

South Dakota Corrections Commission

South Dakota State Penitentiary

Sioux Falls, SD

April 17, 2014, 12:30 p.m.

Chairman Craig Tieszen called the meeting of the South Dakota Corrections Commission to order at 12:30 p.m. at the South Dakota State Penitentiary in Sioux Falls on April 17, 2014.

Members present were: Senator Craig Tieszen, Senator Jim Bradford, Representative Pat Kirschman, Mr. David McGirr, Judge Robin Houwman, and Mr. Mark Anderson. Mr. Tim Bottom attended by telephone.

Also present were: DOC Secretary Denny Kaemingk, DOC Deputy Secretary Laurie Feiler, DOC Policy and Compliance Manager Aaron Miller, and DOC Communications and Information Manager Michael Winder. Nora Hertel, Associated Press, joined by telephone.

Chairman Tieszen asked for discussion of the minutes from the last meeting. Mr. Anderson moved that the minutes be approved as written. Senator Bradford seconded the motion. The minutes were approved.

Chairman Tieszen noted that the Commission had attended the Parole Board two-person meetings in Sioux Falls on April 16, toured McCrossan Boys' Ranch and had lunch there with the 65 DSS and DOC youngsters, and then toured the Sequel Academy at West Farm, where 31 young men reside in a transitional program. On April 17, the Commission met with the full Board of Pardons and Paroles in the morning and attended two hours of hearings. One full week each month, the Board meets to make hard decisions on behalf of the citizens of the state. Chairman Tieszen expressed his gratitude to the members of the Board for their work. The Commission also toured the entire SDSP complex. He asked for general observations or questions from the Commission members.

Vice-Chairman Bradford expressed how much it means to him and his constituents to learn how the system operates and the focus on Corrections. He expressed his gratitude to the people of the Department of Corrections for undertaking tough jobs. He found the tours of the juvenile facilities educational. He noted how respectful DOC employees are of those in their custody.

Senator Tieszen noted that McCrossan Boys' Ranch has a long history and a good reputation in this area and across the state, and it was evident during the tour. Sequel is settling in and their program is operating well. He was appreciative of the SDSP tour and the other programs as well. The state employees at SDSP exhibit professionalism, the grounds are well-kept, the managers wear neckties, uniforms are in good shape, and that all makes a difference and commands the respect necessary in an operation like this. He expressed his thanks for all who worked to set up the tours for the Commission.

Election of Officers

Chairman Tieszen asked for nominations for Chair of the Corrections Commission. Senator Bradford nominated Senator Craig Tieszen. Mr. Anderson seconded the motion. Senator Tieszen asked for any

other nominations, and there were none. Nominations were closed and Senator Bradford moved for a unanimous ballot for Senator Tieszen. Judge Houwman seconded the motion. Senator Tieszen asked for discussion. There being none, a vote was taken and Senator Craig Tieszen was elected unanimously.

Nominations were opened for Vice Chair. Mr. Anderson nominated David McGirr. Senator Bradford seconded the motion. The Chair asked for other nominations, there being none, Senator Bradford moved that Mr. David McGirr be elected Vice Chair unanimously. Representative Kirschman seconded the motion. Chair Tieszen asked for discussion. There being none, a vote was taken and David McGirr was elected unanimously.

SUMMARY OF DOC-RELATED LEGISLATION

Secretary Kaemingk noted that this year's agenda was light compared to after the South Dakota Public Safety Improvement Act (SDPSIA) passed in 2013. HB 1028 increased the amount of per diem paid to county jails that handle parole violators and juvenile detentions for those over 18. It was raised from \$50 to \$70 per day for the counties. It had been at \$50 since 2004 and is estimated to cost \$135,000 per year. DOC does not contract with the counties; the per diem rate is in statute.

Senator Bradford asked how it is handled in the case of a county which uses the services of a jail in another county. Secretary Kaemingk answered that the county which actually housed the offender would be paid.

Mrs. Feiler noted that the population addressed by the bill is parole violators. Secretary Kaemingk added that DOC has a separate contract with Minnehaha County for the minimum unit. Deputy Feiler stated that the contract is for about \$30 a day and a good portion of that is inmate-paid. If they are employed, the inmate pays about \$18 and the state pays about \$12. For the state inmates who work in the kitchen, there is no per diem. As of yesterday, DOC had 48 inmates at Minnehaha County, of which 22 are work release and 3 are on CTP. They will not be on a prison count, as they had been on parole and have been put in jail either on a violation or as a disciplinary measure.

Secretary Kaemingk reported on Senate Bill 26, An Act to establish certain electronic crime victim notification procedures. This was part of the Criminal Justice Initiative. The bill allows for the electronic notification of victims, and it requires notification of victims upon furlough and death. DOC has been notifying on individuals being incarcerated, paroled, and classification changes. This puts the notification on a path for SAVIN to come into play. Laurie Feiler noted that SAVIN is the automated victim notification system. It will become the one place that handles victim notification throughout the state for various areas of government. DOC has been doing notification for years, but this will expand on it and notification will begin at the time of arrest and continue throughout court hearings, bond hearings, sentencing, parole eligibility, etc. This bill puts all these statutes in one Chapter. Chairman Tieszen noted that this will cost \$200,000. Mrs. Feiler noted that one-time money was appropriated as part of the 2013 SDPSIA.

Senate Bill 41 is An Act to revise the definition of penitentiary correctional staff for the purposes of administering the South Dakota Retirement System. There is a Class A and a Class B retirement, and SB 41 revises that definition of penitentiary correctional staff to details how the recommendation will go to the retirement board. Unit Coordinators were changed over last year.

House Bill 1039, An Act to revise certain revisions related to the General Appropriations Act for FY 2013. It extended the deadline for spending some of the money earmarked in SB70. Much of that money was put into place and we had to renew that, because many projects are still in the works and not all of the

money has been expended. We looked to hold it over for a couple of years; it was extended for one year and must now be spent by June 30, 2015 under HB 1039.

Senate Bill 187, the DOC budget for FY 2015, is \$113 million and 874.2 FTEs, and \$91 million of that budget is from the General Fund. Federal funds account for over \$9 million, and Other Funds total \$12.7 million.

Representative Kirschman noted that state employees will receive an additional 3 percent salary in FY 2015.

Criminal Justice Initiative Update

Deputy Secretary Laurie Feiler noted that the handouts can also be accessed through the UJS website at <http://psia.sd.gov/>. The document contains updates from DOC, DSS, UJS, and the Attorney General's Office regarding SAVIN. The document is updated monthly. She will only brief the DOC piece.

The piece that has received the most attention is the Earned Discharge Credits (EDCs) on Parole. Those began in July 2013. People on parole are eligible for EDCs and they get day-for-day credit. For a 30-day month, they receive 30 days of credits. If it is a 28-day month, they receive 28 days of credit. Most parolees are eligible. Those doing time for sex offenses or failure to register are ineligible for credits. About 85% of parolees at any given time are eligible to earn credits. About 15% of those are eligible but don't earn them. If they are not behaving on parole, such as being on absconder status, being locked up, or they have gotten a Policy-Driven Response (PDR)—a sanction in the community short of revocation—they do not earn credits. Roughly 70% of all parolees receive credit every month. We have awarded over 518,000 days. Some offenders have multiple sentences. If an offender has three forgery sentences and they are concurrent, that offender will receive 90 days of credit in a 30-day month. It will only impact the sentence by 30 days, but one offender could receive 30 days on each of three sentences. We are programming our Offender Management System to do this automatically. It is currently being done in a separate database, but the system should be handling the credits this summer. A total of 578 people discharged with some EDCs. The idea is to get people off of parole who are doing fine, so parole agents can concentrate their time on higher risk offenders. South Dakota's sentencing structure has people spend quite a bit of time on parole. Data from the Public Safety Improvement workgroup showed that most revocations happen in the first year post-release, and almost all of them occur by year two. That's the point of diminishing returns, especially for low-risk offenders. Since the inception, the parole population has decreased by about 200 statewide. We think that is related to EDCs, but we are also doing more Evidence-based Practices on Parole and the impact is that it reduces the number of people who have their parole revoked. Before the SDPSIA, those offenders would have had their parole revoked and they would return to prison. That will increase caseloads while EDCs are bringing them down. It is hard to explain definitively what is impacting what.

Secretary Kaemingk noted that SD DOC's definition of recidivism is returning to prison within three years, so it will be some time before that can be quantified.

Chairman Tieszen led discussion of a date for a fall meeting of the Commission and tentatively scheduled the next meeting for October 9 and 10, visiting Aurora Plains, Abbott House, and Our Home in Parkston. The Commissioners will stay in Mitchell. Aurora Plains is the highest level juvenile facility in the state and where many of the state's juvenile sex offenders are housed.

Deputy Secretary Feiler discussed the Tribal Pilot portion of the SDPSIA. \$250,000 was appropriated for a pilot program with the tribe. DOC and the Sisseton-Wahpeton Oyate Tribe have been in negotiations

over the last several months and are very close to signing the agreement. The plan is that the tribe will hire a tribal parole agent who will work with the state parole agent to allow folks who are on state parole supervision from that tribe to be able to go home and be supervised there.

Secretary Kaemingk stated that DOC and the Tribe have agreed in principle on the budget, and he is waiting to have the Memorandum of Understanding signed. Once signed, the Tribe will hire the individual, DOC will train the person with our parole agents, and then considerable work needs to be done on the tribal side for case management. It is hoped that will be done yet this calendar year. Progress has been slow but steady, and Secretary Kaemingk is very hopeful for the pilot's success. Senator Bradford, also Chairman of the State Tribal Relations Board, will visit each reservation and talk to them to explain this project and how the tribes need them to back Sisseton in this effort.

Mrs. Feiler discussed performance measures. A 13-member oversight council was created as part of the SDPSIA. They meet twice a year and have a stated purpose of evaluating the impact of these provisions. A great deal of baseline data has been identified, mainly dealing with parole and how it is functioning because this is focused in the community. The next meeting of the oversight council is the first week of May.

Validating needs and risks assessments is an evidence-based practice. There is a Level of Services Inventory-Revised (LSIR), which is used nationally. UJS uses it for people on probation and DOC gives an LSIR Assessment to inmates when they first come in. It assesses them in different areas of need, such as employment, education, criminal thinking, etc. There is also a community risk assessment which helps identify the level of supervision a parolee will need. Both of those assessments are being evaluated as part of this project, norming and validating them, to make sure these people are assessed correctly. There is also an interrater reliability piece, which shows whether two individuals performing the same evaluation will return uniform results.

The Community Transition Program alternative housing pilot is funded for \$250,000 to provide a housing resource for CTP offenders other than prison. The plan is to contract for some housing resources in the community rather than housing CTP participants in a minimum unit to see if that results in better outcomes. The RFP was issued, responses are back, and DOC is in negotiations with a vendor now. Ten to fifteen participants in Sioux Falls will take part in this pilot at a time. The target population will be people with few needs, low-risk offenders who primarily have a housing issue.

Evidence-based Practices will include training for parole staff and the parole board. The training process has been formalized and trainer training for EPICS occurred earlier this week. It was a joint effort with UJS where the University of Cincinnati came to train probation and parole officers who will in turn train their counterparts. A workflow time study for parole will be funded through Phase II of the SDPSIA. Avera Institute is providing some technical assistance. Changes have also been made to parole policies to better reflect evidence-based practices.

The reinvestment fund is \$1 million appropriated in the SDPSIA for counties which experience an increase in the number of people on felony probation. A five-year trend line is being created which will serve as the base line. When counties have populations above that line, they will receive \$1000 for each person on felony probation. If they have no jail, they receive \$1200. That money will be awarded in October 2014 on FY 2014 incarcerations. Administrative Rules will be developed to articulate how the trend line is developed, and those will probably come before the rules review committee this summer.

Chairman Tieszen noted that the counties are paying attention to the reinvestment funds, which are intended to address county concerns about the probable increase in number of people being housed for short periods of time in county jails as a result of the SDPSIA.

Senator Tieszen asked how the employees of DOC are responding to the change of philosophy imposed by the SDPSIA. Secretary Kaemingk sees nothing but enthusiasm from DOC employees. It is the right thing to do and the right time to do it. As this was rolled out, we wondered how it would all get done, but the employees believe in it, embrace it, and are working very hard to implement it.

Deputy Secretary Feiler noted that evidence-based practices are not new for UJS or DOC. It has been discussed for over a decade. The pump was primed and the timing was good.

Secretary Kaemingk noted that case loads have already been reduced in West River. As the caseloads go down, the more difficult offender population will be left.

Secretary Kaemingk noted that within the next month, DOC will offer an offender lookup on its website. Pennington and Minnehaha Counties already have this capability and DOC will roll that out in May.

Senator Bradford asked if the SAVIN process for victim notification was let to Tyler Technologies on a bid process. Laurie Feiler noted that Tyler Technologies is the vendor for UJS's Odyssey system, and this is a way of making an electronic connection between the Odyssey System and the SAVIN system. UJS had already purchased and implemented Odyssey before the SAVIN program.

David McGirr asked about the modification to the sex offender list where different classes of offenders would drop off the register after a period of time. Senator Tieszen noted that had been passed three or four years ago and some people are now allowed to petition to be removed from the list in certain categories after certain lengths of time.

The chair asked for and received a motion from Representative Kirschman to adjourn. Mark Anderson seconded the motion. The vote was unanimous and the meeting was adjourned. At 2:00 p.m.