



DEPARTMENT OF CORRECTIONS

ADMINISTRATION

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Dear Governor, Chief Justice and 2011 Legislators:

The South Dakota Corrections Commission met four times during calendar year 2011. The first meeting was March 28th at the Capitol in Pierre. The second meeting was August 16th at the State Penitentiary in Sioux Falls and included a tour of the Penitentiary and the West Farm juvenile facility. The third meeting was October 25th at the South Dakota Women's Prison in Pierre. The final commission meeting took place November 17th at the State Penitentiary and included an opportunity for the commission to interact with the Board of Pardons and Paroles while parole hearings were being conducted. Following the parole hearings, the commission received information about the inmate classification system.

The focus of the Corrections Commission is to assist the Department of Corrections (DOC) in examining various criminal justice issues, trends, developing initiatives and monitoring projects and programs occurring within the Department of Corrections.

2011 DOC Related Legislative Bills:

There were six corrections related bills signed by the Governor during the 2011 Legislative Session. The commission received an explanation and description of the legislation during the March commission meeting.

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 amended 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. This bill was signed by Governor Daugaard on March 3, 2011 and became effective upon his signature.

HB 1017, An Act to authorize the release of offender photographs and physical description for purposes of victim and community notification. The bill amended SDCL 24-2-20 by adding identification photographs and physical descriptions of inmates for purposes of victim and public notification. This bill was signed by the Governor on February 8, 2011.

HB 1018, An Act to provide for a partial early final discharge from parole. This bill created an option for the Board of Pardons and Paroles to grant a partial early final

discharge from parole for a parolee without granting a complete early final discharge. This bill was signed by the Governor on 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 extended the same legal protections to parole agents and juvenile corrections agents as provided to law enforcement officers have with regard to resisting arrest, obstruction and threatening. DOC also added the same provisions for court services officers at the request of UJS prior to session. This bill was signed by the Governor on February 8, 2011.

HB 1020, An Act to repeal certain provisions regarding the disclosure of parole eligibility at sentencing. This bill eliminated 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 those serving a life sentence, received good time at a rate of four to six months for each year of their sentence. Parole eligibility was figured as a fraction of the net sentence (sentence minus the good time). This bill was signed by the Governor on 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. This bill was signed by the Governor on February 8, 2011.

Department of Corrections Topics Reviewed by the Commission

Black Hills Correctional Transition Center, Rapid City:

The commission received an update on the work completed during the year 2011 on the Correctional Transition Center, located at 2725 Creek Drive in Rapid City. The project totals over 55,000 square feet of renovated and new construction space. Construction was started on the facility in fall 2010. The facility will be a minimum security facility capable of housing up to 420 minimum custody inmates and will provide office space for eight parole staff who were previously occupying leased space in Rapid City. Various news media members were given a tour of the facility in October with a second tour opportunity scheduled for 2012. The \$5 million facility includes a geo-thermal well field funded through the American Recovery and Reinvestment Act and is Leadership in Energy and Environmental Design (LEED) certified. The facility is scheduled to be completed in April of 2012. Inmates will tentatively be transferred to the facility in June 2012.

Second Chance Act Prisoner Reentry Initiative:

The commission received regular updates on the Adult and Juvenile Reentry Initiatives at each of its scheduled meetings in 2011. The Reentry Council and Reentry Workgroup was established in 2009 at the request of Governor Rounds and reappointed by Governor Daugaard. In 2009, the state was awarded \$750,000 in Second Chance Act funds to implement programs and strategies to reduce recidivism. The DOC received a

six month extension in funding until March of 2011. In September 2011, the DOC announced it had received \$1 million in second year funding. The Adult Reentry Initiative was established to identify and target those offenders most at risk of needing help finding jobs, housing, transportation and other services such as mental health counseling and drug and alcohol treatment through the application of institutional and community based components of reentry. The Workgroup continues to focus on working with various local and state programs to identify existing services that may be utilized in assisting offenders who are transitioning back into the community. A Reentry Task Force has been established in Sioux Falls and Rapid City. These two communities account for approximately 60 percent of offenders in the system. The program components are evidence-based and include assessments, intensive case management and institutional programming. Emphasis is placed on the importance of early planning for an offender's release from custody.

The regular updates provided to the commission included discussion and explanations of the various components of the Juvenile Reentry Initiative. STAR Academy staff received training throughout 2011 in the development of transition and treatment plans for juvenile offenders and continued to review how to effectively implement best practices to reduce recidivism for youth leaving STAR Academy. Aftercare and case management staff has implemented the enhanced case plan process. Transitional classrooms have been established at Rushmore Academy in Rapid City and West Farm near Sioux Fall. Both facilities have been identified as Second Chance Act target sites. Staff members in the Juvenile Community Corrections division received refresher training on Effective Practices in Community Supervision, the evidence based practice of Motivational Interviewing (MI), which is a proven and effective means of de-escalating situations involving juvenile offenders and case management.

The DOC continues to strive to reduce the recidivism rate of offenders. Secretary Kaemingk shared with the commission the department's goal of further reducing recidivism by 50 percent by the year 2014.

Senator and Corrections Commission Chair, Craig Tieszen had an opportunity to join Secretary Denny Kaemingk and Deputy Secretary Laurie Feiler in attending the State Leaders' National Forum on Reentry and Recidivism on December 8th in Washington, D.C.

Senior Correctional Officer Ronald Johnson Homicide:

The commission was briefed on the May 9, 2011 After Incident Report regarding the attempted escape of inmates Rodney Berget and Eric Robert and the homicide of SCO Ronald Johnson. The homicide and escape attempt occurred April 12, 2011 at the South Dakota State Penitentiary. The After Incident Report included a narrative summary from the Major Incident Report, a description of the Prison Industries building where Officer Johnson was murdered, staff and post assignments in the prison industry building, the location of the murder, an explanation of inmate movement within the Penitentiary, Berget's and Robert's access to the prison industry building, annual security audits and inspections conducted at the Penitentiary, classification of inmates,

profiles of inmates housed at the Penitentiary, classification information for inmates Berget and Robert, inmate job assignments, description of unit staff, use of force procedures and policy, radio and body alarm policies, staff training, staff/inmate rations and assistance offered to employees following the incident. The report also included twelve after-incident recommendations brought forward by the DOC and approved by the Governor. The commission received periodic updates on the implementation status and dates of implantation for all twelve recommendations.

James McVay Parole Absconding:

The commission was briefed on the August 12, 2011 After Incident Report regarding James McVay. McVay was charged with Murder 1st degree for killing 75 year old Maybelle Schein and Burglary 1st degree for the theft of her car after absconding from Unit C of the Jameson Annex on July 1st. The report included information on McVay's parole, his sentences, records received from the Nebraska DOC, mental health status, criminal record (including previous contact with law enforcement), risk assessments, information about CTP, DOC parole absconder and escape procedures, offender numbers and out-of-state case load numbers.

In conjunction with the McVay After Incident Report, the commission received information about the Nixle Community Information Service. Nixle Service allows the DOC to create and publish messages to be delivered instantly to residents in a designated area who have subscribed to the service, via cell phone text messages and/or email. Subscription to the service was made available to the public in September. Messages may include pertinent information regarding inmate escapes/walkaways as well as other relevant public safety and community event information. Nixle is used by various law enforcement agencies to inform the public about certain events or situations occurring in their area.

DOC Response to the National Institute of Corrections Technical Assistance Report:

On September 6-9, 2011 staff with the National Institute of Corrections (NIC) conducted a review of the DOC After Incident Report and response by the DOC regarding the homicide of Senior Correctional Officer Ronald Johnson and the April 12th escape attempt by inmates Rodney Berget and Eric Robert at the South Dakota State Penitentiary. At the direction of Governor Daugaard, the DOC contacted NIC to request an independent evaluation of the department's response to the incident and the state's policies, procedures and training. The commission was briefed on the NIC report and list of fifteen recommendations. Among the list of NIC recommendations were a review of all maximum-custody inmates assigned to general population in the prison, evaluating inmate employment based on risk levels, conducting a staffing analysis, adding additional correctional officer posts in Prison Industries, enhancement of staff safety training, placement and training on specific security equipment for staff, review of metal detector procedures, and construction of containers for secured disposal and storage of scrap metal. The commission received supplemental information relating to the recommendations and updates on the implementation of these recommendations by the DOC in the months following the release of the NIC Technical Assistance report.

Classification Review:

The commission received information from Bureau of Personnel (BOP) staff and staff from the Governor's office about the possible reclassification of correctional officers and youth supervisors from pay grade N11 to N12 and sergeants from pay grade N13 to N14 as well as staff turnover rates and average years of service within DOC. The Classification Review was requested by the Governor and the DOC in response to concerns about market conditions, job classification, hazards associated with correctional jobs and turnover. Staff with the BOP completed a review of seventeen job classifications within DOC and pay grades assigned to each position. The commission was advised that any changes to the classifications and pay grades of the positions identified for possible reclassification would require approval from the Career Service Commission and the Legislature and would need to be included in the Governor's budget plan.

Inmate Dennis Lashley Death:

Secretary Denny Kaemingk shared information with the commission regarding the Division of Criminal Investigations (DCI) report relating to the incident that occurred on November 15, 2011 at Mike Durfee State Prison between inmates Dennis Lashley and Kendall Osteen that contributed to the death of inmate Lashley. No criminal charges were filed against inmate Osteen following the incident. Information was provided to the commission concerning the classification process, assessment of inmates in determining housing placement and custody levels of inmates at the three adult DOC facilities. The commission also received a summary of the number of incidents of violence that occurred in the past 3 years involving inmate on inmate assaults and inmate on staff assaults. The review was separated into incidents/assaults resulting in injuries to staff or inmates and incidents/assaults not resulting in injury to staff or inmates.

Commission Membership Changes in 2011:

Senator Julie Bartling and Representative Richard Engles concluded their terms with the commission in December 2010. In January 2011, Representative Larry Lucas was appointed by House Minority Leader Bernie Hunhoff to replace Representative Richard Engles and Senator Jim Bradford was appointed by Senate Minority Leader Jason Frerichs to replace Senator Julie Bartling.

In accordance with the Corrections Commission by-laws, the election of officers was held during the March 2011 meeting. Vice Chair Senator Craig Tieszen was elected as Chair and Representative Lance Carson was elected as Vice Chair of the commission.

Additional changes in membership during 2011 included Tim Bottum, who was appointed by Governor Daugaard to replace George Prest following his resignation in February as the Industry and Commerce representative. Also appointed to the commission by the Governor was Mark Anderson, who replaced Paul Alward following his resignation in March as the Labor representative and David McGirr, who replaced Brad Drake following his resignation in September as the South Dakota Retailers representative.

The commission is committed to assisting and supporting the Department of Corrections in their mission to protect the citizens of South Dakota by providing safe and secure facilities for juvenile and adult offenders committed to its custody by the courts, to provide effective community supervision to offenders upon their release and to utilize evidence-based practices to maximize opportunities for rehabilitation.

Respectfully,

Senator Craig Tieszen, Chair
South Dakota Corrections Commission

c.c.
Secretary Kaemingk
Corrections Commission