

**Corrections Commission Meeting  
South Dakota Women's Prison, Pierre  
Visit Room  
October 25, 2011**

Approved Minutes

2:00 p.m. Convene

**Members Present:** Senator Craig Tieszen, Chairman; Representative Lance Carson, Vice-Chairman; Senator Jim Bradford; Representative Larry Lucas; Mr. David McGirr, and Mr. Timothy Bottum. Mr. Mark Anderson joined by telephone.

**Members Absent:** Judge Patricia Riepel and Judge John Brown.

**DOC Staff Present:** Dennis Kaemingk, Cabinet Secretary; Laurie Feiler, Deputy Secretary; Aaron Miller, Policy and Compliance Manager; Michael Winder, Communications and Information Manager; and Brenda Hyde, Warden, South Dakota Women's Prison.

**Other governmental personnel present:** Dusty Johnson, Governor's Chief of Staff; Jim Seward, Governor's General Counsel; Sandy Zinter, Commissioner, Bureau of Personnel; and Kirk Edison, Human Resources Specialist for the South Dakota State Penitentiary and Mike Durfee State Prison.

**Others present:** Mr. Russ Freeburg was in attendance. Megan Luther, Argus Leader, joined by telephone.

Chairman Tieszen called the meeting to order at 2:00 p.m. The first order of business was to review and approve the minutes of the August 16, 2011, Corrections Commission meeting. Representative Carson moved approval of the minutes, and Representative Lucas seconded the motion, which motion carried.

The chair noted that two new members of the Commission were in attendance, David McGirr and Timothy Bottom. He welcomed them and requested that they introduce themselves. Mr. Bottum stated that he is lawyer in Mitchell and happy to be on the Commission. Mr. McGirr is the Mayor of Huron and has been for the last 4.5 years. Prior to that, he served on the city commission for 9 years, mainly as the police commissioner. He owns a printing company there. Chairman Tieszen explained that this is an important Commission with an important oversight duty and has representation from the community, the Legislature, and the judiciary. He looks forward to their input and insights on the Commission.

**National Institute of Corrections Review of the South Dakota State Penitentiary response to the murder of SCO R. J. Johnson:**

Chairman Tieszen invited Secretary Kaemingk and Deputy Secretary Feiler to report on the South Dakota Department of Corrections Response to the National Institute of Corrections Technical Assistance Report 11P1030.

Secretary Kaemingk thanked the commissioners for the opportunity to brief them. He extended Warden Weber's regrets at not being present, as he is testifying in court today. He stated that the Commission was briefed at the August meeting on DOC's after-incident report.

The National Institute of Corrections (NIC) reviewed the state's after-incident response to the homicide of SCO Ronald Johnson and the escape attempt of two inmates at SDSP on April 12, 2011. Governor Daugaard directed SDDOC to request the technical assistance of the NIC for an independent evaluation of SD DOC's response to the murder, the prison's policies, and training. This review has been completed. In short, the NIC said the state prison system is well run. Portions have been redacted from the report version released to the public for safety and security reasons. The on-site review of the penitentiary was conducted September 5-10, 2011, by Megan Savage and James Upchurch, both with considerable corrections experience. They conducted a comprehensive tour of the facility and physical plant, staff interviews, a review of documentation, conducted a variety of simulations, and provided daily out briefings. They verified the operational recommendations and after-incident report recommendations were adopted by DOC. They report these changes were consistent with good security practices in response to the homicide. They commended DOC for taking the appropriate measures and for having several best-practices already in place at SDSP in regard to pre-service training, staff accountability, and the facility's Designated Armed Response Team. Many of the NIC recommendations have been enacted or are in the process of being implemented. DOC believes this review will be a useful tool to enhance our efforts. It reinforces our belief that our institutions are well-run correctional facilities adaptable to change and continuously improving.

Deputy Secretary Feiler and Secretary Kaemingk went through the NIC 15-point recommendation. The Commission was asked to interrupt with questions as the items were discussed. When they are done, Chief of Staff Dusty Johnson and Commissioner Sandy Zinter will brief the commission on the Bureau of Personnel's classification review.

Chairman Tieszen requested that as the report be delivered, step-by-step, and discussed along the way. He asked if the reviewers interviewed line employees and other staff members. Secretary Kaemingk indicated that the reviewers were on their own inside the walls, sometimes without supervisors, and they asked questions of staff members throughout the penitentiary a number of questions, one of which was whether they felt safe. They all do.

Deputy Secretary Laurie Feiler indicated that the NIC is an agency of the United States Department of Justice. Historically, the DOC has used the NIC for training and technical assistance and as a research arm for many years. Over her tenure, she recalls working with NIC technical assistance for Community Corrections, Suicide Prevention, and Train the Trainers programs. SD DOC has dealt with NIC for a couple of decades, sometimes when embarking on a new initiative, sometimes in response to a critical incident. It allows DOC to tap into the expertise of people from other states. James Upchurch is with the Florida DOC; Meg Savage is a retired warden from Arizona. Mr. Upchurch was in charge of security for the entire Florida DOC and is now a warden. As is typical for an NIC review, they had the after-incident report before they arrived, as well as our policies, post orders, rosters, etc. They conducted their analysis by an extensive tour which took the entire first day. They conducted many staff interviews, document reviews, and file reviews. They ran simulated drills, and they watched our operation, such as when people rang out for meals. They spent a lot of time watching and interviewing. They also verified our implementation of action issues. She then handed out a matrix summarizing the 15 recommendations.

Deputy Secretary Feiler handed out some last-minute revisions. The correct copy bears the date of October 22. The only substantive change is on page 9, correcting typographical errors, etc.

The first recommendation has to do with incorporating a facility accountability plan into post orders, operational memorandums, and policies within the DOC. On July 19, 2011, and again on September 13, Warden Weber issued a facility accountability plan. That plan dealt with several security provisions, including body alarms, new procedures for single officer posts, transports, shift briefings, and counts, etc. The NIC agreed those were all good changes but they should be in policy to give them staying power. Those memos are attached to the post orders they are applicable to. DOC is incorporating them into policies and Operational Memorandums (OMs).

The second part of recommendation 1 is to formalize security-related training during shift briefings and schedule and document that training in the briefing logs. NIC reviewers recommended DOC conduct security training and safety reminders at the daily staff briefings and document the training and the names of those in attendance. In the past, SDSP did not document that training and those briefings as tightly as possible. Now we log attendance, topics, time spent briefing, etc. Mr. Upchurch recommended we develop a staff safety booklet with safety reminders for staff. The staff needs an “appropriate anxiousness” when working in the penitentiary and reminders to keep safety in the forefront. One safety reminder is being briefed at each staff briefing. Those recommendations are all implemented.

Chairman Tieszen asked if Recommendation 1A simply formalizes procedures already in place that were not previously formally incorporated in policy. 1B formalizes procedures in place but not formally incorporated in policy and which we could not verify were being conducted. Laurie Feiler indicated that was fair, but that she was not certain safety briefings were conducted at every single briefing. That is now an actual change.

Secretary Kaemingk stated that the first part of the second recommendation was that all Maximum Custody inmates in the general populations should be reviewed to see if the need used to justify their assignment is sufficient to override the security concerns associated with housing them in a dispersed manner in a predominantly lower custody population. The second part of that is that if it is determined to be necessary to allow maximum custody inmates to remain at the penitentiary, it is recommended that all assigned staff members are aware of whom these inmates are and that their cell locations and movements be considered in an area allowing for greater supervision. The classification system used in the penitentiary was developed in the mid-1990s through a technical assistance grant from NIC. The system is risk-based but allows for mitigation such as separation requirements, medical needs, the presence of pending charges, and administrative factors. Berget and Robert were placed at the penitentiary using the placement basis of administrative factors. The DOC’s classification policies are being critically reviewed and each maximum custody inmate housed at the penitentiary has been reassessed to determine if continued placement at the penitentiary is appropriate. As DOC reviews the policy, factors scored under escape profile will be evaluated as well. Secretary Kaemingk believes this review will be completed by November 1.

In SD, we have one facility primarily for each secure custody level for male inmates. While there are three minimum units (Unit C in Sioux Falls, and the units in Rapid City and Yankton), we have Jameson for maximum, the Hill is high-mediums, and Mike Durfee in Springfield for the low-

mediums. There is only one unit for special needs inmates, and that is at the penitentiary. We have one mental health unit and one administrative segregation unit, both at Jameson. When inmates need to be separated or require medical or mental health housing, we have no other facility of the same custody level. Florida has 53 institutions for males, and 47 of them offer housing for medium level inmates or above. It is not that easy in South Dakota.

A committee of institutional and classification staff was formed on September 16, 2011, to review each of the 66 maximum inmates housed at the state penitentiary. As of yesterday, we have 31 remaining, and we expect to maintain that level. Housing within a facility is determined by the Adult Inmate Management System (AIMS) which groups offenders by personality so those prone to aggressive behavior are together and those who would be susceptible to victimization are housed separately. Offenders assessed under the Prison Rape Elimination Act as being at risk for sexual aggression are housed together and those at risk of sexual victimization are housed together.

On Recommendation 2, Part B, we have accomplished making all staff members aware of which inmates are maximum security by the printing the words "Maximum Inmate" on their khaki uniforms, front and back, and down the side of their pants so staff members can immediately identify these individuals. That is similar to what has been done at the South Dakota Women's Prison (SDWP) since 1997 where all classifications are in one prison. Different colored t-shirts identify different inmate classifications.

Senator Tieszen requested clarification of the 66 maximum custody inmates being reduced to 31 at the penitentiary. Secretary Kaemingk responded that at the time of the NIC review, there were 66 maximum custody inmates housed at the penitentiary. As of yesterday, after the review, we are down to 31, both because of the review and because of population changes.

Representative Carson asked about the unit for special needs and how many inmates roughly have special needs. Deputy Secretary Feiler indicated between 40 and 50 inmates. It is one side of West Hall Flag, one side of one floor. The special needs are medical, mental health, developmental disabilities, people who do not require the mental health unit but who do better in a more protected environment.

Representative Lucas likes the idea of distinguishing markings on the clothing. He asked if there are procedures to prevent inmates from swapping clothing. Secretary Kaemingk indicated the inmates are watched very closely and that would be a rule infraction.

Senator Bradford noticed when touring SDWP that the more severe the classification, the more obvious the color. He asked if there were color variations at the penitentiary. Secretary Kaemingk indicated the inmates wear regular khakis with orange lettering on the front and back and down the side. It is very clear.

Recommendation #3 involves job assignments, and it was recommended DOC develop a formalized job risk assessment. After April 12, a review was done of all inmate work assignments at the penitentiary. A couple of inmates were removed from jobs and assignments were shifted. The NIC recommends a formalized process to put a risk assessment on all the inmate jobs. The last page of the report is a draft of the form, still a work in progress, which shows what the variables are that the internal committee will look at as they assess all the jobs.

All jobs are being ranked using criteria such as how close they are to the perimeter, what type of supervision is on site, what tools are used, etc. All the inmate jobs are being ranked in the institution in categories such as low risk jobs, medium risk jobs, and high risk jobs. Then DOC will take the inmate risk assessments and align low risk inmates with high risk jobs and high risk inmates with low risk jobs. The process is underway and expected to be complete by December 1.

Chairman Tieszen asked if this area of the inmate job assignments received less attention up until now. Deputy Secretary Feiler thought that was a fair statement, because formalizing this kind of assessment process is new. He asked if DOC had ever before critically analyzed each position. Deputy Secretary Feiler responded that custody classification is measuring something different than how they will conduct themselves within the institution. That is more the Adult Internal Management System classification system that Secretary Kaemingk briefed. Our challenge is to take all the assessments, the ones that indicated behavior after release, the ones indicating behavior within the institution, and meld those together and line those up with jobs. Secretary Kaemingk stated that the process is more comprehensive now. Warden Weber and his staff looked at all individual placements following the April 12 murder and did make some adjustments at that time. Deputy Secretary Feiler indicated there will always be a handful of maximum security inmates housed at the penitentiary for security reasons because we only have one maximum facility and only one high medium facility. The handful that remains has been and will continue to be reviewed very carefully by an associate warden.

Recommendations #4 and #5 deal with staffing analysis. Deputy Secretary Feiler stated that the consultants stopped short of saying whether we do or do not have enough staff, but they did recommend DOC do a staffing analysis. One of the immediate actions was the assignment of three additional correctional officers, one at each of the three Prison Industry (PI) shops (PI-1, PI-2, and Jameson). One more was assigned to the penitentiary, for a total of four. We continually do staffing analysis, but a SDSP Major is doing a formal, objective staffing analysis as a result of this recommendation, using the NIC staffing analysis guidebook the consultants recommended. This is something that has been available for decades, and it continues to evolve and improve. The review will encompass where the inmates are, what they are doing, how many posts are needed, how many people need to be at those posts, whether they are 24/7 posts or 8-hour-a-day posts, and what the relief factor is. The initial completion date is October 28, but it will remain an ongoing dialogue with perhaps more questions to address. As part of the recommendation, there was discussion of whether the relief factor of 1.7 was appropriate. BOP has reevaluated the numbers and we are comfortable that is appropriate. The recommendation noted that we use the total amount of accumulated vacation and sick leave and they recommended using actual. When we do that, a 5-day-a-week post came out to a 1.2 relief factor, while a 7-day-a-week post came out to 1.7. This will be fully completed 10-28-11, and then SDSP will address any questions which arise.

Secretary Kaemingk noted that Jameson was built with security in mind and provides better control than the old linear design at the penitentiary. Secretary Kaemingk says DOC will be able to present the results of the staffing analysis at next month's meeting.

Representative Lucas stated the report refers to the American Correctional Directory's national officer-to-inmate ratio of 1:6.74 and he asked if there is a ratio for all staff. Deputy Secretary Feiler stated she would have to look into that. He asked if that was the recommended number

nationally and we are under that at 1:5.16. Deputy Secretary Feiler noted that was the national average, not the recommended ratio. Representative Lucas noted the report mentions the facility design is not as easy to staff as a modern facility with the circular, turret-type layout where the staff can see down every hallway.

Senator Bradford noted that four more correctional officers were hired. He wondered if these were guards or security positions that require more training. Secretary Kaemingk replied that SDSP hired three correctional officers and transferred one to PI. SDSP transferred 1 CO early on and added new hires. Senator Bradford asked if the hired employees will work close to the inmates rather than in observation posts. Secretary Kaemingk noted the new positions were for a second correctional officer at each of the PI facilities. These are line staff.

Recommendation #6 has just been addressed as the new positions are now permanent.

Senator Bradford asked if it is difficult to find people to work in those positions. Chairman Lucas deferred that discussion to the Bureau of Personnel's Classification study presentation next on the agenda.

Recommendation #7. Secretary Kaemingk indicated his intention to implement the Incident Command System for Corrections (ICSC) within the South Dakota Department of Corrections to further enhance response capabilities from the institutional level agency-wide. DOC has asked for technical assistance from NIC for Meg Savage to be on site in Sioux Falls to do ICSC training for trainers. Some staff members have already taken that training which was federally mandated by the National Incident Management System (NIMS) and Homeland Security. Two deputy wardens participated in May 2011. The ICSC system is that, when an emergency happens inside a facility, the warden or supervisor may not be close. The staff person closest to the situation that can assess the situation has the authority to lock-down the facility and to make the calls until a superior can be briefed and take control. The second issue is that we now call a code in an emergency. NIC suggests that we use plain language to describe what happening and what is needed. This formalizes in policy and practice what we had already been doing. There is also a guide to do simulations to test our preparedness. Chairman Tieszen noted that incident command initially was developed in fire response. It allows an emergency system to come into place; it is a good practical way to deal with emergencies.

Secretary Kaemingk noted that Recommendations 8 and 9 have been redacted. The recommendations and responses would put correctional officers and staff at risk if made public.

Recommendation # 10 is for the DART team and involves putting an officer's number on the back of his vest and helmet so they correspond, allowing other team members to know who is in front of them by the number.

Recommendation 11 involves post orders and documentation. Deputy Secretary Feiler noted that post orders are normally one sheet of instructions at the post to let the officers know what to do at what times. When post orders are revised, DOC needs to document that the officer has read the revised order and has signed that he or she had been trained in the revised post order. SDSP reviewed all post orders and then instituted a documentation log, which was completed October 17.

Recommendation 12 has to do with putting specific emphasis on safety training. Deputy Secretary Feiler noted that DOC safety training had been scattered throughout various training modules. NIC suggests taking those components and creating a safety training module. That has been implemented in pre-service and will be a part of the annual in-service training cycle in January. DOC runs all of the staff through a week of in-service training every year and that will be included along with one safety reminder each daily briefing. The safety guidebook is a little booklet issued to all staff, not just security staff; it is a hip-pocket primer of safety reminders.

Representative Lucas asked if inmate activities were curtailed or if the prison was short-staffed during in-service training. Secretary Kaemingk noted that, if necessary, overtime will be used to cover all the posts and maintain an appropriate staffing level.

Commissioner Bottum requested a definition of a Con-tree. Deputy Secretary Feiler responded that some inmates compromise staff, convincing them to bring in contraband or form inappropriate relationships, etc. In training, DOC has pictures of those inmates and how they compromised staff, because it is usually a process. First the inmate befriends the staff member and then weasels his way into a relationship. The Con-tree shows staff members photos of inmates with a history of that behavior and provides a scenario of how it occurred. Secretary Kaemingk noted that our reviewers had never seen this before and were going to adopt it as a training tool.

Recommendation 13 involves PI constructing a mailbox-type metal container for disposal of scrap metal. These have been placed in the areas where metal fabrication takes place. They are made of 55 gallon drums with a slit in the top and a padlock to keep inmates from retrieving deposited scraps. Senator Bradford asked if an inmate could put his arm in the slot. Secretary Kaemingk noted that there was a slant mechanism, keeping inmate arms from reaching the scrap.

Recommendation 14 contains three segments. Secretary Kaemingk will begin with A and B. The first is to construct a portal configuration that funnels inmates through a metal detector and a search point designed similarly to those at airports. The second part is that whenever possible, a supervisor and any additional staff should be present to assist in this area during the exit of significant numbers of the inmates assigned to prison industries. Of course, the concern there is ensuring that someone who has gone through the detector cannot receive an item from someone who has not yet gone through. When DOC first visited with Mr. Upchurch and Ms. Savage, we thought it would be difficult to get that portal set up and always present. We have decided to place 3 COs there during high traffic times such as lunch and at the end of the day. We will put an arm that goes down at that spot by the metal detector and that should be done Friday.

Representative Lucas asked if there was a concern about hard plastics, acrylics, and other non-metallic objects that could be used as weapons. Secretary Kaemingk noted that conversations had been held concerning those, and he will get back to the Commission with a complete answer.

The third recommendation under #14 is that the metal detectors should be subject to daily testing prior to use. Every morning, the staff makes sure the detectors are working. Now a

formal procedure is in place with a log book, and the detectors will be tested each morning in each of the detector's three zones and the results documented.

Senator Bradford asked about cases where someone will need to be wanded because of metal in an inmate's body and the inmate using that constant as a way to secrete a pipe alongside the spot where the metal is located in his leg. Secretary Kaemingk noted that if someone sets the metal detector off, the staff will conduct a thorough pat down, and the staff would be aware of an inmate with a metal joint who should be patted down each time.

Deputy Secretary Feiler noted that the last recommendation is partially redacted and involves the relocation of panic alarms. Panic alarms are no longer visible to the inmates; they are now placed out of the inmates' sight.

Chairman Tieszen addressed the redacted material. First, he appreciated how limited the redaction was used. He noted that he has reviewed the unredacted version and concurs that the use of redaction is appropriate.

Secretary Kaemingk noted two items done outside the NIC recommendations. Specialized two-way radios have been purchased for identified single-post assignments. These have a panic alarm feature which will alert central control. Second, staff rosters for the proximity card reading system will be sorted alphabetically by last name rather than employee badge number, to speed up accounting for staff members in an emergency.

Representative Carson asked if DOC pays dues to the National Institute of Corrections. Deputy Secretary Feiler answered that DOC does not pay dues to the NIC.

Chairman Tieszen noted that at the last meeting, the Commission discussed employment in the Department of Corrections.

Governor Daugaard's Chief of Staff Dusty Johnson introduced Bureau of Personnel (BOP) Commissioner Sandy Zinter who later briefed the Commission on the recently concluded Classification Review. He introduced Governor Daugaard's General Counsel, Jim Seward. Also present was Kirk Edison, a Bureau of Personnel employee who serves as the Human Resources Manager at SDSP and MDSP in Springfield.

Chief of Staff Johnson began by noting that any member of the Commission can have an opportunity to read the unredacted version of the NIC report and DOC's response, but those documents will not be handed out for security reasons. He also believes redaction was narrowly employed.

Chief of Staff Johnson noted that a lot of the changes identified were not related to the April 12 incident; they are things one notices when doing a full and thorough review. In the May 9 after-incident report, one of the reviews the Governor wanted conducted was of compensation because a lot of people were talking about it. Issues were raised with market conditions, hazards of the job, and turnover. The Corrections Commission asked for information on those.

Chief of Staff Johnson first addressed market conditions. The Minnehaha County Jail pays an average jailer \$19.57. Throughout our region, our border states are paying jailers \$17.79 on

average. Correctional officers are getting \$13.48, so that is an issue. It is an issue with almost every profession in state government. If you look at nurses or engineers in state government, they generally run 20-25% below what market conditions indicate they should make. Turnover is a similar issue. Corrections is a high-turnover career in every state in the Union. It is a difficult job to do, compensation aside. There is reason to suspect that compensation is part of the reason for the higher-than-desired turnover rate in Corrections. That is also true of positions such as family service specialists and mental health aides. In recent years, those have had turnover rates above 30%. Even statewide, our turnover rate has gone from 10 to 15%. Finally, the final piece is hazards of the job. Our classification and compensation regime already takes that into account in the working conditions component.

Commissioner Zinter explained BOP's formalized process for establishing classifications for employees who work for state government and the process for compensation. Any employer with the number of different positions state government has requires a formalized process. South Dakota has approximately 600 job classifications for employees within state government, and each is assigned a pay grade. When the Governor asked BOP to review the job classifications at DOC, a group of trained BOP staff used the Bureau's formal job evaluation program. The first three components were knowhow, problem serving, and accountability. The working condition piece is part of the evaluation, if applicable. The staff looked at 17 job classifications within the institutions and at Custer. Of those 17, we determined that 7 of them should be assigned higher points. Of those 7, only 3 received enough more points to push them into a higher pay grade. Those were COs, correctional sergeants, and youth supervisors at Custer.

Chairman Tieszen asked whether the 17 were behind-the-walls positions.

Commissioner Zinter stated that 17 classifications of jobs in DOC were reviewed. They were either within the institutions, parole or on the juvenile side, everything from COs, to supervisors, to captains, etc., youth supervisors, youth counselors, juvenile corrections agents, parole agents, unit managers, unit case managers, and unit coordinators. BOP tried to touch everything that would have anything to do with the institutions and anything close to that.

Chief of Staff Johnson noted that this is a proposal at this point. It would require approval of the Career Service Commission and of the Legislature. There is not currently money in the budget for this. There has not been a salary policy in state government for the last three years, and the Governor has compensation concerns across state government. Although he is going to make this pay grade issue for these 3 classifications a priority, it is an even bigger priority for him to make sure there are adequate resources during session to provide some additional compensation to state employees across state government. We will not make decisions on this smaller part until he places the big piece of the puzzle. We will know more December 6 and during session.

Only Correctional Officers will be discussed at this meeting to show how this review will affect them depending on their career progression. Commissioner Zinter handed out salary schedules listing pay grades of career service employees.

Senator Bradford asked if they did the SDWP also. Commissioner Zinter indicated this affects job classifications, not particular positions in particular institutions.

Correctional officers are currently at Pay Grade 11 and would be moved to Pay Grade 12. Currently, a new recruit will be hired at \$10.81; under the new classification, a recruit would be hired at \$11.71. A BOP rule states that if you are in a classification for six months, you have to be at least 5% above the minimum. Formerly, that would have moved them to \$11.35; the proposed rate would move recent hires to \$12.30. That means anyone who is in that classification and who has worked at least six months would have to be paid at least \$12.30. If a CO has been on the job for 3-4 years, this would make no current difference, but the job worth piece has been expanded, so they now have more ceiling in their job worth. At the point where salary policy is started again, they would have the ability to move up.

Chief of Staff Johnson noted that every CO receives an additional \$1.50 an hour on top of the amount shown on the schedule. If they are working on the weekends, they receive another \$1 on top of that. Inflationary increases aside, experienced workers receive a little more toward the job worth point in a salary policy until 100% of job worth is reached. A move to N12 would not move your salary today, but it provides another \$2000 ceiling space. The impact will not be felt immediately exactly the same way for all involved, but all COs, all correctional sergeants, and all youth supervisors would receive some economic benefit if this plan is implemented. The Governor thinks this is a good plan because it is based on a review by the technical experts, it maintains equity and purity across the classification and compensation system, and it has a benefit of perhaps helping with market and turnover issues while providing long-term benefits to those employed in these three classifications. This will require legislative action during session.

Representative Lucas asked if this means there are three job classifications whose worth has been deemed to have increased. Will any general salary benefit statewide, if we are able to improve state employees' salaries, is that separate and would it include these classifications?

Chief of Staff Johnson stated that was a fair presumption. The following numbers are purely hypothetical, but if a 2% salary policy was applied across the board, these 3 pay grades would increase by that 2% like other employees in state government.

Commissioner Zinter clarified that there were 7 job classifications changed, but only 3 moved to a higher pay grade.

Chief of Staff Johnson noted that COs were historically very close to the N11-N12 boundary, and that's how a minor change in additional points moved the classification to a higher pay grade.

Representative Carson asked how much this would cost the state.

Chief of Staff Johnson said it would cost approximately \$364,000 the first year.

Representative Carson asked what the historical annual movement to job worth was.

Commissioner Zinter stated it was 2.5% movement to job worth.

Representative Carson asked how many employees fit into those classifications.

Commissioner Zinter stated that it would apply to approximately 462 or 464 employees.

Senator Bradford expressed his concern for guards. He considers the risk to work in Jameson to be higher than the risk to work at SDWP. He asked if there is any difference within those employees in where they work.

Chief of Staff Johnson noted that no two positions are identical, but what you try to do within a classification regime is group like jobs together. It won't be a perfect fit but needs to be reasonably close. Some of the HR professionals on Commissioner Zinter's staff had the discussion within the group doing the study and it was determined the jobs were close enough to receive the same classification.

Mr. McGirr asked where the 25% of range would come into factor for a correctional officer.

Commissioner Zinter stated that was just a benchmark and does not come into play per se for correctional officers or any employers. It is a guideline.

Mr. McGirr asked if the matrix factored in the hazards of the job, why is there an additional \$1.50 figured in.

Commissioner Zinter answered that the \$1.50 was added in 2001 as a market-based addition at that time and has nothing to do with the hazardous nature of the job. It was added for all COs at all facilities. This is the only such market adjustment in state government.

Chief of Staff Johnson noted that conceptually, state government has created some positions and some pay bands that would take care of market adjustments, but that has neither been fully implemented nor fully funded.

Commissioner Zinter noted that this \$1.50 is added after salary policy. In response to Representative Carson, for movement to job worth, the \$1.50 is pulled off, the movement to job worth is applied, and the \$1.50 is added back in. If someone moves out of one of those security positions, the \$1.50 is removed as well.

Representative Carson asked if the matrix factors in the market, and Commissioner Zinter replied that it does as much as possible.

Chief of Staff Johnson noted that state government does not pay at market level. It is a systemic problem and it is something that the classification and compensation system does not fully account for.

Representative Carson felt the market adjustment is regressive in nature as it does not keep up with inflation and is counter-intuitive to the system.

Chief of Staff Johnson noted that the \$1.50 is outside the system and is a unique tool used for these positions and not for others. It is an exception throughout state government. It has helped retain and recruit quality uniformed personnel which has been helpful over the course of the last 10 years. He doesn't think we would have wanted to hire and retain COs over the last 10 years without that \$1.50.

Commissioner Zinter noted that compensation is not part of the classification and job evaluation. BOP evaluates the position based on the knowhow, problem-solving and accountability that goes with that job and then determines, based on those points, what the pay grade is. If there is an inequity in the compensation, it must be dealt with that on the compensation side as opposed to the classification side. BOP would not move somebody into the next higher pay grade just because we needed to pay them more. We evaluate what they are doing, assign the pay grade, and then try to work with the compensation that's available.

Representative Lucas asked how the retirement system affects this. Are all Correctional Officers Class B employees? Is that for all employees of DOC or just those in the line of fire?

Commissioner Zinter responded that those are defined by the South Dakota Retirement System. It includes just about everybody in security. It covers most of those in unit management as well. Class B public safety is 8 percent (employer contribution): 8 percent (employee contribution). That is figured into the \$364,000 figure as well as benefits. That number is approximate and will change every day.

Chief of Staff Johnson stated the Governor will deliver the Budget Address on December 8. The Governor feels very strongly that now is not the time to raise taxes; he also wants to make sure state employees are better paid. He believes we must live within our means. The Governor is hopeful the economy will recover enough to enable us to do some things to help people we could not last year.

Senator Bradford asked if South Dakota was training employees who then went to work for more pay in neighboring outlying areas.

Commissioner Zinter responded that that has happened, but not only with COs.

Senator Bradford has a relative who was a prison guard. He said he would never do it again, because it was not worth the risk. The death of RJ Johnson focuses our attention on the issue. He asked how BOP determines the job is a N11 and not a N13.

Chief of Staff Johnson noted that this is a compensation and classification system that has been used by thousands of companies and governments for at least four decades. It is a widely respected, accepted and adopted system. Senator Bradford's points apply to a broader perspective. Being a Highway Patrol officer is not easy; being a teacher, being a child protective services worker is neither safe nor easy. We all wish these people were making more money. The bottom line is that you have to have a classification and compensation system that you believe is paying people fairly in comparison with one another.

Senator Tieszen thanked Commissioner Zinter and Chief of Staff Johnson for appearing before the Commission. When the Commission made the request for information and a review, this is exactly what the Chair was looking for. There are 600 positions in state government and we could argue about working condition factors in all of them. All of those factors need to be accounted for, and that is what we have HR forks for, to make those reviews. Chairman Tieszen appreciates that the review was done, and he appreciates the willingness of the Department and the Bureau in completing this review. The burden is now on the Governor to propose a

budget and on the Legislature to address financial issues across state government. We realize what we need and want to do and need to see what can be accomplished.

Representative Carson asked what the DOC total personal services budget is.

Secretary Kaemingk will get that number for Representative Carson.

Secretary Kaemingk noted that the meeting November 16-17 would involve the Commission observing the parole board on Wednesday at the Hill and Jameson and pardon hearings in two-person panels. The Commission will split up between those places in the morning. Then there will be training on parole: old system, new system, and classification. Wednesday evening is the law enforcement game feed in Sioux Falls and the speaker this year is Laura Bush. Secretary Kaemingk has purchased a table at the game feed and offered to sell tickets to Commission members who wish to attend. Rooms will be reserved for the Commission for Wednesday night. Thursday morning, the plan is to observe the full Board of Pardons and Paroles in action, followed by the business meeting at 11:00 or so, with the Commission traveling home early afternoon on Thursday. Parole hearings start at 8:00.

The chair asked if there was any new business.

Representative Lucas moved adjournment, Representative Carson seconded, and the meeting was adjourned at 3:45 p.m.