, I see.

15:17:40 9 Q. Sudden unexpected death of a 45-year-old where they  
15:17:47 10 can't determine what happened, it would be concerning to  
15:17:49 11 you, right?

15:17:50 12 A. It would be but, also, medical condition of that  
15:17:52 13 individual would be obviously important to know, as well.  
15:17:55 14 I don't know -- I haven't read that but I would want to  
15:17:58 15 know, first, is this someone who had cancer? Is this  
15:18:01 16 someone who had major medical issues or other things going  
15:18:05 17 on?

15:18:05 18 Q. And the autopsy would tell you if it was a death from  
15:18:07 19 cancer or a sudden unexpected death of a 45-year-old,  
15:18:11 20 right?

15:18:11 21 A. It should.

15:18:12 22 Q. So let's go to page 11. So here, it says that there  
15:18:32 23 is not sufficient evidence to suggest heat played a role  
15:18:36 24 in his death, however, given the limited available  
15:18:40 25 information and lack of core body temperature, a

15:18:44 1 heat-related death cannot be entirely excluded, right?

15:18:53 2 A. I'm not sure where you're reading. I'm not arguing.

15:18:56 3 Q. I definitely want you to see it. I don't want you to

15:18:59 4 take my word for it. Four lines up, five lines up,

15:19:04 5 there's not sufficient evidence to suggest heat played a

15:19:07 6 role in his death, however, given the limited available

15:19:11 7 information and lack of core body temperature, a

15:19:14 8 heat-related death cannot be entirely excluded, right?

15:19:34 9 A. I'm still not where you are.

15:19:36 10 Q. If you look at second paragraph where it says urine

15:19:41 11 toxicology and the end where it says testing, now go five

15:19:45 12 lines up and start with "there."

15:19:49 13 A. I gotcha. Yes, ma'am.

15:19:57 14 Q. So these are the UTMB doctors saying this is the type

15:20:02 15 of evidence we need to understand whether something's a

15:20:05 16 heat-related death, right?

15:20:06 17 A. Right.

15:20:07 18 Q. We need more information and we need core body

15:20:11 19 temperature, right?

15:20:11 20 A. In that information, he's saying that he can't make a

15:20:15 21 determination it looks like.

15:20:15 22 Q. Right. But they're saying that would be the

15:20:17 23 information that would be helpful to make that

15:20:18 24 determination, right?

15:20:19 25 A. Would agree.

15:20:20 1 Q. Okay. And if you look at page 16, this autopsy was  
15:20:22 2 sent to you. If you wanted to, you certainly have the  
15:20:41 3 authority to order that first responders take vital sign  
15:20:44 4 temperatures like core body temperatures, right?

15:20:46 5 A. I could ask the universities to do that. I can't  
15:20:48 6 tell them how to practice medicine and they would tell me  
15:20:51 7 quickly that I can't do that. But at the same time, if  
15:20:53 8 they feel like that was what we should be doing, yes,  
15:20:56 9 ma'am.

15:20:56 10 Q. You could start those things in place to get that  
15:20:59 11 done, right?

15:20:59 12 A. Sure. And then, basically, that same death that  
15:21:01 13 you're talking about and all those deaths are reviewed by  
15:21:04 14 mortality and morbidity committee of the two universities  
15:21:07 15 as well as our health services medical staff. So they  
15:21:10 16 review every death in the system. They could make a  
15:21:12 17 recommendation based on looking at this and looking at  
15:21:14 18 others, looking at anything, that they want to make that  
15:21:18 19 suggestion and make that change in the system. They don't  
15:21:20 20 need -- they could do that with or without me even knowing  
15:21:23 21 it. But at the same time, me telling them how to do their  
15:21:25 22 medical chore is something I typically don't do, but I  
15:21:28 23 could certainly talk to them about it.

15:21:29 24 Q. These are all staff that work in the perhaps?

15:21:31 25 A. These are staff that work for the University of Texas

15:21:34 1 Medical Branch, for Texas Tech Health Science Center on  
15:21:38 2 our facilities, yes, ma'am.

15:21:41 3 Q. Can we agree that even with TDCJ's heat mitigation  
15:21:50 4 measures and heat scores, people with medical conditions  
15:21:52 5 or vulnerabilities that make them more susceptible to heat  
15:21:55 6 are still being housed in uncooled units?

15:21:58 7 A. There are the inmate -- you said that -- could you  
15:22:02 8 repeat one more time?

15:22:02 9 Q. So can we agree that even with TDCJ's heat mitigation  
15:22:06 10 measures, people with medical conditions or  
15:22:08 11 vulnerabilities that make them more susceptible to heat  
15:22:11 12 are still being housed in uncooled units?

15:22:14 13 A. Can I agree to that? I would say that based on our  
15:22:17 14 medical providers' advice and based on the heat scoring  
15:22:20 15 system that we have, the individuals that they've  
15:22:21 16 identified based on their experience and knowledge that  
15:22:24 17 have vulnerabilities to heat are housed in air-conditioned  
15:22:28 18 beds.

15:22:29 19 Q. And it's only those people that get heat scores,  
15:22:31 20 right? There are still people that have heat sensitivity  
15:22:34 21 that are not, right?

15:22:35 22 A. They could have a heat work restriction, or something  
15:22:37 23 like that, that's not related to the other.

15:22:39 24 Q. You saw Bernie Tiede testify?

15:22:43 25 A. I sure did.

15:22:44 1 Q. You saw what he looked like, heard him speak?

15:22:45 2 A. I did.

15:22:46 3 Q. You know that he's 65, has diabetes, COPD,  
15:22:52 4 hypertension, overweight, had a stroke and all those  
15:22:54 5 things?

15:22:54 6 A. I do.

15:22:54 7 Q. Do you think he needs to be in an air-conditioned  
15:22:56 8 bed?

15:22:57 9 A. Well, he is in an air-conditioned bed. But as far as  
15:23:00 10 the heat score, I guess in the way you're asking me, if I  
15:23:03 11 think he -- and I'm not, again, the medical provider. I  
15:23:06 12 don't know if his condition -- if he's not there based on  
15:23:09 13 what the doctors are recommending, then it obviously means  
15:23:12 14 they feel like he can be appropriately housed without it.  
15:23:15 15 Hi is fortunately in it.

15:23:17 16 Q. He is. He's in it. Would you agree to keep him  
15:23:20 17 there? Would you agree to keep him in an air-conditioned  
15:23:23 18 unit while in prison for the remainder of his sentence?

15:23:26 19 A. He's in that housing because he's at a certain  
15:23:29 20 facility and that's safekeeping house. Safekeeping  
15:23:32 21 housing could be somewhere else. I don't have any plans  
15:23:35 22 to know that he would be moved, or anything of that  
15:23:37 23 nature, but I couldn't tell you right now he could never  
15:23:39 24 be moved to a non-air conditioning --

15:23:40 25 Q. So no, you won't make that agreement. Okay. And if

15:23:43 1 he doesn't qualify for a heat score by UTMB doctors, then  
15:23:47 2 he could be moved and at any time to an uncooled unit,  
15:23:51 3 right?

15:23:51 4 A. He could go but he would have to go to a safekeeping  
15:23:53 5 unit.

15:23:54 6 Q. And he's currently in an air-conditioned unit because  
15:23:57 7 of a court order, right?

15:23:59 8 A. I believe that's right, but he's also there because  
15:24:01 9 of safekeeping at that facility.

15:24:08 10 Q. You agree that staffing has been a big problem for  
15:24:12 11 years in TDCJ facilities? It's been the agency's big  
15:24:15 12 priority and it's been a big problem, right --

15:24:17 13 A. Yes, ma'am --

15:24:17 14 Q. -- there are lots of vacancies?

15:24:18 15 A. Significant issue in the TDCJ and just about every  
15:24:21 16 correctional agency in the country.

15:24:22 17 Q. And you also believe that an air-conditioned  
15:24:24 18 environment would help with your retention and hiring of  
15:24:28 19 correctional officers; is that fair?

15:24:29 20 A. It is fair.

15:24:38 21 Q. I know you care about the working conditions of the  
15:24:41 22 correctional officers, right?

15:24:42 23 A. Yes, ma'am.

15:24:44 24 Q. And they push the air conditioning, too, right? The  
15:24:47 25 head of the union supports it, right?

15:24:49 1 A. They would definitely support having air  
15:24:50 2 conditioning, no doubt.

15:24:53 3 Q. Fair to say you want it?

15:24:56 4 A. Yes, ma'am.

15:24:57 5 Q. You want to help inmates in your custody and help the  
15:25:01 6 officers?

15:25:02 7 A. Yes, ma'am. I think we have demonstrated that I want  
15:25:05 8 it. If I didn't want it, we wouldn't be pushing so hard  
15:25:07 9 to get it and do it.

15:25:08 10 Q. All right. And you may feel that you don't have the  
15:25:12 11 money to do it. I get that. You might not have the  
15:25:14 12 money to do it --

15:25:14 13 A. It's not, feel. I don't. I don't have the authority  
15:25:17 14 to do it without the legislature's instruction and intent  
15:25:19 15 and funding.

15:25:20 16 Q. But you agree that it's the best solution, right?

15:25:22 17 A. I think that is ultimately -- to deal with heat  
15:25:29 18 installing air conditioning on the facilities would reduce  
15:25:32 19 the temperatures on the facilities, that's the only way I  
15:25:34 20 know that you're going to do that.

15:25:36 21 Q. And cooling units would really be the only solution  
15:25:41 22 to keep the people safe, keep everyone safe in TDCJ?

15:25:45 23 A. No, ma'am.

15:25:46 24 Q. You wouldn't agree with that?

15:25:47 25 A. No.

15:25:47 1 Q. You still think the heat mitigation measures can keep  
15:25:50 2 people safe?

15:25:51 3 A. I think they do.

15:25:52 4 Q. Didn't keep Patrick Womack safe.

15:25:54 5 A. Patrick Womack had other issues, as well.

15:25:56 6 Q. Didn't keep Elizabeth Hagerty safe.

15:25:58 7 A. Other issues, as well.

15:25:59 8 Q. And it didn't keep John Castillo safe.

15:26:01 9 A. Again, other issues.

15:26:02 10 Q. It didn't keep all the people that are complaining of  
15:26:04 11 heat illnesses safe of all the inmates, right?

15:26:07 12 A. I don't know that they're not safe. They're just  
15:26:09 13 complaining so I don't know that it's not keeping them  
15:26:11 14 safe if they're following the mitigation efforts.

15:26:14 15 Q. It didn't keep them from having illnesses, right?

15:26:17 16 A. Correct, but again, individual circumstances of what  
15:26:19 17 those illnesses may be.

15:26:21 18 Q. And it didn't keep the officers from falling sick,  
15:26:26 19 right?

15:26:26 20 A. Correct, but that, again, go back to what I said  
15:26:29 21 earlier, I don't know anyone's level of -- I could be an  
15:26:32 22 inmate who recreated outside in the middle of the day and  
15:26:36 23 I had a heat illness. I could be an officer and I haven't  
15:26:38 24 -- I was up last night late and I didn't hydrate and I'm  
15:26:42 25 at work and I get dehydrated.



15:26:45 1 Q. You said you might be an officer that didn't hydrate?

15:26:48 2 A. It all goes back to what I was saying earlier in the

15:26:51 3 mitigation efforts. I believe if you follow the

15:26:53 4 mitigation efforts that they could help you.

15:26:55 5 Q. I mean, there were 80 workers' compensation

15:26:57 6 complaints over two years, right?

15:26:58 7 A. I believe that's right.

15:26:59 8 Q. We don't blame them, right? We don't blame them for

15:27:02 9 not hydrating or for not drinking Gatorade right?

15:27:03 10 A. No, ma'am. I'm not blaming anyone. I'm just telling

15:27:05 11 you as it is that I don't know their individual

15:27:08 12 circumstance is. If they did every mitigation effort they

15:27:11 13 possibly could and they still had a workman's comp. claim

15:27:13 14 or an issue at work, I don't know that.

15:27:14 15 Q. If you want the funding, and I believe you do want

15:27:18 16 funding, why not go to the legislature and have -- I don't

15:27:20 17 think you've gone and said, hey, this is a crisis, people

15:27:23 18 are dying, people are sick, I can't keep the staff,

15:27:26 19 officers are sick, please help, this is a crisis, we need

15:27:30 20 this money now. Why not?

15:27:32 21 A. I'm not sure what you mean that we haven't done. You

15:27:35 22 want me to get a poster board and run up to the capitol or

15:27:37 23 something?

15:27:37 24 Q. I'm not talking about protest. I'm just saying --

15:27:42 25 not trying to just get the funding but saying people are

15:27:44 1 getting sick, people are -- three people -- people are  
15:27:47 2 dying and this is a huge crisis and we need help, we need  
15:27:52 3 money. I'm saying as Dean Williams said, ring the fire  
15:28:00 4 alarm.

15:28:00 5 A. Yes, ma'am.

15:28:01 6 Q. You haven't done that, right?

15:28:02 7 A. I absolutely have done that. I may not have done it  
15:28:05 8 the way Dean talked about it or the way you're talking  
15:28:07 9 about it, but I work with the legislature very effectively  
15:28:10 10 and may have good credibility with the legislature and I  
15:28:13 11 have used that to the advantage to obtain funding that has  
15:28:16 12 added air conditioning to the system.

15:28:21 13 Q. You'd agree that installing temporary air  
15:28:24 14 conditioning or permanent air conditioning is feasible,  
15:28:26 15 right?

15:28:27 16 A. Yes, ma'am, it's feasible.

15:28:28 17 Q. You could put temporary air conditioning in during  
15:28:31 18 the summer months, right?

15:28:32 19 A. You potentially could. There are potential  
15:28:35 20 limitations or complications, I should say, and that is  
15:28:40 21 just supply and demand. If you have enough vendors that  
15:28:43 22 could do it, if you had enough resources, you would have  
15:28:46 23 to have, obviously, the resources and there would have to  
15:28:48 24 be enough people to be able to do that from the commercial  
15:28:52 25 side.

15:28:52 1 Q. And what units are temporarily air conditioned?

15:28:55 2 A. Right now, we have portions of, I think, Beto and I  
15:29:00 3 think Mr. Hudson testified about another. There's two  
15:29:02 4 that we're doing temporary air conditioning on that are  
15:29:04 5 prison units. There are Operation Lone Star that operate  
15:29:07 6 as a jail. The Briscoe Unit is temporary. The Segovia  
15:29:13 7 Unit is temporary and a portion of the Lopez Unit's --

15:29:15 8 Q. And Briscoe and Segovia are temporary and that's  
15:29:19 9 Operation Lone Star, right?

15:29:19 10 A. That is correct.

15:29:19 11 Q. And that's basically Governor Abbott saying we need  
15:29:22 12 to house people that are detained at the border and  
15:29:24 13 because they're detainees and not convicted prisoners, we  
15:29:27 14 have to meet jail standards, right?

15:29:29 15 A. We operate those facilities as a jail. Staff are  
15:29:32 16 jail certified so we meet the jail standards at those  
15:29:35 17 locations.

15:29:35 18 Q. Some of those jail standards are -- that one of the  
15:29:37 19 critical ones relevant here today is 65 to 85 temperature?

15:29:42 20 A. Correct.

15:29:42 21 Q. And so, in order to be able to house people that are  
15:29:44 22 held, undocumented immigrants, you have to then  
15:29:47 23 temporarily install air conditioning, right?

15:29:49 24 A. At these facilities, yes, ma'am.

15:29:50 25 Q. And you were able to do that -- I think the order was

15:29:54 1 issued in May of 2021. You got Briscoe up in July 2021  
15:29:57 2 and Segovia up in August 2021?

15:30:00 3 A. I wouldn't argue with your dates, but we got them up  
15:30:03 4 as we needed to before we occupied the facility.

15:30:07 5 Q. Do you know about the law passed recently in the  
15:30:10 6 Senate that makes it a state crime to cross the Texas  
15:30:12 7 border illegally?

15:30:14 8 A. Yes, ma'am, I do.

15:30:15 9 Q. Okay. And you understand right now, it's being  
15:30:17 10 fought in the courts?

15:30:18 11 A. I do.

15:30:19 12 Q. And if it does become a crime, then the people will  
15:30:25 13 be convicted and the people being held there will be  
15:30:26 14 convicted prisoners rather than detainees, right?

15:30:30 15 A. You mean they would be charged with a felony?

15:30:32 16 Q. Yes.

15:30:33 17 A. If they were charged with a felony, that's possible.  
15:30:35 18 We have some individuals that are charged with felonies  
15:30:38 19 now.

15:30:39 20 Q. What I'm saying is the requirement and the reason why  
15:30:44 21 temporary air condition was installed and funded was  
15:30:47 22 because it had to be. It was required by the law to have  
15:30:51 23 air conditioning in those facilities in order to house  
15:30:53 24 people that aren't convicted, right?

15:30:54 25 A. To meet jail standards, we had to air condition those

15:30:57 1 facilities because they are operating as a jail.

15:30:59 2 Q. Will they be taken out if they are convicted?

15:31:03 3 A. Once they are convicted of a felony, if they then

15:31:05 4 serve a prison sentence, they would likely not be at that

15:31:08 5 unit any longer. They would be transferred to a regular

15:31:11 6 prison unit. We're operating essentially on extension

15:31:13 7 from the counties that are part of Operation Lone Star.

15:31:17 8 Q. So temporary air conditioning in place because of a

15:31:22 9 law at Briscoe and Segovia, fair?

15:31:24 10 A. The jail standard. I don't know that it's law but

15:31:27 11 it's jail standard.

15:31:27 12 Q. And then, Pack Unit has the air conditioning because

15:31:29 13 of a lawsuit, a judge opinion, and then -- a judge opinion

15:31:32 14 ordering TDCJ to change policies, right?

15:31:34 15 A. Part of our settlement in the Cole litigation, we air

15:31:38 16 conditioned the Pack Unit.

15:31:39 17 Q. And it was after a judge opinion and you would air

15:31:40 18 conditioned the Pack Unit, right?

15:31:41 19 A. That's correct.

15:31:42 20 Q. And the legislature then funded that after the

15:31:44 21 settlement?

15:31:44 22 A. I don't know that they funded it. We just did it.

15:31:47 23 Q. You didn't get extra money?

15:31:49 24 A. I don't remember that we got extra funding.

15:31:58 25 Q. You did not specifically tell the legislature that

15:32:00 1 the lack of sufficient funding for air conditioning would  
15:32:03 2 likely cause inmates to suffer, get sick, or die, right?  
15:32:03 3 A. I beg your pardon?  
15:32:08 4 Q. You did not tell the legislature specifically that  
15:32:10 5 the lack of sufficient funding for air conditioning would  
15:32:13 6 likely cause inmates to suffer, get sick, or die, correct?  
15:32:17 7 A. The information that we provided that -- you want to  
15:32:19 8 know what I'm telling the legislature about air  
15:32:21 9 conditioning, I guess, is what it seemed like, the way  
15:32:23 10 you're asking the question is like I'm talking about a  
15:32:27 11 point in time.  
15:32:27 12 Q. Well, what I'm wondering is it doesn't need to be the  
15:32:30 13 exact wording, but did you say to the legislature without  
15:32:32 14 this funding, without it, people are going to die in my  
15:32:36 15 prisons, people are going to get sick in my prisons,  
15:32:38 16 people are going to suffer in my prisons?  
15:32:40 17 A. Are we talking about heat-related illnesses --  
15:32:42 18 Q. Heat-related, yes, air conditioning funding.  
15:32:45 19 A. We, me and the legislative members, meet with the  
15:32:50 20 offices, talk about the heat-related incidents that we  
15:32:53 21 have with our staff and our inmates and absolutely have a  
15:32:56 22 condition of getting the funding for air conditioning  
15:32:58 23 could help rectify some of those issues.  
15:32:59 24 Q. So back to my issue --  
15:33:02 25 A. That's why we support and wanted to provide the air

15:33:05 1 condition plan. That's why we work with them to try to  
15:33:07 2 air condition the system --

15:33:07 3 Q. Will you agree that without air conditioning, people  
15:33:10 4 will continue to -- certain people will die during the  
15:33:12 5 summer months? Will you agree with that?

15:33:14 6 A. I hope not. No, ma'am. I can't tell you that.

15:33:16 7 Q. Without air conditioning, people will continue to get  
15:33:18 8 stick and staff will continue to get sick?

15:33:19 9 A. I think that illnesses would be significantly  
15:33:23 10 reduced. Heat-related illnesses would be reduced but some  
15:33:27 11 of those happen outside or at work.

15:33:29 12 Q. There's a solution. We're all sitting here in this  
15:33:32 13 courtroom fine without heat strike teams and constant  
15:33:35 14 access to ice water and running out showering all the  
15:33:38 15 time, and the reason we're all okay is because of the  
15:33:40 16 simple solution of air conditioning, right? We don't need  
15:33:44 17 heat strike teams. It's just a simple solution, right?

15:33:46 18 A. It's not a simple solution, ma'am.

15:33:46 19 Q. I don't mean to te --

15:33:50 20 A. It sounds simple but it's not simple at all. It's  
15:33:51 21 very complex.

15:33:52 22 Q. I don't mean to make light --

15:33:53 23 MS. CARTER: Your Honor, I'd ask that counsel  
15:33:56 24 allow the witness to answer.

15:33:58 25 Q. (BY MS. GROSSMAN) I don't mean to make light, I

15:34:00 1 really don't, of how hard it is in order to get -- I'm  
15:34:05 2 saying that to do without any money. I'm not saying and  
15:34:08 3 I'm not trying to make light of it. I understand it's not  
15:34:10 4 simple in the sense that it's just magic. What I'm saying  
15:34:13 5 is the answer is not -- we don't need heat structure teams  
15:34:17 6 and ice water and showers and respite rooms. We need air  
15:34:20 7 conditioning, right?

15:34:21 8 A. If you had air conditioning, you could do away with  
15:34:23 9 those other measures, but until you get it, you need those  
15:34:27 10 measures.

15:34:29 11 Q. Would an order from this court actually help you get  
15:34:32 12 funding you needed?

15:34:33 13 A. I couldn't answer that.

15:34:34 14 Q. It did in the Pack Unit, right?

15:34:37 15 A. Pack Unit was one unit.

15:34:39 16 Q. And then, Briscoe and Segovia were air conditioned  
15:34:41 17 because of a law, right?

15:34:42 18 A. It was a jail standard.

15:34:44 19 Q. A jail standard. And Bernie Tiede is in air  
15:34:50 20 conditioning because of this court's order, right?

15:34:50 21 A. I wouldn't argue. Yes, ma'am.

15:34:52 22 Q. Thank you.

15:35:04 23 THE COURT: Couple of questions for you, if you  
15:35:05 24 don't mind. While I'm asking would, would you mind giving  
15:35:08 25 me a hardcopy of Defendants' 76, please?



15:35:15 1 So, Mr. Collier, first of all, I appreciate the  
15:35:18 2 position you're in with respect to the legislature and  
15:35:22 3 their role in funding, but I want to see whether or not  
15:35:28 4 what I said resonates with you or whether there's a fault  
15:35:31 5 with my thinking and that is that when you went with this  
15:35:35 6 four-phase plan that set out sort of goals over time, goal  
15:35:41 7 meaning what I understand to be if not complete,  
15:35:45 8 substantial air conditioning by 2031?

15:35:49 9 THE WITNESS: The last funding leg would have  
15:35:50 10 been in 2031 so it included the 2031 biennium as part of  
15:35:56 11 that. So it would likely have been '32-ish.

15:35:58 12 THE COURT: '32, '33. So when you went to them  
15:36:01 13 with that plan, they funded about a third of the first  
15:36:04 14 phase when you asked them.

15:36:07 15 THE WITNESS: Correct.

15:36:08 16 THE COURT: So if we were to carry that forward  
15:36:10 17 and if that's the response you continue to get, assuming  
15:36:12 18 that you get about a third of what you're asking for, if  
15:36:15 19 it's going to take you eight years, according to the plan  
15:36:18 20 if you're fully funded, would it take you 25 to do it if  
15:36:23 21 you're only funded at 30 percent of what you're asking  
15:36:25 22 for?

15:36:25 23 THE WITNESS: I guess if I only got the exact  
15:36:27 24 funding I got this time and I would say it might even be  
15:36:30 25 longer if that was the case because things increase in

15:36:34 1 cost. But what I will tell you and I'm not blowing  
15:36:37 2 anybody -- steam at anybody but I feel very strong based  
15:36:40 3 on the fact that they earmarked funding for air  
15:36:44 4 conditioning for the very first time ever and they put 105  
15:36:47 5 million in our base the session before that, we've seen  
15:36:50 6 not just a stair climb but a heap over as far as what we  
15:36:55 7 typically have had in the past.

15:36:56 8           So I think there is an awakening that this is an  
15:36:58 9 issue and it is significant, so I fully would anticipate  
15:37:02 10 getting significantly more than 85 next time, but I can't  
15:37:05 11 tell you that number. I can't even tell you I'll get 85.  
15:37:09 12 I can tell you that we'll go in and ask and we work our  
15:37:11 13 tail off to try to get it, but at the end of the day, it's  
15:37:13 14 ultimately their decision.

15:37:14 15           THE COURT: Sure. And when you say -- I think I  
15:37:17 16 know the answer to this question, too. When you say that  
15:37:20 17 in response to the Pack settlement or the settlement in  
15:37:26 18 this case, I don't know what you call it, you said you  
15:37:30 19 don't recall where the money came from, you just did it.  
15:37:32 20 Is that because that was a limited --

15:37:34 21           THE WITNESS: Very small amount of money, yes,  
15:37:36 22 sir. We wouldn't have been able -- we first thought it  
15:37:39 23 was going to be 20 million. But we had to temporary air  
15:37:41 24 condition it. We just had to do that, which meant we  
15:37:43 25 kicked other deferred projects off the list, and then, we

15:37:46 1 ultimately used that funding but we had to kick other  
15:37:48 2 projects off the list to do it.

15:37:50 3 THE COURT: In other words, you don't have some  
15:37:51 4 big fund of money out there to respond to settlements or  
15:37:56 5 judge orders.

15:37:56 6 THE WITNESS: No, sir. Sometimes I go into the  
15:37:59 7 legislature and say I need help because this happened but  
15:38:02 8 at the same time no, sir.

15:38:03 9 THE COURT: Okay. Thank you. Your witness.

15:38:09 10 MS. CARTER: Thank you, your Honor.

15:38:10 11 RE-DIRECT EXAMINATION

15:38:10 12 BY MS. CARTER:

15:38:15 13 Q. Mr. Collier, plaintiffs' counsel mentioned Operation  
15:38:19 14 Lone Star in units that you manage for that project. Do  
15:38:24 15 you recall that?

15:38:24 16 A. Yes, ma'am.

15:38:24 17 Q. Do you know what TDEM stands for?

15:38:27 18 A. Texas Division of Emergency Management.

15:38:29 19 Q. Who funded the Operation Lone Star air conditioning  
15:38:33 20 project?

15:38:33 21 A. Initially, it was TDEM, the Texas Division of  
15:38:37 22 Emergency Management. They fund funded the air  
15:38:39 23 conditioning on those facilities and coordinated the  
15:38:41 24 install working with our facilities division for the first  
15:38:45 25 year and a half to two years. The legislature ultimately

15:38:50 1 funded us for Operation Lone Star and I think, currently,  
15:38:53 2 that comes out of that funding.

15:38:54 3 Q. So Operation Lone Star does not come out of your  
15:38:57 4 deferred maintenance budget, Mr. Collier?

15:38:59 5 A. No, ma'am.

15:39:00 6 Q. Does it come out of your \$85 million budget you got  
15:39:03 7 in 2023?

15:39:04 8 A. No, ma'am.

15:39:06 9 Q. Mr. Collier, you heard Mr. Tiede testify; is that  
15:39:12 10 correct?

15:39:12 11 A. I did.

15:39:13 12 Q. Did you hear him talk about his housing history  
15:39:16 13 through TDCJ?

15:39:17 14 A. I did.

15:39:19 15 Q. Did you know that Mr. Tiede was already housed at  
15:39:23 16 Connally prior to filing suit?

15:39:27 17 A. He was housed at Connally initially and then, I  
15:39:29 18 think, transferred to Estelle and then, now back at  
15:39:32 19 Connally.

15:39:32 20 Q. Do you know that Mr. Tiede was in Connally in air  
15:39:36 21 conditioning prior to filing suit?

15:39:36 22 A. No, ma'am. I mean, if he was at Connally, he was in  
15:39:39 23 safekeeping, which is in air conditioning at that unit so  
15:39:41 24 yes, ma'am.

15:39:42 25 Q. So if you're at Connally and then, you're in

15:39:44 1 safekeeping, you're going to be housed in air  
15:39:46 2 conditioning.

15:39:46 3 A. That's correct.

15:40:33 4 Q. Mr. Collier, do you remember plaintiffs' counsel  
15:40:35 5 asking you about this death report or autopsy of this  
15:40:37 6 inmate?

15:40:38 7 A. Yes, ma'am.

15:40:38 8 Q. In that bracket about fifth line down, I guess the  
15:40:49 9 beginning of the sentence starts at the fourth line, but  
15:40:52 10 do you see the temperature inside Mr. Skinner's cell?

15:40:56 11 A. 85.3.

15:40:58 12 Q. Thank you. Mr. Collier, does anyone at TDCJ perform  
15:41:07 13 autopsies?

15:41:09 14 A. No, ma'am.

15:41:10 15 Q. Who performs autopsies for inmates that die in  
15:41:13 16 custody?

15:41:14 17 A. Many are done by the University of Texas Medical  
15:41:17 18 Branch. Some are done by medical examiners outside the  
15:41:20 19 agency in the county where the death occurred. Some are  
15:41:23 20 done by other medical examiners in the state.

15:41:27 21 Q. Do you rely on UTMB and these other outside medical  
15:41:31 22 providers to perform autopsies and report findings  
15:41:34 23 accurately?

15:41:35 24 A. Yes, ma'am.

15:41:36 25 Q. Does anyone in your office review these?

15:41:40 1 A. Mr. Clark reviews those. He's our chief of staff.  
15:41:44 2 Our health services division also reviews those and there  
15:41:47 3 may be many other staff that do, as well.  
15:41:52 4 Q. And, Mr. Collier, I want to ask you about the list of  
15:41:55 5 the 37 heat injuries from 2023 that Mr. Pulvino had sent.  
15:42:06 6 A. The UTMB report, yes, ma'am.  
15:42:08 7 Q. Why were the numbers we reported to the legislature  
15:42:12 8 lower than what John Pulvino's e-mail said?  
15:42:15 9 A. We didn't have confidence in the UTMB numbers at that  
15:42:18 10 time.  
15:42:18 11 Q. So were you getting reports from both UTMB and the  
15:42:21 12 units?  
15:42:22 13 A. Yes.  
15:42:23 14 Q. And the numbers weren't matching up?  
15:42:26 15 A. Correct.  
15:42:26 16 Q. Would you expect that if someone had a heat incident,  
15:42:30 17 the unit would know about it?  
15:42:31 18 A. They should.  
15:42:32 19 Q. Is that why you reached out to UTMB?  
15:42:35 20 A. The executive services staff that review the report  
15:42:38 21 reached out to UTMB to verify the information and that's  
15:42:40 22 when they started identifying quickly that there were some  
15:42:43 23 issues with the report.  
15:42:58 24 Q. Was there a meeting with UTMB last year, Mr. Collier?  
15:43:02 25 A. Over that report? Yes, ma'am. And there may have

15:43:06 1 been another one this year if I remember right.

15:43:10 2 Q. Did you discuss what was going to be reported?

15:43:14 3 A. With UTMB? I did not personally but I believe that

15:43:17 4 was the point of the discussion.

15:43:21 5 Q. Did that conversation ultimately end up in TDCJ

15:43:25 6 adding diagnoses to your report to the legislature?

15:43:29 7 A. I believe that's correct.

15:43:30 8 Q. Did TDCJ add heat syncope to the report?

15:43:34 9 A. I believe that will be added to the report.

15:43:35 10 Q. Did TDCJ add heat cramps to that report?

15:43:38 11 A. That will be added, as well, yes.

15:43:41 12 Q. Who was that on the recommendation of?

15:43:44 13 A. I believe UTMB and our staff meeting together, coming

15:43:47 14 to that conclusion because that information wasn't being

15:43:51 15 captured.

15:43:53 16 Q. Does the rider that requires these reports, do they

15:43:56 17 require staffing numbers?

15:43:57 18 A. No, ma'am.

15:43:58 19 Q. Does TDCJ provide them, anyway?

15:44:01 20 A. We do.

15:44:02 21 Q. Mr. Collier, do you benefit in any way from not

15:44:16 22 reporting accurately to the legislature?

15:44:19 23 A. To the contrary. No, ma'am.

15:44:20 24 Q. Does the agency benefit in any way from not reporting

15:44:23 25 accurately to the legislature?

15:44:24 1 A. No, ma'am.

15:44:29 2 Q. I want to circle back to the Texas A & M study that  
15:44:32 3 plaintiffs' counsel was asking you about. You've already

15:44:34 4 testified you gave that study to Mr. Barbee, didn't you?

15:44:37 5 A. Correct.

15:44:38 6 Q. Are you aware that that study was coauthored by one  
15:44:42 7 of the presidents of the plaintiff organizations?

15:44:45 8 A. I wouldn't argue with that. Yes, ma'am.

15:44:48 9 Q. Were you in the courtroom when Mr. Rhines questioned  
15:44:52 10 Dr. Dominick?

15:44:53 11 A. I was.

15:44:56 12 Q. Did you hear Dr. Dominick say that a lot of the  
15:44:59 13 number of survey responses were excluded?

15:45:01 14 A. Yes.

15:45:01 15 Q. Did you hear her say that she couldn't say why?

15:45:05 16 A. I believe so.

15:45:06 17 Q. Are you aware that the survey only analyzed 309  
15:45:10 18 responses?

15:45:11 19 A. I knew it was somewhere between 3 and 400. Yes,  
15:45:14 20 ma'am.

15:45:14 21 Q. And what is the inmate population of TDCJ today, Mr.  
15:45:18 22 Collier?

15:45:18 23 A. About 134,500, give or take.

15:45:22 24 Q. Do you believe that 309 inmates is an accurate  
15:45:26 25 representation of that population?



15:45:27 1 A. No, ma'am.

15:45:30 2 Q. Thank you.

15:45:35 3 RE-CROSS EXAMINATION

15:45:35 4 BY MS. GROSSMAN:

15:45:41 5 Q. I totally get that things cost money. I know that.

15:45:43 6 I wasn't trying to make light of it or when I said the

15:45:46 7 word "simple," I know things cost money. I don't think

15:45:50 8 you have billions of dollars in your back pocket. I

15:45:54 9 understand.

15:45:54 10 But it's fair to say that Briscoe and Segovia was

15:46:03 11 funded because jail standards required it, right?

15:46:05 12 A. That is correct.

15:46:07 13 MS. CARTER: Counsel, could you speak into the

15:46:09 14 mic?

15:46:10 15 Q. (BY MS. GROSSMAN) I'm sorry. I said it's fair to say

15:46:13 16 that Segovia and Briscoe were funded because jail

15:46:16 17 standards required it and he said yes. And it's fair to

15:46:21 18 say that money was given to air condition the Pack Unit

15:46:26 19 because of a settlement that was then approved and funded,

15:46:30 20 right?

15:46:30 21 A. I don't think there was money given.

15:46:32 22 Q. No money given?

15:46:33 23 A. I don't believe that. I believe that we just funded

15:46:35 24 -- we just did it.

15:46:36 25 Q. Well, Texas has money. They just spend it on what

15:46:38 1 they want to, right?

15:46:40 2 A. TDCJ is one of the many state agencies that receive

15:46:44 3 funding from the legislature so it's depending on where

15:46:47 4 they want to put their money.

15:46:47 5 Q. They have like \$32 billion surplus last year?

15:46:51 6 A. I can't remember what the number is. They have a

15:46:54 7 surplus. Yes, ma'am.

15:46:54 8 Q. And they spend it on what they want, right?

15:46:56 9 A. There's a lot of priorities in the state and I think

15:47:00 10 legislators use their best knowledge to identify what

15:47:01 11 those priorities are going to be.

15:47:03 12 Q. So it's what they want or what they're ordered to do,

15:47:05 13 right?

15:47:06 14 A. I don't know that ordered or -- I'm not sure.

15:47:11 15 Q. Well, all of the air conditioning at Briscoe and

15:47:15 16 Segovia is because of a jail standard, and Pack is the

15:47:20 17 result of a court order, and Bernie was in air

15:47:23 18 conditioning because of a court order, we can agree on all

15:47:25 19 those things, right?

15:47:26 20 A. Yes, ma'am.

15:47:29 21 Q. Thank you.

15:47:31 22 A. Thank you.

15:47:34 23 THE COURT: Any followup questions?

15:47:35 24 MS. CARTER: I have nothing.

15:47:36 25 THE COURT: Thank you, sir. You may step down.

15:47:39 1 Any other witnesses?

15:47:42 2 MS. CARTER: We have no further witnesses.

15:47:44 3 THE COURT: Any rebuttal witnesses?

15:47:46 4 MR. HOMIAK: No, your Honor.

15:47:46 5 THE COURT: You had plenty of time.

15:47:50 6 MR. HOMIAK: I think we could call someone if  
15:47:51 7 you'd like.

15:47:56 8 THE COURT: I wanted to get something, though, I  
15:48:00 9 need you -- Ms. Carter, if we can talk about this exhibit.  
15:48:02 10 I just have some concerns I need to address with you if  
15:48:04 11 you don't mind.

15:48:05 12 MS. CARTER: Yes, your Honor.

15:48:08 13 THE COURT: So talking now about Defendants' 76,  
15:48:14 14 my recollection of the reason you were wanting to seek --  
15:48:19 15 you never sought admission but you were wanting to bring  
15:48:21 16 that to my attention was to sort of rebut an allegation of  
15:48:26 17 a witness about a reading on -- within a unit. Is that  
15:48:35 18 correct?

15:48:35 19 MS. CARTER: That was, your Honor, but I actually  
15:48:37 20 admitted 70 and I thought that 76 was depicting the same  
15:48:42 21 thing. So 70 was the proper rebuttal evidence.

15:48:45 22 THE COURT: Oh, okay.

15:48:46 23 MS. CARTER: And I can show you my computer but I  
15:48:50 24 know that one did get admitted.

15:48:51 25 THE COURT: What is the temperature log that I

15:48:54 1 have then that --

15:48:55 2 MS. CARTER: That I believe is the outdoor  
15:48:57 3 temperature log from 2022 and what is reported to the log  
15:49:00 4 is the indoor. Yes. So the report has the indoor  
15:49:05 5 temperatures.

15:49:06 6 THE COURT: Okay. I guess what I'm concerned  
15:49:08 7 about then is, unfortunately, I have this in front of me  
15:49:12 8 and I want to talk to you about whether this is any  
15:49:15 9 indication of the how records are kept. Come on up here  
15:49:19 10 because I have some questions.

15:49:21 11 MS. CARTER: Okay.

15:49:22 12 THE COURT: Do you have it in front of you? So  
15:49:29 13 again, if I'm getting at this wrong, please stop me, but  
15:49:35 14 the Stiles Unit is in or around Beaumont, right?

15:49:38 15 MS. CARTER: Yes, your Honor.

15:49:39 16 THE COURT: This is for July the 12th of '22. So  
15:50:05 17 all that's right so far. All the days before, you have  
15:50:14 18 heat indexes that are well into the hundreds. Actually,  
15:50:19 19 the outside air temperature in the 90s and hundreds, high  
15:50:22 20 humidity resulting in heat index into the hundreds, 134  
15:50:29 21 two days before, 125 the day before. Then on the day that  
15:50:35 22 we're looking at to see whether or not we believe this  
15:50:37 23 witness, we have this document that is full of reasons for  
15:50:45 24 concern.

15:50:45 25 First of all, the actual temperature, I'll take

15:50:53 1 judicial notice of the fact it's not 79 degrees at 4:30 in  
15:50:57 2 July in Beaumont and sure enough, I consulted what I think  
15:50:59 3 is an authoritative and permissible source, National  
15:51:03 4 Weather Service, and their records show a low of 79 on  
15:51:06 5 that day. The temperature continued to climb throughout  
15:51:10 6 the day to 96 and this, curiously, says it's 79 all  
15:51:20 7 morning, 79 consistently until 4:30 when it starts  
15:51:26 8 creeping up, never getting past 87.

15:51:29 9           And there are two other things on this document  
15:51:31 10 that disturb me. One is that you have a temperature --  
15:51:35 11 and several occasions on the left column, you have a  
15:51:37 12 temperature and then, you have humidity into the 90s, and  
15:51:41 13 then, if you look at the heat index, it's recorded as  
15:51:44 14 being lower than the absolute temperature, which that  
15:51:47 15 doesn't square.

15:51:49 16           And the final thing is you've got everything is  
15:51:51 17 in one handwriting. This is the old prosecutor in me.  
15:51:56 18 Everything is in the same handwriting, but you've got two  
15:51:59 19 different names on the right-hand column. I have to ask  
15:52:02 20 you, when was the document requested of this agency?

15:52:11 21           MS. ELLIS: From the Attorney General's Office or  
15:52:12 22 from TDCJ?

15:52:15 23           THE COURT: This is a TDJC -- when was this  
15:52:18 24 requested?

15:52:19 25           MS. CARTER: When did my office request this from

15:52:21 1 TDCJ? We began making requests for documents, I believe,  
15:52:24 2 as soon as plaintiffs sent discovery requests.

15:52:27 3 THE COURT: This is no mystery why I'm asking  
15:52:30 4 this is that if what you're using this document to suggest  
15:52:33 5 that the witness in this hearing was not telling the  
15:52:35 6 truth, I think this is a -- if not a fabricated document,  
15:52:39 7 this is an inaccurate document and I'm worried that  
15:52:45 8 somebody is presenting a document to me to impeach a  
15:52:52 9 witness with evidence that, unless you can convince me  
15:52:55 10 otherwise, looks highly suspect.

15:52:58 11 MS. CARTER: Yes, your Honor. And I will  
15:53:00 12 represent that, unfortunately for me, this is a mistake.  
15:53:03 13 It looks like there was a mistake by the unit and I was  
15:53:06 14 attempting to impeach the grievance with what was actually  
15:53:12 15 reported to the log, which would be indoor temps and that  
15:53:14 16 was in the report, I mistakenly thought that the logs were  
15:53:17 17 also indoor temperatures. They're outdoor temperatures.  
15:53:21 18 And unfortunately for me, the attorney, it looks like the  
15:53:24 19 unit employee made a mistake this day. I also --

15:53:28 20 THE COURT: It wasn't a mistake. This is not a  
15:53:30 21 must take. This is a series of -- I mean, this is not one  
15:53:39 22 entry. This is a whole day of successive entries. It's  
15:53:46 23 not a mistake, this is a fabricated document. The only  
15:53:49 24 question I have is whether or not they were fooled by  
15:53:52 25 their employer -- employee or I was fooled by the

15:53:56 1 production of this document. That's the main concern I  
15:53:58 2 have.

15:53:59 3 MS. CARTER: Your Honor, I assure you that I did  
15:54:01 4 not intend -- I honestly pulled it up because I thought  
15:54:03 5 that this corresponded with the indoor temperatures. So  
15:54:06 6 these outdoor temperatures are not what is reported to the  
15:54:10 7 legislature. So I would like to represent on behalf of my  
15:54:13 8 client that these were never reported to the legislature  
15:54:15 9 and I do not want to create any inference that we are  
15:54:18 10 misreporting largely inaccurate numbers because what is  
15:54:21 11 reported to the legislature is in Exhibit 70 and that is  
15:54:25 12 accurate.

15:54:25 13 THE COURT: Yeah. I'm not so concerned about the  
15:54:27 14 legislature. I'm concerned about me. I'm concerned about  
15:54:32 15 this is a -- and then, you kind of backed off and said,  
15:54:34 16 well, we didn't admit it like you didn't want it to come  
15:54:35 17 in and that made red -- and I'm not -- I'm just saying  
15:54:38 18 it's my job to ask hard questions. The hard question here  
15:54:40 19 is I've got a document that you came close to admitting to  
15:54:46 20 impeach somebody and it looks like a fabricated document.

15:54:49 21 MS. CARTER: I understand, your Honor. And I  
15:54:50 22 will say that all the other pages, now that I'm looking at  
15:54:54 23 them, look like they do show the more accurate  
15:54:56 24 temperatures.

15:54:57 25 THE COURT: Except for the day that is in

15:54:59 1 question.

15:54:59 2 MS. CARTER: It does.

15:54:59 3 THE COURT: Can you understand? It's the old

15:55:02 4 prosecutor in me. Something wrong with that.

15:55:04 5 MS. CARTER: I hope you understand how

15:55:06 6 uncomfortable this is for me because it truly was a

15:55:09 7 mistake on my part to correlate it with the report for

15:55:12 8 2022.

15:55:13 9 THE COURT: Sure. I understand you didn't mean

15:55:14 10 to let me see it. The question is how did it --

15:55:17 11 MS. CARTER: No. I honestly did not know.

15:55:21 12 They're not reporting the same information. So one is

15:55:24 13 outdoor and one is indoor temperatures and I thought that

15:55:26 14 this document was indoor temperatures.

15:55:28 15 THE COURT: I understand. Okay. I mean, to the

15:55:32 16 extent that somebody needs to look into this about how

15:55:37 17 this happened, why it happened that the date that we're

15:55:39 18 looking at --

15:55:42 19 MR. COLLIER: I have the same problem.

15:55:43 20 THE COURT: I'm not -- again, I'm not in the

15:55:44 21 business of accusing anybody before I -- but I want to

15:55:48 22 call out something that -- and if this in conversations

15:55:53 23 leads to needing to take some depositions about how this

15:55:58 24 was -- came into being, I want to get to the bottom of

15:56:02 25 this and I believe you probably do, too. So anyway.



15:56:06 1 MR. HOMIAK: Your Honor, I want to point out that  
15:56:07 2 we did not specifically request these logs because we knew  
15:56:11 3 it would be a lot of information and we expected at the  
15:56:15 4 time that it would take them some time to gather it.  
15:56:18 5 That's why it doesn't have a Bates stamp on it. We would  
15:56:21 6 certainly love to get the temperature logs from every TDCJ  
15:56:25 7 facility like this because, in general, we have concerns  
15:56:27 8 about what we've seen, but this was not part of the  
15:56:29 9 production. So that was the only thing that I wanted to  
15:56:32 10 clarify for the Court. This is -- today is truly the  
15:56:34 11 first time we're seeing this document.

15:56:36 12 THE COURT: Well, to the extent one of the things  
15:56:38 13 I need to be concerned about is how well they're keeping  
15:56:41 14 track of the temperature even if this wasn't admitted for  
15:56:43 15 the purpose of misleading me. It does go to the  
15:56:48 16 reliability of what's going on in the agency. And again,  
15:56:52 17 I'm not going to -- I'm just asking questions. I'm not  
15:56:57 18 coming to any conclusions.

15:56:58 19 MS. CARTER: Yes, your Honor. And I'll just  
15:57:00 20 represent to you that as soon as I sat down realizing that  
15:57:02 21 these were not indoor temperatures, I reached out and I  
15:57:04 22 believe that, obviously, it doesn't rectify what looks  
15:57:09 23 like someone just went back and missed it for the day and  
15:57:12 24 just attempted to document what they saw.

15:57:15 25 THE COURT: But if so, why didn't they do it in

15:57:18 1 believable numbers? I'm being facetious there. But the  
15:57:24 2 answer to my question is because they're trying to hide  
15:57:26 3 something. That's --

15:57:28 4 MS. CARTER: I don't know that I can say that a  
15:57:30 5 unit-level employee would be trying to hide something.

15:57:32 6 THE COURT: Exactly.

15:57:33 7 MS. CARTER: Or just tried to say I did my job  
15:57:36 8 that day.

15:57:36 9 THE COURT: Again, you've gotta forgive me. My  
15:57:39 10 previous career gets a little close to that so I think  
15:57:42 11 you --

15:57:42 12 MS. CARTER: It is my understanding now, your  
15:57:45 13 Honor, though, that the inside temperatures are taken on  
15:57:49 14 kestrel logs and the outside temperatures are someone  
15:57:51 15 literally just going to read a thermometer. I honestly  
15:57:55 16 don't know who Jones is or who Andy is. It was my mistake  
15:58:00 17 to conflate that.

15:58:01 18 THE COURT: Do you know what the purpose of the  
15:58:02 19 logs is, why these logs are kept?

15:58:06 20 MS. CARTER: Just TDCJ is trying to keep up with  
15:58:08 21 them. They're not required by the legislature, but it's  
15:58:12 22 just trying to track, I think, the heat index each day.  
15:58:14 23 Because I believe Mr. Collier testified that after a  
15:58:15 24 certain number of days at a unit that has a high heat  
15:58:18 25 index, they institute ICS --

15:58:21 1 THE COURT: Are these the stats they're depending  
15:58:23 2 on to do that?

15:58:23 3 MS. CARTER: Yes.

15:58:25 4 THE COURT: That's a problem. If what you're  
15:58:27 5 saying is they're doing all this good stuff but they're  
15:58:30 6 doing it with this information, that's a problem. So  
15:58:35 7 anyway, again, not casting any aspersions on anybody in  
15:58:41 8 this room, but this is a problem and we need to kind of  
15:58:43 9 get to the problem of that. I left two minutes. We need  
15:58:49 10 to talk about where we go from here.

15:58:59 11 So what I'm going to ask now is that if somebody  
15:59:02 12 from each said could talk about, A, whether or not there's  
15:59:04 13 been any discussion among the parties about post-hearing  
15:59:08 14 -- and I'm looking at smiles. That's what I needed to  
15:59:14 15 see. Give me your respective thoughts about what would be  
15:59:20 16 most helpful to you after this. I'll tell you, I'll start  
15:59:23 17 off by saying what would be most helpful to me and that is  
15:59:25 18 to give each of you the opportunity, in light of the  
15:59:28 19 evidence that was marshaled at this hearing, for you in  
15:59:33 20 some form or fashion to present -- and this doesn't have  
15:59:37 21 to be a deep-in-the-weeds exercise but in substance, a  
15:59:43 22 proposed findings of fact and conclusions of law from your  
15:59:46 23 perspective. That would be what would be most helpful.  
15:59:48 24 And on any bigger issues that you needed to supplement any  
15:59:53 25 briefing, this has been well briefed already and it's been

15:59:55 1 well tried, but to the extent that anything has come up  
15:59:58 2 that you wanted to touch on again, I wanted to give you an  
16:00:01 3 ample opportunity to do that.

16:00:02 4           So let me first ask the plaintiff what their  
16:00:06 5 preference.

16:00:06 6           MR. DUKE: So what we have proposed is that --  
16:00:08 7 well, initially, we proposed a week from today that the  
16:00:10 8 parties would both submit proposed findings of fact about  
16:00:14 9 conclusions of law. We recognize that it might be later  
16:00:16 10 today or maybe even the weekend before we get the rough  
16:00:20 11 transcript. So we then propose that as an alternative, a  
16:00:23 12 week from Monday and relying on the rough transcripts.  
16:00:27 13 The response that I got back -- and they can expand on it  
16:00:30 14 -- is that they would like longer and they don't want the  
16:00:33 15 date to start until the final transcripts are provided.

16:00:36 16           And are our largest concern about that, in  
16:00:40 17 addition to their request, is I spoke with the reporter  
16:00:41 18 and it may be two weeks before the final transcript  
16:00:44 19 arrives and we don't think, one, based off of the relief  
16:00:47 20 provided but, also, I think what is necessary to submit  
16:00:50 21 that we couldn't rely on the rough transcripts with the  
16:00:55 22 caveat that the parties could supplement that with -- once  
16:00:57 23 we get the final transcripts with updated citations and,  
16:01:01 24 you know, any amendments to the transcripts that might be  
16:01:04 25 necessary.

16:01:05 1 THE COURT: Ms. Ellis.

16:01:07 2 MS. ELLIS: So certainly our preference would be  
16:01:09 3 to have the final transcript. If the court reporter  
16:01:12 4 thinks it's going to be two weeks, I didn't have the  
16:01:14 5 benefit of having that information. They have been so  
16:01:16 6 great of getting the things out to us every day so I  
16:01:19 7 honestly thought it would be quicker. Nonetheless, if  
16:01:22 8 that's the case, I think we would probably be fine going  
16:01:26 9 and supplementing with the final excerpts. However, I am  
16:01:29 10 still concerned of --

16:01:30 11 THE COURT: Her rough copies are pretty close to  
16:01:33 12 the final.

16:01:34 13 MS. ELLIS: That's not surprising at all so that  
16:01:36 14 makes me more confident in that. I don't think I can  
16:01:39 15 really change our position on the timeframe, though. A  
16:01:42 16 week is a really short amount of time so I had suggested  
16:01:45 17 three weeks to Mr. Duke earlier to explain, you know, we  
16:01:48 18 had a four-day preliminary injunction hearing. We've  
16:01:51 19 heard from 20-plus witnesses, hundreds of documents in  
16:01:54 20 evidence have been put in, we just simply think one week  
16:01:57 21 is not sufficient time.

16:01:58 22 THE COURT: I don't disagree. Understanding --

16:02:02 23 MR. DUKE: I started with smiles but I don't want  
16:02:04 24 to guarantee --

16:02:05 25 THE COURT: Trust me, I understand the urgency of

16:02:08 1 all of this, but even from your perspective, if you get  
16:02:11 2 relief, you're going to want it done right. And so, if  
16:02:15 3 you don't, then it doesn't matter how long it takes. So I  
16:02:19 4 think that's a reasonable request. I think three weeks --  
16:02:23 5 the question then is this is where it gets sticky is  
16:02:26 6 everybody wants the opportunity then to reply and respond  
16:02:29 7 and that goes on. That's what I really don't need,  
16:02:32 8 honestly. I was here.

16:02:32 9           And so, I think what would be most helpful to me  
16:02:37 10 is to give you more time on the front end to get me  
16:02:40 11 everything you think you want and then, not extend it for  
16:02:46 12 any period of time after that. Okay. I'm going to kind  
16:03:53 13 of split the baby on this one and for reasons that are  
16:03:57 14 more internal than anything, the post-hearing briefing  
16:04:01 15 will be due on Tuesday, 20th of August.

16:04:09 16           MS. ELLIS: Okay.

16:04:25 17           THE COURT: What would be helpful, too, is we've  
16:04:27 18 within attempting to keep up with the objections that have  
16:04:29 19 been coming in sort of even as we go along. But to the  
16:04:33 20 extent that any of the issues that you raise in your  
16:04:36 21 posttrial briefing are still subject to some of these  
16:04:39 22 objections, will you make it clear what those are? In the  
16:04:43 23 event we're talking about pieces of evidence, drop a  
16:04:47 24 footnote that this is still something that you need a  
16:04:50 25 ruling on or that you have an issue with, that will be

16:04:53 1 very helpful, as well.

16:04:56 2 MS. ELLIS: Sure. Thank you, your Honor.

16:04:59 3 MR. DUKE: I think only one thing. Is there any  
16:05:02 4 deadline for them to -- for the state to provide an  
16:05:05 5 explanation regarding the documentary issue that you  
16:05:08 6 mentioned before or is that part of --

16:05:10 7 THE COURT: I think they're going to get right on  
16:05:13 8 that, I'm sure.

16:05:13 9 MS. ELLIS: Absolutely. Mr. Collier, he's going  
16:05:17 10 to get on it.

16:05:18 11 THE COURT: Great. One ancillary issue is that  
16:05:45 12 there, as you know, have been motions to intervene that  
16:05:47 13 need to be addressed. I know you have responded, I think,  
16:05:49 14 to two or three.

16:05:52 15 MS. ELLIS: Yes, your Honor.

16:05:52 16 THE COURT: Four. Okay. Got another one.  
16:05:55 17 They're coming in faster. Probably five by the time we  
16:05:58 18 take a break. Are you going to take a position on that?

16:06:03 19 MR. DUKE: I think we would not take a position  
16:06:05 20 or not oppose.

16:06:06 21 THE COURT: That's fine. Well, as soon as you  
16:06:08 22 have the opportunity to weigh in on all the ones that are  
16:06:11 23 pending, we'll wait, give you the -- probably wait until  
16:06:14 24 you respond to all of them before we make a decision as to  
16:06:17 25 all of them.

16:06:17 1 MS. ELLIS: Sure. I imagine our response will be  
16:06:19 2 the same so we can just get those on file pretty quickly.

16:06:22 3 THE COURT: That will be great. Thank you.

16:06:24 4 All right. Anything else before we go?

16:06:27 5 MR. HOMIAK: Your Honor, I would only thank the  
16:06:29 6 Court, the courthouse staff, and everyone who's put up  
16:06:32 7 with us all week, especially with the late evening. So  
16:06:34 8 that was the only thing I wanted to end with.

16:06:35 9 THE COURT: You don't know what we're saying when  
16:06:37 10 we go back.

16:06:40 11 MR. HOMIAK: But at least sincere. But truly, it  
16:06:42 12 was particularly the lateness --

16:06:45 13 THE COURT: I know this is very contentious.  
16:06:47 14 These are very important issues and everybody has done  
16:06:50 15 very well and I appreciate everybody's efforts. I don't  
16:06:54 16 expect everybody to behave perfectly all the time. In  
16:06:56 17 fact, I would worry if you didn't. But you were well  
16:06:59 18 within reason and everybody did their job very well and I  
16:07:02 19 appreciate that. You make my job easier. And hopefully  
16:07:05 20 with the filings that we'll get in a couple of weeks, it  
16:07:08 21 will be even easier.

16:07:09 22 So with that, anything else from the plaintiff?

16:07:13 23 MR. DUKE: No.

16:07:14 24 THE COURT: From the defendant?

16:07:14 25 MS. ELLIS: No, your Honor. Thank you.



16:07:15 1 THE COURT: Thank you all very much and have a  
16:07:17 2 wonderful weekend.

3 MR. HOMIAK: Thank you.  
4 (Proceedings concluded.)

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UNITED STATES DISTRICT COURT )  
WESTERN DISTRICT OF TEXAS )

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