

South Dakota Corrections Commission

March 28, 2011, 8:00 a.m.
State Capitol, Room B-01
Approved Minutes (8-16-11)

8:00 a.m. Convene.

Vice-Chair Craig Tieszen called the meeting to order at 8:09 a.m. Other members present were Representative Lance Carson, Judge John Brown, and Representative Larry Lucas. Present by telephone were: Judge Patricia Riepel and Brad Drake. Senator Jim Bradford arrived later. Vice-Chair Tieszen declared a quorum was present.

Also in attendance from the Department of Corrections were: Tim Reisch, Cabinet Secretary; Laurie Feiler, Deputy Secretary; Darwin Weeldreyer, Director of Community Service; Michael Winder, Communications and Information Manager; Aaron Miller, Policy and Compliance Manager; Mary Bisson, recording secretary and Jim Seward, Legal Counsel to the Governor.

Review/approval of December minutes.

The minutes of the December 7, 2010, meeting were reviewed. Vice-Chair Tieszen noted that the draft minutes referred to Representative Carson as "Senator Carson" in the last paragraph located on page 2. Judge Brown moved the minutes be approved with that one correction; Senator Carson seconded the motion, which motion carried. The minutes were approved as amended.

Election of officers.

Nominations were opened for Chairman. Judge Brown nominated Senator Tieszen. Representative Lucas seconded the motion. Judge Riepel moved the nominations cease. Judge Brown seconded the motion. The Brown motion was carried unanimously and Senator Craig Tieszen became Chairman of the Corrections Commission by acclamation.

Nominations were opened for Vice-Chair. Judge Brown nominated Representative Lance Carson. Representative Lucas seconded the motion. Judge Riepel moved the nominations cease. Representative Lucas seconded the motion, which motion carried unanimously and Representative Lance Carson became Vice-Chair of the Corrections Commission by acclamation.

Rapid City facility update.

Darwin Weeldreyer of the Department of Corrections provided an update on the new minimum security facility at 2725 Creek Drive in Rapid City. The project consists of 55,707 square feet of existing space and new construction. Phase 1 is 99 percent complete. This consisted of demolition and remodeling of existing space to house Parole Services' eight agents and support staff, previously located in leased space on Cambell Street. Phase 2 will involve demolition and renovation of the first floor and construction of a second floor, new geothermal heating, and the construction of a 9,000 sq. ft. kitchen/laundry service facility. The program will house 420 inmates at completion. Seventy-five vertical 380-foot deep geothermal wells were drilled. The facility is on an 11 acre parcel of land, and all the wells and construction are concentrated on the south half of the property, consisting of roughly five acres. Six acres of native grass separate the facility from Purdue Manufacturing.

Currently, workers are drilling piers beneath the water table and filling them with concrete for additional structural support. Upgraded water and electrical services are installed and the conduit is shown in the open trench. A new transformer will provide power, and the communication upgrades are completed.

Parole Services is now housed in the former 2400 square foot office section and has new windows and doors. DOC received a Certificate of Substantial Completion from the architect on February 28, 2011, and parole moved in March 1. The slide showed a light, and although it is not known if the lights required by LEED will be halogen, the facility will be well-lighted, as there is no fence around the facility. The waiting area has a pass port, where the parolees check in. The conference room is capable of holding Polycom parole hearings to reduce travel. The exit sign is above the door parolees will use to depart the facility. Judge Brown asked if there was access to the rest of the facility from the parole area. One cannot get from the parole offices to the prison section without going outside. This is intentional, due to the different programs and for security reasons. The prison will have its own entrance and exists. There are no services for juveniles at this site.

Darwin Weeldreyer then addressed Phase 2 of the project, which will make up the Rapid City Minimum Unit. The under slab plumbing has been completed in the existing structure. The elevator pit has been excavated and poured. There will be two holding cells for offenders awaiting transfer back to the South Dakota State Penitentiary, which will be a savings. If more than 2 cells are required at a time, the county jail will be used, depending on the circumstances. In about two weeks, when the 2nd floor column fittings and the second floor has been constructed, DOC will begin framing. Beams that will support the second floor are being placed now and should be completed in about two weeks. Exterior modifications are being made. The existing structure had a lot of overhead loading doors which were removed and blocked in to match the existing blocks. Additionally, the opens in the tin areas of the building will be matched to the existing skin.

Judge Brown asked about transportation. DOC continues to use the Pennington County Shuttle prisoner transportation system which goes all over the state. When the new facility is operational, some prisoners currently housed at Pennington County will be pulled back in. DOC will completed this in steps, month by month. Presently, prisoners come into Sioux Falls where they are classified and go through orientation. The necessity for that for some of the West River inmates serving short sentences has been discussed. No change is planned to the current system unless one is needed. A lot of prisoners are sent to Springfield. Rapid City inmates will all have been at another DOC facility first before being placed in the Rapid City unit. The ones initially coming to Rapid City will be minimum classification inmates from Yankton and Sioux Falls and those being pulled back from the Pennington County Jail.

Darwin Weeldreyer indicated there are not a lot of transports back to Sioux Falls from the current Rapid City Minimum Unit. Right now, 102 offenders are housed in Rapid City and two or three a month are removed for violations, so the number of transports remains low. By the end of FY 2012, DOC expects to house 241 inmates in Rapid City and DOC believes the Pennington County Transport system will be able to handle the load on its twice weekly runs on Tuesdays and Fridays.

Senator Tieszen asked if all male prisoners will all go through Sioux Falls first. Secretary Reisch indicated that is true because of classification. For instance, an inmate may come into the system as a DWI, which would be presumed a minimum classification and eligible for the Rapid City unit, but closer examination

of his record may reveal an assault or previous escape, which would have an effect on his classification. DOC brings all to admissions to Jameson to determine custody classification.

Senator Lucas asked about counseling programs. Secretary Reisch indicated that once the facility is up and going, all GED and chemical dependency services will be provided at the facility. Often, inmates who come in for DWI have taken treatment multiple times before they come to prison; however, they will receive treatment again while in DOC custody. Arrangements are also made for treatment once they are released. In-prison, treatment has a great track record versus community treatment and is much more effective. It would be a good topic to present to the Commission.

Darwin Weeldreyer closed by saying he has encountered no major concerns or issues. There have been a few minor change orders, but nothing surprising budget-wise. His hope is that construction will be completed by the end of November. Then LEED will require the forcing of air through the facility to clean it out (commissioning process), with occupancy occurring in January 2012.

Chairman Tieszen asked about staffing for the new facilities. FTE are included for about a half a year in the DOC FY 12 budget for a custodian and a case manager. Depending on how things go down the road, it is likely DOC will reposition personnel from the Yankton Unit to Rapid City at the 300 number level and need an additional case manager and CD counselor. Yankton's inmate population will be going down in keeping with the DOC philosophy of moving the minimum security offenders closer to home.

Summary of 2011 DOC related Legislative action.

Michael Winder provided the following summary of bills from the 2011 session.

SB 37, An Act to revise the appropriation for the construction and renovation of a combined minimum security and parole facility in Rapid City and to declare an emergency. This Bill amends the 2010 Session Laws to increase the other fund appropriation by \$1.8 million for a permanent minimum security unit and parole offices in Rapid City. Thirty-two percent of the state's adult male inmates come from the six-county Black Hills area. It was signed by the Governor on March 3, 2011 and became effective immediately.

HB 1017, An Act to authorize the release of offender photographs and physical description for purposes of victim and community notification. The bill amends SDCL 24-2-20 to add identification photographs and physical descriptions of inmates for purposes of victim and public notification. Currently, DOC is only allowed to release photographs and descriptions of inmate fugitives from justice. This law allows DOC to release the age of an inmate rather than his date of birth for purposes of public and victim notification. The purpose for using the age rather than date of birth is for identity fraud protection. South Dakota is one of only two states which do not currently have an inmate lookup system available to the public. This will also link to the COMS system and will be available online later this year. News stations want the photos for their stories, but DOC's intent is for victim and community notification. It was signed by the Governor February 8, 2011.

HB 1018, An Act to provide for a partial early final discharge from parole. This bill creates an option for the Board of Pardons and Paroles to grant a partial early final discharge from parole for a parolee who is doing well without granting a complete early final discharge. Currently, the Parole Board may grant an early final discharge from parole, and this gives the board another option. In cases when the board wants to reduce the time remaining without putting the offender off parole completely, they can now

use this option. Judge Riepel asked if they can vote at that point, as this has been an issue for jury selection recently. Laurie Feiler indicated that the Clerk of Courts in the jurisdiction where the person was convicted receives a copy of the Final Discharge Certificate and the offender receives one as well. The certificate restores voting rights, and no other order is required. Both early and partial early discharges are evidence-based practices which allow DOC to use the most resources for the highest risk offenders and the least resources for the least likely to reoffend. The partial early discharge will encourage offenders to abide by supervision rules and allow DOC to focus on the higher risk offenders. It was signed by the Governor February 8, 2011.

HB 1019, An Act to include employees responsible for persons on supervised release and members of the Board of Pardons and Paroles in protections afforded law enforcement and judicial officers. This bill extends the same legal protections to parole agents and juvenile corrections agents as law enforcement officers have with regard to resisting arrest, obstruction and threatening. Parole agents have a responsibility to arrest parolees, and numerous times they have had to use force to take them into custody. Some agents have received threatening voice mails, and there are instances where a person under supervision runs when an agent is trying to take him into custody. DOC also added the same provisions for court services officers at the request of UJS prior to session. It was signed by the Governor February 8, 2011.

HB 1020, An Act to repeal certain provisions regarding the disclosure of parole eligibility at sentencing. This bill eliminates the requirement in state law for a judge to estimate the parole eligibility date of a defendant being sentenced. The 1995 law was intended to promote truth in sentencing at a time when all inmates except for lifers received good time at a rate of four to six months each year of their sentence. Parole eligibility was figured as a fraction of the net sentence (sentence minus the good time). There are very few individuals still being sentenced under the old system and inmates are now given their parole eligibility date during admissions and orientation when they first arrive in prison. The sentencing judge is provided a copy of those dates. It was signed by the Governor February 8, 2011.

HB 1021, An Act to revise certain provisions regarding the inspection of parole files. This Bill requires that notice be made to DOC and an opportunity to object and be heard be provided before parole files may be inspected by attorneys. Currently, attorneys can request parole files, but often no notice or opportunity is given for DOC to be heard on the request. These files may contain victim information, presentence information, mental health evaluations, alcohol and drug evaluations, and witness information, much of which is confidential. This bill requires notice so the Department of Corrections has an opportunity to voice concerns about certain items in the file. In many cases, the file contents that the requesting party wants can be agreed upon. It is the release of the file without a hearing that is the source of DOC concern and the impetus of the bill. The Governor signed it February 8, 2011.

Executive Appointments

The Governor reappointed Debra Flute to the Board of Pardons and Paroles, Senate Judiciary recommended advise and consent, and the full senate confirmed her reappointment 34-0.

Senator Tieszen asked if all these bills were introduced On behalf of the Department of Corrections. Michael Winder indicated that they were.

Update on Second Chance Act.

Laurie Feiler provided the Commission information regarding the 2nd Chance Act.

DOC employs a five-point strategy for juvenile reentry. South Dakota DOC was the only DOC to receive both an adult and juvenile Second Chance Act Grant, because DOC has a great grant writer in Kevin McLain. The juvenile grant is for \$1.5 million over three years. DOC is using the grants as tools for recidivism reduction and is doing a lot beyond what the grants are funding. At STAR, a readiness for release action plan includes standardized assessments, treatment plan development, transition, and staff training and development. Standardized assessments are evidence-based practices, assessing “How I Think” to determine changes in a juvenile’s cognitive distortion while in programming. STAR also uses the University of Rhode Island’s Change Assessment tool, measuring an individual’s motivation to change pre- and post-assessment. STAR is also working on treatment and transition plans. The goal is to have the parent or guardian, the JCA, program staff, and the juvenile together discuss risks and needs while developing a treatment plan while at STAR. Then, the same group develops an aftercare plan at least 21 days prior to scheduled release.

STAR has done a good deal of staff training in motivational interviewing, which is a way of getting the youth to reach desired conclusions on their own. They are also being trained in The Thinking for a Change Curriculum and core correctional practices. STAR is using scorecards to track staff development.

In aftercare and case management, the staff has implemented the enhanced case plan process. All Juvenile Community Corrections staff received EPICS training, which includes principles of effective intervention, including relationship skills to community supervision practices. A performance monitoring team is in place to conduct CPAI reviews of DOC and community facilities. A communication plan is in place.

Many youths in DOC placement are in private care. DOC is working with providers to build evidence-based practices and performance measures with them. The CPAI is a process to work with them to communicate what outcomes are expected.

Second Chance Act Target sites include Rushmore Academy in Rapid City and West Farm near Sioux Falls in the West Central School District. The Corrections Commission visited the classroom at Rushmore Academy at a previous meeting. Both of those sites operate a transitional classroom and have a community resource person hired and trained in providing services. M2 Work is an employment skills curriculum with pre- and post-testing. Incentives and social reinforcers for short- and long-term change are also employed. Twenty are served at West Farm and 30 are served at Rushmore Academy, with a total of about 100 youths being served in a year as they move through the system.

Senator Lucas asked about gang affiliation problems. Laurie Feiler indicated DOC does identify gang involvement, which can affect programming and other areas such as housing placement inside of the DOC. Representative Carson noted DOC has been educating front line workers. He asked what the turnover rate is for direct care workers. Secretary Reisch indicated that for Juvenile Corrections Agents, the rate is about 18% or on par with the statewide average. At STAR, the rate is nearly double that, closer to 30% or higher. Much of the grant money is being used for the transitional classrooms at Rushmore Academy and West Farm. DOC’s hope is that the schools will step up and continue the funding when the grant concludes. However, West Central is counting our kids in their State Aid Formula numbers and will receive state aid and special education money and should be able to pay for

those. This is not a done deal, but they should be able to continue past the grant period. Rushmore Academy existed prior to the grant and had indicated they were going to close down. The grant has provided some relief and there are dollars that follow the child and we believe there are enough dollars to pay for the classroom.

Secretary Reisch noted schools do not want kids coming back in the middle of a semester and there may not even be room. These classrooms provide transition for the kids. DOC thinks the dollars are there to continue, but DOC has not received a commitment from all administrators. It is important that kids graduate from high school and these programs help facilitate graduation.

Senator Bradford asked if the recent change in the law requiring kids to continue schooling to age 18 is helping the districts. DOC required school attendance to age 18 before the law was changed. The large school districts may have an alternative school, and sometimes when a kid shows up in the middle of a semester, it makes it harder. The alternative school does not handle the kid who would be in Corrections. The two transitional classrooms are after the kids who have completed the program and are trying to transition into a normal routine within the community.

ADULT REENTRY INITIATIVE.

The goal is to reduce recidivism by 50% in five years. The 2nd Chance Act grant is used to fund target sites in Sioux Falls and Rapid City, which account for about 60% of those released. In the effort, DOC is collaborating with local and state programs to provide services to the clients, including programs from the state departments of Corrections, Social Services, Labor, and Human Services on a variety of issues. The group is establishing ways of monitoring and evaluating so progress can be measured.

Originally, the grant was for \$1.5 million total for year, with the state providing a 25 percent cash match and a 25 percent in-kind match. The original grant period was from October 2009 to September 2010, and a six-month extension was granted to March 2011. The second and third year funding is in flux with the federal government, so DOC requested, and received a one-year extension of the initial grant to March 2012. The bottom line is that as DOC stretches the grant money through March 2012, the main pieces will continue to be operational. DOC is well situated for second-year funding if it becomes available. DOC received a grant for Technical Assistance for Reentry Strategic Planning and is also under consideration for an evaluability study.

The question was raised about whether 24-7 monitoring could be used for crimes other than DUI. Laurie Feiler indicated this is possible and Parole Services uses that option frequently in response to violations by those having trouble staying sober but whose actions don't rise to revocation. Employers like it, because they know the prospective employee can't be out drinking the night before they are scheduled to work.

DOC recently received a technical assistance grant for strategic planning. The technical assistance team of parole and institutional folks will look at what can be done to keep the reentry initiative going.

The Reentry group has formed collaborative teams. The Governor's Reentry Council is made up of cabinet secretaries, the mayors of Sioux Falls and Rapid City, and others. The council was reappointed by Governor Dugaard and a spring meeting is anticipated. The Reentry workgroup is made up of Deputy Secretary Feiler's counterparts and the local task force of people in Sioux Falls and Rapid City.

Laurie Feiler displayed a metrics slide as an example of data tracked. The slides showed what programming is offered in the institutions for recidivism reduction programming. For instance, the Department of Labor and Regulation provides the JSAP (a job search program) in the institutions, with 622 who have completed the course. As of 3-18-11, there were 674 enrolled in the program. Thinking for a Change has had 468 inmates complete the program. Credit where Credit is Due is provided by Lutheran Social Services. CTP-CD involves chemical dependency programming for those who are half-way out of the program, working in the community but sleeping at a minimum unit.

Senator Bradford asked about transitional programs at minimum facilities. Laurie Feiler indicated the Community Transition Program (CTP) is a program for those on parole but who live at a minimum unit. They can access the community for work, treatment, and off-unit times, but they still sleep at the unit.

To track recidivism on releases, the department reviews data 12, 24 and 36 months from release which has become a standard way of measuring nationally. For 2009 releases, DOC shows drop from 31.2% recidivating within 12 months among 2008 releases to 28.7% among 2009 releases. The target figure to meet next year to be on schedule to reach the 50% five-year goal is 28.1%. Currently, about half of the prison population is recidivists.

Senator Bradford asked if there were any data on recidivism, based on the area they return to. As an example, if they return to an area with no job prospects, do they have a higher recidivism rate? Has DOC considered only releasing offenders to areas where work is available?

Deputy Secretary Feiler noted that part of the success equation is a job, but so is a social and support structure of family and friends, and that it is a balancing act. She indicated DOC is taking a closer look at release plans and making them more individualized.

Since there are delays with checking recidivism numbers, DOC has been watching interim data. One measure is parole revocations month by month. February wasn't a great month, but generally the trend is lower.

Presentation from Secretary Reisch.

Secretary Reisch noted his presentation was to include presenting an appreciation plaque to George Prest for his seven years of service on the Corrections Commission; however, George was unable to attend the meeting. The Industry and Commerce Association will nominate three candidates for his position on the commission, from which the Governor will appoint one member to join the Commission.

Secretary Reisch also thanked the Corrections Commission for the wonderful support he received during his tenure as department secretary. He noted that during the early days, there was some contention but for the last several years, he's enjoyed smooth sailing. He added that DOC has used the Commission members to its advantage with the budget and bills. He appreciates the good relationship he has enjoyed working with the commission. Senator Bradford was helpful specifically with the Rapid City funding bills, even before he was a member. This is Secretary Reisch's last week as secretary of the department, and it has been a highlight of his life to run a large department in state government. He would stack the Department of Corrections' staff up against any, and it has been a joy to work with the staff across the department from the wardens, to the parole agents, to the JCAs, to the folks in the administration office. Top notch individuals are in position throughout, and whoever is named secretary going forward will be just fine.

His replacement is being sought. An ad hoc committee was formed to identify cabinet secretary candidates, which resulted in a pool of names of 15 prospects. They are now down to a short list, and interviews were conducted last week with four individuals. It is now in the hands of the Governor and his Chief of Staff. All the candidates were good, and hopefully the Governor will make an offer and get the appointment process moving forward.

Chairman Tieszen expressed the Commission's appreciation for Secretary Reisch's service at the Department of Corrections. He noted that Secretary Reisch is leaving the Department well-positioned, and he looks forward to his service to South Dakota elsewhere in government.

Senator Bradford expressed his thanks to Secretary Reisch, especially for the Indian people and the tremendous strides DOC has made under his leadership in working with corrections and rehabilitation. Most people figure once you go to jail, you belong there. Secretary Reisch has stepped up and worked in the Rapid City area on behalf of many native inmates. The new facility will make a big difference in people not going back after one mistake. He hopes Secretary Reisch will make himself and his expertise available to the new man, whoever is selected, and he hopes the new secretary is smart enough to ask. Senator Bradford stated that Secretary Reisch has done a tremendous job while performing one of the toughest jobs in the world and has been a value and asset to the community.

Judge Brown added that Secretary Reisch has set great goals for the department and commission and he hopes those are carried forward.

Discussion regarding the next meeting.

Discussion was held on when to have the next meeting. Typically, a meeting is held in June and another in September at one of the facilities. It was suggested to hold the fall meeting in Rapid City to tour the new facility. Representative Lucas last visited the state penitentiary in Sioux Falls in the '80s. Senator Bradford last visited SDSP during the Kneip Administration when he served on the Indian Commission. It was suggested that the December meeting, normally held in conjunction with the Governor's Budget Address, could also be a good time to tour the women's prison and the meth treatment facility. The consensus was to visit Sioux Falls the afternoon of June 16 and on 17, arranging tours of the penitentiary, West Farm, and perhaps McCrossan Boys' Ranch.

Chairman Tieszen asked if there was any other business. There being none, Representative Lucas moved to adjourn, Senator Bradford seconded the motion, and the motion carried. The meeting was adjourned at 10:00 a.m.