

South Dakota Corrections Commission Meeting
March 10, 2009
Capital Building, Pierre
B-01 Basement

Members Present: Senator Craig Tieszen, Judge John Brown, Senator Julie Bartling, Paul Aylward, Representative Richard Engels and George Prest (via phone).

Others Present: Brady Kerkman - Policy & Compliance Manager; Michael Winder - Communication & Information Manager; Secretary of Corrections Tim Reisch, Deputy Secretary of Corrections Laurie Feiler and Jacque Larson.

Members Absent: Judge Kathleen Caldwell, Brad Drake and Representative Lance Carson

Agenda Item Number One: Review/Approval of minutes from December Meeting:

Acting Chair Julie Bartling called the meeting to order at 8:35 am and asked for approval of the December minutes. Paul had some corrections for the minutes; IBW needed to be changed to IBEW and Mark Anderson is the President of the AFLCIO, not the Department of Labor.

Judge Brown moved for approval of the December minutes.

Second by Paul, minutes approved by all.

Agenda Item Number Two: Election of Officers:

Senator Bartling opened nomination for Chairperson. Judge Brown nominated Senator Bartling, second by Paul. Judge Brown moved nomination be ceased, second by Senator Tieszen. All approved, nomination carried.

Senator Bartling opened nomination for Vice Chairperson. Senator Bartling nominated Senator Tieszen, second by Judge Brown. Judge Brown moved nomination be ceased, all approved, nomination carried.

Agenda Item Number Three: 2009 Legislation:

Deputy Secretary Feiler briefed the Commission on the bills that were presented to the House and Senate and passed. The three DOC agency bills were HB 1015 (Inmate Appeal of Prison Disciplinary Actions); HB 1016 (Rules of Evidence); and HB 1017 (Act to Clarify Certain Provisions Regarding Escape from a Non-Secure Facility). All three bills have been signed by Governor Rounds.

HB 1015 needed to have the correction made to change "of" to "or". The Warden would be given the opportunity to change the disciplinary sanction of the inmate. 24-15A and 24-2 were the chapters discussed.

HB 1016 dealt with the rules of evidence in parole hearings. The bill makes it clear that the parole board need not follow the rules of evidence in SDCL 19-9 to 19-18. Parole hearings are limited administrative law proceeding before a lay board. Some members are attorneys. Parole hearings are not considered Administrative Hearings. Information can be given within the hearings without having the person actually present (i.e. law enforcement officer, counselor, etc). Judge Brown inquired about the number of inmates remaining under the old system, Deputy Secretary Feiler stated that 8% of the inmates remain under the old system.

HB 1017 dealt with the definition of escape. Escape from physical confinement is a First Degree Escape, Class Four felony and a failure to return following assignment or temporary leave is a

Second Degree Escape, Class 5 felony. While a walk-away directly from a DOC minimum unit should be considered a second degree escape, current escape statutes don't address this scenario. Current statutes also fail to adequately address walk-aways from juvenile placement, i.e. West Farm.

Walk-aways could be handled like an escape from a secure facility. It would be up to the prosecutor on how this is handled (Class 4). The goal of this bill is to cover both scenarios from walking away from a job (work release) and walking away from the facility. HB 1017 defines a secure facility versus a non-secure facility. A non-secure facility includes correctional facility or placements, i.e. West Farm.

Senate Bill 108 was discussed regarding concealed weapon permits. Deputy Secretary Feiler stated that parole agents should have equal rights as law enforcement officers and should not have to apply for a pistol permit. Parole agents should be excluded from pistol permit requirements. Discussion was held on the position of the parole agents. Parole agents have the authority to take parolees into custody; therefore, their training has to be relevant and realistic. If parole agents are expected to enforce the law they should be equipped to carry out that duty. The bill passed through the Senate floor and is on the House floor today. No further discussion.

Agenda Item Number Four: FY 2010 Budget Overview:
(handouts provided)

Secretary Reisch went over Fiscal Year (FY) 2010 budget overview and the handouts provided.

Secretary Reisch felt it was appropriate to brief the committee on the budget cuts that are being presented at this time.

For FY 2010, Governor Rounds recommended a decrease of \$1.7 million from all funds from FY 2009. The FY 2010 recommended budget consists of \$84,664,685 in general funds, \$11,584,866 in federal fund expenditure authority and \$9,963,369 in other fund expenditure authority, for a total budget of \$106,212,920 and 889.0 FTE's.

In major expansions and reductions there were a number of cuts in positions within several areas of the Department. In the administration area there was a cut of 1.5 positions (1 position from the Sex Offender Management Program and 1 secretary position that was full time is now going to part-time); Mike Durfee State Prison (2 positions - 1 secretary and 1 teacher); South Dakota State Penitentiary (2 positions - Associate Warden has retired and the position will not be refilled and 1 teacher); Redfield Unit has been closed so that opened up 13 positions; South Dakota Women's Prison (1 contractual teacher); Parole Services (1 parole agent in Sioux Falls and 1 transitional case manager in Pierre) and Juvenile Community Corrections (1 JCA position in Spearfish).

Discussion was held regarding the reduction in a parole agent concerning the efficiency of services. Does the vacancy justify the caseload from the Sioux Falls area for the other agents? Secretary Reisch stated that 2 of the positions have been vacant for awhile, due to 1 being vacant and 1 agent had been deployed. Secretary Reisch feels that the current caseload can be well maintained with the agents that are currently there.

In contractual services the Governor recommends a net decrease of \$1,355,576 for FY 2010. The decrease of \$800,000 from general funds is due to the elimination of the inmate medical catastrophic fund agreement with the Department of Health. Senator Tieszen asked about the catastrophic money, Secretary Reisch assured that there is sufficient funding in Correctional Healthcare. Senator Bartling questioned the decrease of \$39,620 in adult education contracts, Secretary Reisch explained that it is the contractual teacher positions he spoke about earlier with the cuts being made. A decrease of \$98,867 in federal fund expenditure authority and an increase of \$37,812 from general funds due to reduced federal room and board revenues. Senator Tieszan asked if it was a space availability issue, Secretary Reisch said yes it was.

There will be an increase of \$52,513 in general funds and a decrease of \$262,378 in federal fund expenditure authority to reflect the loss of Prison Rape Elimination Act (PREA) grant funds and continuing needs of the sex offender program.

For Capital Outlay, the Governor recommends a decrease of \$1,300,000 in other fund expenditure authority to reflect the FY 2010 obligation for payments to Syscon for work on the new Offender Management System.

Secretary Reisch briefly went through the remaining handouts and provided opportunity for questions from the Commission.

An added note from Secretary Reisch was there will be a \$200,000 savings by decreasing the amount of milk given to inmates that are 21 or older; they will be given one milk a day instead of two. All inmates under the age of 21 will still be provided two milks. Another way that could help with the budget restraints is by charging a nominal fee to parolees in CTP. Secretary Reisch states that most parolees would be able to afford \$18.00 a day for room/board if they are going through the CTP program.

Judge Brown inquired about the Burne Grants. He asked if there are any other sources of funds for the Department. Secretary Reisch informed the Commission that there are some available grants. The Neighborhood Stabilization Grant is available, the Department of Education also has some money that is discretionary for public use and the Stimulus Package is another option for the Department of Corrections. However, Secretary Reisch feels the Stimulus Package will not be available to the Department until 2010 or later.

Paul asked if the rise in inmate population was due to the economic crisis and with the cuts being made could there be a negative impact with the budget. Secretary Reisch stated that as the economy is suffering it could cause the increase in inmates.

Agenda Item Number Five: Update on the Rapid City Minimum Unit:

(handouts provided)

Secretary Reisch went over the update on the Rapid City Minimum Unit.

HB 1271 – The Department well into the session became aware of a piece of property, generating Secretary Reisch to follow-up and get a bill passed to secure the site. There previously was some property located and available on Elk Vale Road and Secretary Reisch asked Senator Bartling and Representative Pitts to sponsor the bill for purchase of the land. After much opposition from the community the decision was made not to purchase this land. Several locations were looked at during session as possible sites for building the new unit. The site selected on Creek Drive offered great potential, which it is located near the current site. Secretary Reisch stated that the building on the new site was previously used for making concrete products.

The bill is on the Senate floor today. George asked about the square footage of the facility and how many beds it would hold. Secretary Reisch stated that there will be 52,000 square feet once the renovations are complete and will have the potential to hold 420 inmates triple bunked.

Representative Engels asked about the 11 acres that is available and if the Department has any plans for the land. Secretary Reisch stated that at this time there are no plans for the land. Senator Tieszen stated that it is suitable for future use to build on.

Secretary Reisch gave a brief history of the current unit site. Secretary Reisch stated that the current Rapid City Minimum Unit was initially expected to be used for 18 months until land was purchased to house the new site. Secretary Reisch and Senator Bartling both agreed that the current facility is in very poor condition for a minimum facility unit. Senator Bartling feels that House Bill 1271 has good potential on the Senate floor.

Senator Bartling inquired when Secretary Reisch would be going to the public to inform them of the proposed facility being built. Secretary Reisch proposed that they first meet a couple of times with the businesses and the surrounding property owners to become acquainted with them and let them ask their questions before going to the general public. Tentative meetings have been scheduled: the first meeting is for the week of April 27-30, the second meeting will be the third week in May, and possibly a third meeting will be held in June. Closing on the facility will take place in July.

Senator Tieszen feels strongly that the opportunity needs to be taken right now to discuss this issue with the neighboring businesses and property owners. There has been media coverage in regards to this facility being built, so it would be appropriate to take the time to meet with the neighboring businesses and property owners to allow them the an opportunity to have open discussion with the Department.

Secretary Reisch would like to set a date for the next Corrections Commission meeting to coincide with the public meeting to be held in Rapid City. The Commission thought the third week in May (18, 20 or the 21) is a good possibility. Brady will send out an email to the Commission asking for input on which date works best for them.

Agenda Item Number Six: Adjourn:

Senator Bartling asked if there was any other business needing to be discussed.

Paul asked about the Apprenticeship Program and if the Department could get a count of how many veterans were incarcerated. Paul stated that there were possible funds available for these veterans.

Secretary Reisch stated that there is a grant opportunity available. The grant is called the "Second Chance Act". This grant is made available to institutions to help assist inmates with a better transition back into the community. Before the Department can apply for the grant, a re-entry council needs to be created to review what these inmates will need in order to reintegrate successfully back into the community.

Senator Bartling would like it to be noted that the Commission gives many thanks to former Representative Moore, Senator Albers and Representative Pitts for their time on the Commission. Secretary Reisch stated that plaques were given to both Representative Moore and Senator Albers at the last meeting. Brady has a plaque ordered for Representative Pitts.

Paul made a motion to adjourn.

Second by Representative Engels, Adjournment approved by all.