

87<sup>th</sup> Legislative Session – 2012

Committee: Joint Appropriations

Thursday, January 12, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Wismer  
P Dennert  
P Sutton  
P White  
P Dryden  
P Bolin  
P Romkema  
P Deelstra  
P Peters  
P Novstrup (Al)  
P Heineman  
P Haverly  
P Juhnke  
P Putnam  
P Carson  
P Tidemann  
P Wink, Vice-Chair  
P Brown, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman Corey Brown.

**Department of Corrections**

Denny Kaemingk, Secretary of the Department of Corrections appeared before the Joint Appropriations Committee to present the department's budget request. Also in attendance were Laurie Feiler, Deputy Secretary, Doug Weber, Doug Herrmann, Scott Bollinger, Darwin Weeldreyer, Michael Winder, Pat Hardy, Jackie Hanson and Richard Decker. Documents 1, 2 and 3 were distributed.

The department's FY13 budget request includes \$\$82,495,422 in general funds, \$11,624,418 in Federal funds and \$8,221,666 in other funds for a total of \$102,341,506. This is a \$3,238,552 or 3.3% increase. This includes \$2,065,101 or 2.2% for Administration; \$34,183,284 or 33.40% for Juveniles, and \$66,093,121 or 64.58% for Adults. General fund increases are \$54,536 or 1.44% in Administration, \$1,932,499 or 51.20% in Juveniles, and \$1,787,720 or 47.36% in Adult Corrections for a total of \$3,774,755.

A summary of the department's top five priorities are:

1. To protect the citizens of South Dakota,
2. To reduce recidivism by 50% over a 5-year period,
3. To employ evidence-based practices,
4. To retain the valuable members of our team and maintain the current level of effectiveness, and
5. To continue to improve safety within all Department of Corrections facilities.

In response to Representative Wink's question on recidivism, Secretary Kaemingk said the department set the goal of a 50% reduction in recidivism in April of 2010 based on 2008 releases. The adult recidivism rate in 2008 was 31.2%. In 2009 the rate dropped to 28.7%. The rate for 2010 releases will be available soon. Secretary Kaemingk told the Committee most of the individuals returning through violations are high-risk offenders. The department is trying to deal with their needs both in and outside the walls of the prison while on parole. Instead of returning the offender to prison based on a technical violation, they may be put on the 24/7 program or return them to prison for chemical dependency treatment. Secretary Kaemingk said the department needs to do a better job of assessing the inmate upon entering the prison to determine their needs and to plan for their eventual release. On the juvenile side, the 2008 releases were 40.5%. The 2009 recidivism rate was 29.2%.

Secretary Kaemingk told the Committee most of the general fund increases were for salary policy with the exception of an increase in juvenile corrections for an FMAP adjustment of \$1,599,938. The state employee policy is at nearly \$1.9 million. This includes the recommendation to reclassify the correctional officers and supervisors. In response to Senator Brown's question, Secretary Kaemingk explained that, as a result of an in-depth review of job descriptions for correctional officers and supervisors, it was determined that they were working in an "unfavorable environment".

In FY13 the department is requesting an increase of 11.4 FTE of which 6.4 FTE are new positions.

- 1.0 FTE is for an Evidence Based Practices Manager, which Secretary Kaemingk said is critical if the department is to meet its recidivism goals.
- 2.0 FTE for parole agents. The department recently received a 2<sup>nd</sup> Chance grant and has funding available to hire two new parole agents. Secretary Kaemingk said these two parole agents will have a specialized case load, dealing in particular with high-risk offenders.

- 3.0 FTE for correctional officers.
- .4 FTE for a Unit Coordinator for the Rapid City Minimum Unit.
- 5.0 FTE for teachers. These FTE will replace contractual positions. Ending the current contracts will save the department an estimated \$42,000 with \$23,895 back to the general fund.

In response to Representative Bolin's question on the 2<sup>nd</sup> Chance grant funding source, Scott Bollinger explained that two years ago the department had received just over \$1 million for adult corrections and another \$750,000 for juvenile corrections. The funds require match, both cash and soft match. In addition, the department was informed last fall that the federal government had an additional \$250,000 available for adult corrections. The parole agents would come from the additional \$250,000. Senator Peters asked for an explanation of why parole agents were cut last year and the department is now requesting more. Secretary said the agents were cut due to budget restraints; however the parole numbers keep going up and high risk offenders require more time. Current parole agents have an average case load of 70 and it is hoped the new agents would have a smaller case load, specializing in high-risk offenders.

Doug Weber, Chief Warden, spoke to the Committee regarding Adult Corrections. Warden Weber told the Committee the average daily population (which includes the entire system) is still growing but at a slow and predicted rate of 2% for both males and females. Predicted counts for adult inmates in FY13 is 3,580 (3,155 male and 425 female). The predicted daily count for FY13 at Mike Durfee State Prison is 1,286 and 1,458 at the State Penitentiary in Sioux Falls. Senator Haverly asked if the Rapid City Minimum Unit will impact the State Penitentiary prison population. Deputy Secretary Feiler said the temporary Rapid City Unit currently has a population of 100, with a capacity of 102. Warden Weber will provide information to the Committee regarding capacity numbers at each of the correction facilities.

Warden Weber spoke to the Committee regarding the Governor's house project and the welding program offered at the Mike Durfee State Prison. Warden Weber told the Committee they currently offer a 10-week welding course at Mike Durfee Prison. Following completion of the course, the inmates are tested by a local vo-tech school to obtain their certification, which is good for 6 months. The program has been very successful and the department plans to increase this program significantly due to the lack of welders in South Dakota. With \$48,000 from the department and \$36,000 from the Governor's Office, the department will be able to put approximately 96 welders through the course annually which will get the welders out in the community working and earning an income.

Representative White asked if the department ever subcontracted out welding. Warden Weber said they have done that in the past and it worked very well. In response to Representative Dennert's question, Warden Weber said they track inmates trained in welding (after release from prison) as best they can and are aware of a number of inmates who are still in the welding field and doing well.

In response to Senator Brown's request for an update on the Governor's House program, Warden Weber said the prison has had this very successful program for nearly a decade. The inmates are under the supervision of the SD Housing Authority and are able to produce about a house/month. The inmates leave the prison with sheet rocking, framing, and roofing skills.

In response to Senator Putnam's question, Warden Weber said a majority of the Pheasantland Industries work is done in Sioux Falls; however, there are also activities at Springfield

Representative Romkema asked for the average daily cost of the 3,580 inmates. Warden Weber said each facility is different; however, they use an average of \$50.00 depending on the facility. The cost of a parolee is less than \$10.00/day. Senator Peters asked if the average cost of a prisoner includes the actual prison costs (fuel, food, administrative overhead, etc.). Mr. Bollinger said they do not include depreciation in the cost/day. Senator Haverly asked if the cost of training the inmates was included in the average daily cost. Mr. Bollinger said yes.

In response to Representative Bolin's request for the definition of "high-risk" offender, Warden Weber said "high risk" offenders are those who have committed violent acts, those that haven't done well while incarcerated, do not test well, those likely to re-offend, and those who may have spent time in segregation.

Representative Romkema requested the total daily cost of an inmate, including depreciation. Mr. Bollinger said it was difficult considering the prison is 120 years old. In addition, the cost is impacted by who is in the facilities. Senator Haverly asked what the average cost was between the State Penitentiary and Mike Durfee Prison. Senator Haverly asked for a comparison of costs between the State Penitentiary and Mike Durfee Prison. Mr. Bollinger said the budget for the State Penitentiary is \$18.4 million and \$12.4 million for Mike Durfee. Aaron Olson, LRC Fiscal Analyst reported the average daily cost for inmates at the State Penitentiary is \$57.08 and \$37.93 at Mike Durfee. This was based on the department's performance indicators. Warden Weber commented that the cost is driven by the number of inmates and the needs and services required by the inmates.

Representative Dennert asked the department to provide the Committee with a "fixed cost" for each of the prison facilities.

In FY13, the average daily count for the Women's Prison campus is projected to be 374. Senator Juhnke asked if the women's prison was at capacity. Warden Weber said they are currently over capacity for what they built for and are using buildings (E and H Units) near the prison to house minimum and low-medium inmates and those involved in the intensive meth treatment program. The number of female inmates has had a consistent growth, which Warden Weber said was also the case nation-wide.

Warden Weber briefed the Committee on the Pheasantland Industries activities and told the Committee the annual report is available online at <http://doc.sd.gov/about/publications/>.

Senator Putnam asked if Pheasantland Industries did work in other facilities than the Sioux Falls prison. Warden Weber said the majority of the work is done in Sioux Falls; however, there are services located at the Mike Durfee Prison in Springfield. Warden Weber said the profit made by Pheasantland Industries goes back to the department to pay inmate wages (25 cents/hour) and to help support the program. The FY11 Pheasantland Industries profit was \$2.6 million, which would include state government purchases.

Warden Weber briefed the Committee on the private sector that works inside the prison doing metal craft work. The inmates are paid a prevailing wage and are under the supervision of Prison Industries. Because they are paid a prevailing wage, most of the money goes back to cost of incarceration, court costs, child support and any other fines. A small percentage ends up in their spending accounts and the remainder goes into a frozen savings account that is inaccessible until the inmate leaves the prison.

Senator Novstrup asked about the danger involved in Prison Industries work. Warden Weber said every prison has areas of potential danger and weapons can be made out of anything, not just material in prison industries. The department has well-trained and professional who are always on alert. The risk is managed by constant and direct supervision along with constant pat-downs and searches of the inmates.

In regard to the murder of Officer Ron Johnson, Warden Weber said following department review, a national review, and presenting evidence to numerous committees, nothing was found that would have prevented the tragic event. Inmates that are identified who present similar risks are now placed in isolation.

Representative Dennert asked if the department had ever considered increasing the 25 cents/hour wage. Warden Weber said because the inmates' basic needs are met; the money they earn is for luxury items. There is no real need for increasing the wage.

Representative Wismer asked how far away the department is from a capacity issue. Warden Weber said that would be hard to determine; it depends on crime rates or prison sentences. Other than the opening of the Rapid City Minimum Unit in June, the department has no plans for increasing prison space. Capacity numbers for all facilities will be provided to the LRC staff.

Representative Carson asked how the department determined the need for 3 additional corrections officers in the Sioux Falls penitentiary. Warden Weber said as a result of a staffing analysis and using the National Institute of Corrections guidelines, the 3 corrections officers will be utilized in the Pheasantland Industries to provide additional supervision in the areas where tools and other items are available that could be used as a weapon.

Representative Wink asked about the department's policy for those inmates causing trouble. Warden Weber explained the inmate would be isolated and charged with a crime when possible.

The department has a well-thought out process on how to deal with the prisoner, including limiting the prisoner's access to prison staff. The inmate's behavior also impacts their release.

Darwin Weeldreyer, Director of Community Services briefed the committee on the Community Services program. Units involved in this program are located in Yankton, Rapid City, Jamison C and the E & H Units in Pierre. Budget changes include an increase of 1.4 FTE (teacher and unit coordinator) in Rapid City and 1.0 FTE (teacher) in Pierre. Mr. Weeldreyer told the Committee the program accumulated a total of 36,262 hours helping with flood work. Another 2,500 hours were spent helping local communities clean up storm debris, 1,881 hours of fire fighting activity in the Black Hills, and 3,742 hours of fire mitigation and fuel reduction work primarily in the Deadwood area. Senator Brown expressed his thanks and that of the entire Committee for the help provided during the flood. Mr. Weeldreyer reported a total of 2,195,313 hours of inmate labor was provided on community service projects in FY11. This included 100,000 hours of work with local governments, and 75,540 hours of work with non-profit partners. In addition, as of December 31, 2011, over 36,000 hours of inmate labor have provided been at the new Rapid City minimum unit.

The average daily count by fiscal year for inmates on work release in FY11 was 191. Projections for FY12 and FY13 are 185 and 195 respectfully. The inmates work in the private sector, earn a prevailing wage and pay a portion of their room/board and any other financial obligations. The number of inmates on community service for FY11 was 471 with projections of 480 in FY12 and 490 in FY13.

Representative Dennert spoke to the cost of flood work being reimbursed by FEMA. Mr. Bollinger said because the inmate labor was at the request of the local units of government, they included it on their FEMA request.

Senator Heineman asked if the work release and community service inmates were included in the total inmate count and asked if their daily cost was different. Mr. Bollinger said yes, all inmates are included in the total number of inmates. Mr. Bollinger explained that vast majority of the minimum units reside on the campus of a parent institution. The department takes the budget for the facility, based on the average daily count, applies the administrative overhead to come up with the average daily cost. They are substantially lower because they have larger numbers and because they require less supervision. The lower cost for the minimums offsets the higher cost for those at Springfield and Sioux Falls.

Representative Dryden asked about the national ratio of officers to inmates. Warden Weber said the standards they adhere to are internal standards developed over the years and are based on national recommendations. South Dakota adheres to a minimum security ratio of 1 to 25 and increases depending on the security level.

Representative Wismer asked about the drop in community service in FY09. Minimum counts were higher in earlier years and the closure of the Redfield facility involved 70+ inmates.

Secretary Kaemingk updated the Committee on the construction of the Black Hills Correctional Transition Center. Initial completion date was April of 2012 but due to extremely wet weather, a construction change and the fact that inmate labor has been utilized, the new completion date is now set for June 1, 2012. However, the parole agents were able to move in March 1, 2011. Capacity at the new center is 416. The department currently has 102 beds located in leased near the facility and contracted beds with Pennington County. Approximately \$800,000-\$1 million was saved by using 36,021 hours of inmate labor through December 2011. The unit was budgeted at \$5,600,000 and is expected to be \$300,000 below budget when completed. In response to Senator Tidemann's question, Secretary Kaemingk said the landscaping and fencing will be done in the spring.

In response to Senator Haverly's question, Secretary Kaemingk said the existing property owner is working with the department to extend the current contract to June 1<sup>st</sup> with the same monthly fee. Representative Carson asked if the department had seen a savings since moving the parole office in March of 2011. Mr. Bollinger said in FY11 the department had proposed half of the lease would go away with the remaining portion eliminated out in the FY12 budget.

Laurie Feiler, Deputy Secretary presented information on Parole Services and spoke to the new Evidence Based Practices (EBP) position in addition to the two new parole agents. Ms. Feiler said the EBP manager will allow the department to implement a psychopathy screening program which will evaluate people when they come into the system, give them a level of services inventory and when they meet a certain threshold in terms of their criminality the department will respond to the differently identify by putting them into secure custody for 90 days and watch them. Following that they will be assessed again and if they meet the threshold at the assessment they will be referred onto another psychological review. This process will identify those individuals who are high in the psychopath scale. Ms. Feiler said in order to run safe institutions, the department needs to respond differently to these individuals. This will help the department to know where to house the inmate, what services they will need and what type of work they can do. Evidenced based practices are things that will effectively manage or eliminate repeat criminal behavior. Ms. Feiler said it was her hope that this person will do more than just manage the program but also provide leadership in the adult institution system in assuring they have good reliable assessments and overseeing how people are placed in programs and services.

In response to Senator Putnam's question, Ms. Feiler explained that evidenced based means the things they are doing with inmates has research that says that action is effective in terms of managing or eliminating repeat criminal behavior. The first evidence of evidence based organization is when the inmates come into the admissions unit and assessed. Every offender will be assessed regardless of their length of stay in the prison system. Evidence based practices applies to institutional management and preparing for release. Senator Tidemann asked if other states have an EBP program. Ms. Feiler said a lot of professional organizations talk about evidence based practices and there is a lot of research available. Sometimes it may be a community based program or a portion of a prison based program. South Dakota is using bits and pieces that address the needs in South Dakota. Senator Putnam asked if grant funds would be

used for this activity. Ms. Feiler said not for the psychopathy portion. It will be funded with a combination of general funds and other funds, at a total of just under \$150,000 to cover 1.0 FTE and additional psychological time.

Senator Heineman commented that it would be helpful if the department performance indicators would connect with the department's goals.

Deputy Secretary Feiler briefed the Committee on the request for two new parole agents under the re-entry section. In regard to the sustainability of the cuts made last year, the department has, unfortunately, seen some issues with the parole violation rates. It appears when the parole offices get excessively busy, it is easier to proceed with a parole violation rather than to work with the parolee on what they need. In September the department was notified they qualified for the 2<sup>nd</sup> Chance Act. Ms. Feiler said there are very few institutions in the entire nation that even qualify for this grant. The proposal will be a very intensive, highly supervised, highly managed case load with one agent in Sioux Falls and one in Rapid City, each with a case load of 25 high-risk offenders. This smaller number of cases will allow the agent to "case manage" the inmate. Representative Wink asked if there is a time frame for a parole agent to work with an inmate. In response to Representative Wink's question, Ms. Feiler said the average length of time for a parole agent to work with a parolee is 25-27 months, depending on the violation. Representative Bolin asked if the department had a plan for these 2 agents when considering the federal government financial situation. Ms. Feiler said if the agents and their program works, the department will be back to ask for funds. Representative Carson asked if the department would be asking for these positions if they had not received the federal grant. Ms. Feiler said no.

Ms. Feiler told the Committee they predict an increase of 2% in parole numbers for FY13. Currently the average caseload is 70 with 2,959 inmates on parole. The Average Daily Population of Adult Inmates and Average End of Month Count of Parolees are estimated at 2,959 parolees and 3,580 adult inmates for FY13.

Doug Herrmann briefed the Committee on Juvenile Corrections. Mr. Herrmann told the Committee Juvenile Corrections was requesting a budget increase of \$1,229,127. Juvenile corrections operates with 169.2 FTE, reduced by 15.8 FTE last year. The projected average daily population of youth under department jurisdiction for FY13 is 735 with 355 in after-care and 380 in placement. Youth are committed to the department until the age of 21 or until the department chooses to release them. Mr. Herrmann said the department has had good success regarding recidivism in juvenile corrections.

For FY13 it is projected the average daily count of youth in private placement to be 210 with 62 out-of-state and 148 in-state. Mr. Herrmann said the closure of a facility in Springfield involving 15 youth had a great impact on their budget. Several of the youth went to out-of-state placement. Representative Romkema asked about the difference in costs between in and out-of-state placement. Mr. Herrmann said out-of-state costs are very expensive; the lowest being \$125/day and for the population they are not able serve it is between \$300-\$400/day. However, the

department is committed to reducing the number of youth going out-of-state. The average number of youth going out-of-state, because they have either been denied or terminated by in-state facilities, is 25. These youth are generally very violent and have mental issues. Mr. Herrmann agreed to provide additional information to the Committee regarding rates.

Senator Tidemann asked if the department tracks the youth who graduate from juvenile corrections that end up in adult corrections. Mr. Herrmann said yes and that between 1996 and 2002, approximately 24% ended up in the adult corrections system. Since that time it has dropped to approximately 20%. Mr. Herrmann will provide additional information on this issue to the Committee.

In response to Senator Brown's question, Mr. Herrmann said the foster care facilities do not utilize Medicaid dollars.

Mr. Herrmann reported that the department had reduced the number of placements/beds in Juvenile Community Corrections from 230-215 in FY12 and are reducing the number from 215-210 in FY13; however, the costs are still going up. The reasons for the increased costs include:

- FMAP changes,
- not being able to place as many youth in the PRTF level of care resulting in more youth in group care which is not funded by Medicaid, and
- as a result of closing the Springfield Academy, which was a lower cost facility, the department has had to place those youth in higher cost facilities.

Senator Heineman asked for an explanation of the jump in daily cost/student in FY 11 for students at Star Academy, the Youth Challenge Center and the Brady Academy. Mr. Herrmann said it was related to the admissions unit, which was staffed separately and was not operating efficiently. That unit has since closed.

Senator Putnam asked if the department provides the Bureau of Administration with information on their energy cost or do they accept the Bureau's proposed energy costs. Mr. Bollinger said the department provides information to the state's energy cap system regarding electrical, propane, and fuel oil usage along with the cost and then the Bureau forecasts costs based on current prices and the department's previous usage.

Representative Wismer asked why the department would not have requested the new parole agents if the federal dollars had not been available. Ms. Feiler said the department is trying something new with the new agents (25 cases/high risk offenders/intense management). This activity is part of the program tied specifically to the 2<sup>nd</sup> Chance grant. This give the department an opportunity a chance to try something that research shows could be effective. It fit in with the grant obligations rather than requesting new positions and ongoing funding with general funds.

Secretary Kaemingk introduced the Correctional Health Care Pharmacy Services proposal. Also in attendance were Doneen Hollingsworth, Secretary of Health, Kim Malsam-Rysdon, Secretary of Human Services and Joan Adam with the Department of Health.

Ms. Adam explained that this proposal will be reflected in the budget requests for the Departments of Health, Human Services and Corrections and involves the pharmaceutical services delivered in these agencies. The current state contract expires May 31, 2012. The state currently operates a pharmacy at the Human Services Center in Yankton and this facility will serve as the centralized pharmacy for all state facilities. Pharmacy orders will be received electronically and medications will be delivered by courier. An overall general fund savings of \$256,262 is estimated. The total annual state cost would be \$2,671,136 compared to the current contract cost of \$2,927,393. The start-up costs, which included the purchase of 4 dispensing machines, were \$625,750. Ms. Adam said the security of these machines is specifically designed for the Corrections environment. At an annual savings of \$256,262, start-up costs will be recovered within 3 years.

In response to Representative Dennert's question, Ms. Adam told the Committee the medication dispensing machines were purchased leftover inmate medical funds. Representative Dennert asked if any other funds were reverted to the general fund. Mr. Bollinger said there was no, and if they had reverted the \$625,700 it would have gone back to the federal government.

Ms. Adam said waste savings (approximately \$245,000) is the biggest part of the \$439,454 savings along with \$142,000 in formulary savings.

Representative White asked about the savings from medication errors. Ms. Adam will provide that information during the Department of Health's budget hearing.

MOTION: ADJOURN

Moved by: Tidemann  
Second by: Peters  
Action: Prevailed by voice vote.

Barb Bjorneberg  
Committee Secretary

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Corey Brown, Chair