

Consideration of Options for Incarcerating Big Horn County's Inmates



Final Report

National Institute of Corrections TA 14J1005

Mark Goldman
April-May, 2014

Table of Contents

| | Page |
|--|------|
| NIC Disclaimer | 1 |
| Introduction | 2 |
| Participants | 3 |
| Technical Assistance Activities | 4 |
| Big Horn County's Jail-Related Needs & Objectives | 5 |
| Big Horn County & its Inmates | 6 |
| Big Horn County's Jail Options | 8 |
| Assessment of the Big Horn County Jail Building | 9 |
| Assessment of the Two Rivers Detention Facility Building | 14 |
| Montana and National Jail and Prison Standards and Two Rivers | 18 |
| Concerns Raised about the Possibility of Big Horn County Leasing Beds at the Two Rivers Detention Facility | 21 |
| Additional Information from Emerald Correctional Management | 22 |
| Additional Information from the Montana Association of Counties | 24 |
| Additional Information from the Montana Department of Corrections | 24 |
| Estimated Differences in Costs | 25 |
| Comparison of Big Horn County's Options | 27 |
| Recommendations Including Next Steps | 29 |
| Appendix A: Montana Jail Standards Regarding the Physical Plant (final draft, 2012) | 32 |
| Appendix B: Excerpts from Montana Codes pertaining to Private Detention & Correctional Facilities | 36 |

Disclaimer



U.S. Department of Justice

National Institute of Corrections

Washington, DC 20534

DISCLAIMER

RE: NIC Technical Assistance No. 14J1005

This technical assistance activity was funded by the Jails Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person who provided the on site technical assistance did so through a cooperative agreement, at the request of the Big Horn County, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Mr. Mark Goldman. Points of view or opinions expressed the Technical Assistance report are those of the authors and do not represent the official opinion or policies of the U.S. Department of Justice. Upon Delivery of the final Technical Assistance report to the agency that requested the assistance, the report becomes the property of that agency. The National Institute of Corrections will not distribute the report to non-NIC entities, or consider it an agency record under the Federal FOIA, without the express, written approval of the agency.

Introduction

Big Horn County, Montana has been facing a dilemma pertaining to accommodating its inmates. The Big Horn County Jail was built in the late 1970's with a capacity of 32 inmates. The average number of inmates is now approximately 40, even with the Court and Sheriff's Office releasing inmates when the Jail is especially crowded, and even with ignoring most warrants. Furthermore, the design is antiquated, visibility of inmates is extremely limited, there are many blind spots, parts for building systems are difficult to replace, and there is far too little space for services and programs.

If there were no privatized facilities in the area, Big Horn County would have, most likely, decided to build its own jail without further thought. But Big Horn County is where the Two Rivers Detention Facility was built, and this fact presented two more options: to lease beds from a company that will operate the facility; or to purchase the Two Rivers facility itself directly from the Two Rivers Authority. The Two Rivers facility, which reportedly cost about \$27 million to build, was offered to Big Horn County for \$6.5 million. However, with 464 beds, it has far more capacity than Big Horn County is likely to ever need, it would be expensive to staff, and others had been highly critical of its design.

During the Technical Assistance on-site visit it appeared that Emerald Correctional Management was likely to consummate an agreement with the Two Rivers Authority to manage and operate the facility for 10 years (or more), and lease beds to counties, states, and Native American Tribes. So the number of options was reduced from three to two: for Big Horn County to build and operate its own jail or to lease beds at Two Rivers from Emerald.

Big Horn County's three Commissioners were split on the options; reportedly with one favoring Big Horn having its own jail, with another Commissioner supporting leasing beds at Two Rivers, and the third Commissioner in the middle. The Commissioners and Sheriff's Office decided to seek help from the National Institute of Corrections (NIC). They asked NIC for technical assistance for a brief objective assessment and help the County make an informed knowledge-based decision. NIC provided the County with information about several technical assistance providers, and Big Horn County selected Mark Goldman.

Participants (in alphabetical order)

Participants in Meetings & Walk-throughs

| Name | Position |
|--------------------|---|
| Ed Aufer | Coordinator, Disaster & Emergency Services (DES) |
| Lawrence Big Hair | Sheriff |
| Jim Eshleman | Reporter/Photographer, Big Horn County News |
| Chad Fenner | Commissioner, Board of Commissioners |
| Sidney Fitzpatrick | Chairman, Board of Commissioners |
| Michael Fuss | Undersheriff |
| Jon Matovich | Chairman, Two Rivers Authority (TRA) |
| Jeffrey McDowell | Executive Director, Two Rivers Authority |
| Lance Pedersen | Interim County Attorney |
| John Pretty on Top | Commissioner, Board of Commissioners |
| Kenny Rodgers | Big Horn County Sheriff's Office Deputy who works in the Jail |
| Daniel Shreve | Big Horn County Sheriff's Office Deputy who works in the Jail |
| David Sibley | Chief Deputy County Attorney |
| Bill Stenerson | Bill's Auto Parts |
| Candy Wells | Administrative Assistant (and coordinator of the TA) |

Other Participants via Telephone

| Name | Position |
|---------------|---|
| Steve Afeman | Chief Operating Officer Emerald Correctional Management |
| Judy Beck | Director of Communications Montana Department of Corrections |
| Jim Muskovich | JPIA/JPA Loss Control Specialist Montana Association of Counties |

Technical Assistance Activities

Preparation Activities Included:

1. Spoke and emailed with NIC's Mike Jackson and Big Horn County's Candy about the purposes and focus of the technical assistance.
2. Read Big Horn County Undersheriff Mike Fuss and County Board member Sidney Fitzpatrick's request for technical assistance.
3. Requested floor plans of the Big Horn County Jail and the Two Rivers Detention Facility, data on Big Horn's inmates, and previous studies and reports about the County Jail.
4. Read the previous report that was provided by the County: "Big Horn County Sheriff's Office Comprehensive Evaluation," by Tad Leach of Leach Consulting. This report was dated December 2008. While most of this is about non-detention portions of the Sheriff's Office, it does contain some useful information about the Jail and its staff. No more recent studies, reports, or data were provided prior to or during the site visit.
5. Prepared a list of recommended on-site activities and provided that to Candy Wells, who made all arrangements and sent the Leach report.
6. Conducted research on the internet about Big Horn County and about Two Rivers Detention Facility. Found much written about the history of and controversies over the latter.

On-Site Activities Included:

1. Participated and led a TA kick-off meeting with two of the three Commissioners, the County's Administrative Assistant, the Undersheriff, the Interim County Attorney, the Chief Deputy County Attorney, the Disaster and Emergency Services Coordinator, an interested citizen, and a newspaper reporter. Topics discussed included their objectives for the TA, their thoughts regarding the existing Big Horn County Jail, and their thoughts -- which varied extensively -- about the possibility of the County accommodating its inmates in the Two Rivers Detention Facility.
2. Toured the Big Horn County Jail with the Undersheriff and other County officials, took photos, and noted issues.
3. Toured the Two Rivers Detention Facility with two representatives of the Two Rivers Authority (TRA) and County representatives.
4. Reviewed current data on the costs of operating the Big Horn County Jail, with the data provided by the County's Administrative Assistant.
5. With hard data on Big Horn County Jail inmates not being available, interviewed several Jail staff (a feat in itself as often there is only one Jail staff on duty at a time).
6. Met with the Sheriff.
7. To further explore the Two Rivers option, developed a list of questions to ask a leader of the Emerald Correctional Management -- the organization that reportedly is very likely to operate the Detention Facility.
8. Conducted a lengthy call with the Chief Operating Officer of the Emerald Correctional Management, obtaining responses to the County's and TA provider's questions.
9. Conducted a wrap up meeting on Big Horn County's options for accommodating its inmates. Participants included all three County Commissioners, the Sheriff, the Undersheriff, the

Administrative Assistant, and the Disaster and Emergency Services Coordinator. Discussed and compared the option of the County building (or renovating and greatly expanding) a new Jail with the option of the County leasing beds at the Two Rivers Detention Facility. Discussed positive and negative characteristics of both options, as well as potential differences in initial and operational costs. Discussed next steps.

10. As other questions for Emerald Correctional Management emerged at that meeting, contacted a company leader again, raising the County's and TA provider's additional queries.

Activities Following the On-Site Technical Assistance Included:

1. Reached out to and obtained additional information from Emerald Correctional Management to more fully develop and compare Big Horn County's options for those who need to be incarcerated.
2. Called and spoke with Jim Muskovich, JPJA/JPA Loss Control Specialist with the Montana Association of Counties (MACO) about MACO's thoughts regarding the Two Rivers Detention Facility. This had been suggested by Big Horn County elected officials.
3. Called the Montana Department of Corrections (MDOC) to verify verbal reports that MDOC had assessed the Two Rivers Detention Facility and, reportedly, had decided that the facility was unsuitable for its inmates. Judy Beck, MDOC's Director of Communications, returned my call. Following the call Ms. Beck emailed the final draft of Montana's jail standards, and the TA consultant sent her additional questions.
4. From notes, interviews, observations, and research, wrote and produced this report.

Big Horn County's Jail-Related Needs & Objectives

During the initial meeting with Commissioners, the Undersheriff, and others, participants developed the following objectives for the Technical Assistance:

Objectives for the Technical Assistance

1. Evaluate the Two Rivers Detention Facility and its capability to function as a very good detention/correctional facility, meet standards, support staff, provide safety and security for inmates and staff, provide all required services (food, laundry), and accommodate programs (visiting, recreation, counseling, etc.).
2. Apply the TA provider's national experience and knowledge to the County's dilemma.
3. Objectively study and compare the various options for Big Horn County's inmates.
4. Help Big Horn County make the best decision it can for the public, for taxpayers, for inmates, and for staff.
5. Help the County minimize the likelihood of incurring liabilities, including challenges by the ACLU, and successful litigation.

At the same meeting, participants developed the following objectives for accommodating Big Horn County inmates:

Objectives for Accommodating County Inmates

These objectives are for all scenarios.

1. Facilitate the closure of the existing County Jail as soon as is feasible.
2. Provide enough Jail beds for Big Horn County inmates in order to:
 - Minimize overcrowding;
 - Virtually eliminate the need to early release pre-sentenced inmates who pose a risk to others or are likely to abscond;
 - Virtually eliminate the need to early release sentenced inmates who pose a risk to others, are likely to abscond, or who's time incarcerated is thought to be beneficial to the inmate and the community;
 - Be able to accommodate those with warrants who pose a risk to others or are likely to abscond;
 - Facilitate implementation and continual use of a classification system, and the placement of inmates in specific housing units based on their classification;
 - Accommodate most peak populations (not just average daily populations).
3. Reduce the likelihood of successful lawsuits by ACLU and others against Big Horn County, its leaders, and its staff.
4. Facilitate security and safety for inmates, staff, and the public.
5. Help inmates acquire the tools they need to battle substance abuse, behavioral issues (e.g., anger), and mental illness.
6. Comply with all applicable required State of Montana and local building codes, Montana Jail Standards, and American Correctional Association standards.
7. Limit all costs associated with building, renovating, and operating a jail – or leasing beds -- each year and over the long term.
8. If the County continues to operate its own jail, attract and retain well-qualified staff who do excellent detention and corrections work; and minimize staff turnover.
9. Plan for future contingencies including the possible failure of the Two Rivers facility, an increase in the number of inmates, and changes in the composition of inmates (e.g., a higher percentage of females).

Big Horn County & its Inmates

Information about the County and its inmates was obtained from interviews of the Sheriff, the Undersheriff, Jail staff, County Commissioners and administrators, Wikipedia, websites, and Tad Leach's 2008 document entitled "Big Horn County Sheriff's Office Comprehensive Evaluation." Goldman requested more recent and current data on inmates but none was available.

About the County and the Jail:

- The County population is about 14,000.
- About three-fifths of Big Horn County residents are Native Americans.

- There are two Indian Reservations partially within the County: Crow and Northern Cheyenne.
- Approximately one in four County residents is below the poverty line.
- Geographically Big Horn County is enormous, containing over 5,000 square miles – larger than the State of Connecticut.
- There are only one or two County law enforcement officers patrolling the County at one time, so responsiveness is extremely challenging. Note that there are also law enforcement officers from the Bureau of Indian Affairs and the Tribes, but still the numbers of law enforcement officers for the size of the County are very low.
- The number of State Troopers supplementing County law enforcement officers is minimal – one or two – covering all shifts. Therefore, often no State Troopers are on duty in Big Horn County.
- Big Horn County's rate for violent crimes is comparatively high.
- The County has no placement options for alcohol-related offenses other than the Jail.
- The Jail is so sparsely staffed that there is only one staff on during most shifts, and no more than two staff are on duty at the same time. Jail staff also escort inmates to court, so at times no one is watching the inmates in the jail.
- The staff turnover rate has been “astronomical.”
- The ACLU is quite active in Montana, and the County is concerned about liability regarding risks to inmates, staff, and the public.
- Programs in the jail are currently limited to Bible Study. More programs are not provided because there are no spaces in the jail for programs, very limited staff, and few interested volunteers.

Inmate Profile

From interviews and the 2008 study, here is a profile of Big Horn County inmates (no recent or current “hard data” was available):

- Average Daily Population (ADP) has been about 42.
- This ADP is or may be artificially low because when the jail is overcrowded:
 - Only those charged with felonies and domestic violence misdemeanors are booked into the jail;
 - misdemeanants and/or those close to completing their sentences are released; and
 - many warrants are not addressed; there are currently approximately 1,600 warrants.
- The need for beds, reportedly, has been increasing.
- Sheriff's staff believe that about 20 more beds are needed currently.
- Of the ADP, approximately 5 to 8 are usually females, but there have been up to 15 females in the jail.
- While not uncommon in Indian Country, a high proportion of Big Horn County inmates are charged or convicted of Driving Under the Influence (DUI). Furthermore, many of these inmates have long histories of DUI's.
- More than half of the inmates are charged with or convicted of felonies.
- Many inmates have alcohol and/or drug problems.
- Most of those charged with or convicted of assaults did so while inebriated.

- Most misdemeanors are also alcohol-related.
- Drug abuse appears to be increasing – including methamphetamine, oxycodone, and some cocaine and heroin.
- Most sentences are 30 days to six months.
- Approximately two people per month are sentenced to state prison.
- Reportedly, there was one suicide several years ago.
- Reportedly, assault each other relatively frequently, but inmates are rarely charged with these.

Alternatives to Incarceration

Current alternatives consist of:

- Cash bonds / surety bonds.
- Electronic monitoring.
- 24/7 Program (twice a day alcohol testing, if test positive then incarcerated).
- Felony Probation.

Alternatives not currently available in Big Horn County include:

- Supervised Misdemeanor Probation (Unsupervised Misdemeanor Probation is currently provided).
- Day Reporting.
- Drug, Alcohol, Mental Health or other Specialty Courts.

Big Horn County's Jail Options

Option 1: Do Nothing: Continue operating the County Jail without any building changes.

This option is not realistic, nor does it appear to have a base of support. Clearly the existing Jail is too small and has too many design flaws that would be expensive to remedy. Therefore, this option should continue to “stay off the table.”

Option 2: Provide a New or Renovated and Expanded Big Horn County Jail

2.A. Expand and Renovate the Big Horn County Jail

Like the “do nothing” option, the design issues with the existing Jail are so extensive, that renovation and expansion could be as expensive as new construction, and some building constraints and problems would not be remedied. However, it may be feasible to renovate portions of the existing Jail for non-housing functions such as Booking/Intake and Warehouse.

2.B. Build a New Big Horn County Jail and Use the Existing Jail for Other Functions

A simpler and better solution may be to build an entirely new Jail adjacent to the Courthouse and/or the Annex and renovate the existing Jail for non-Jail functions, such as expansion of the too-small Sheriff's Office.

Option 3: Lease Beds at the Two Rivers Detention Facility from the Emerald Correctional Management (or another facility operator)

The last option is for the County to get out of the Jail operations business and lease beds at the Two Rivers Detention Facility. With this option, a portion of the existing Jail could be used for court holding, and the remainder could be renovated for the Sheriff's Office or other County departments.

Assessment of the Existing Big Horn County Jail Building

The Big Horn County Courthouse was erected in the 1930's and an Annex was added in 1979. The Annex accommodates the Jail and Sheriff's office on the lower level and Courtrooms and court support areas on the upper level.



Big Horn
County
Courthouse

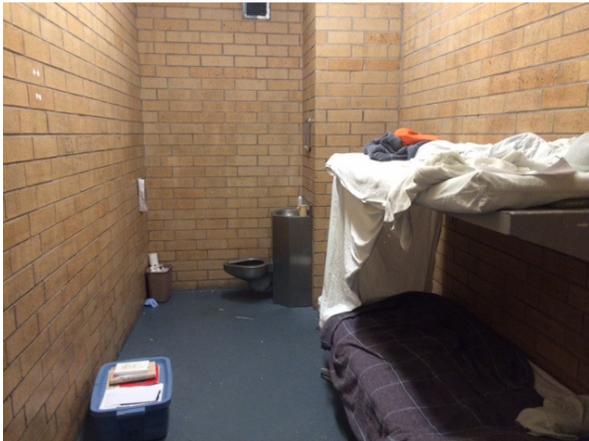
The Courthouse Annex contains the Sheriff's Office and Jail on the lower floor, and Courtrooms and support space on the upper level.



Courthouse Annex

Significant building-related problems with the Annex include:

- There is too little space for the Sheriff's non-Jail functions and for every Jail function (about half of the space that is needed, according to Leach).
- Most of the housing is in two and four person cells. There is only one cell for those who need to be in segregation. More single cells are needed.
- To accommodate more inmates, an activity room is now used as a multi-occupancy cell and an inmate worker sleeps in a room planned for storage.
- There are no spaces in the Jail available for any types of classes, group programs, indoor recreation, or interviews.
- The layout of the Jail is staff-intensive, and with usually only one staff on at a time, observation and supervision are intermittent, enabling frequent opportunities for inmates to engage in negative behaviors and to be unsafe.
- The roof has leaked.
- All doors must be operated by keys. This is time-consuming and can pose life-threatening fire and life-safety problems.
- Reportedly, the ACLU claims that privacy screens are needed around toilets and has raised concern about liability.
- Few spaces receive any natural light.
- Programs are very few, partially because there is no program space. At the time of the Technical Assistance the only active program within the jail was Bible Study.



Typical Multi-occupancy Cell without a window, and Dormitory in the Big Horn County Jail



Support services have too little space for the current number of inmates.

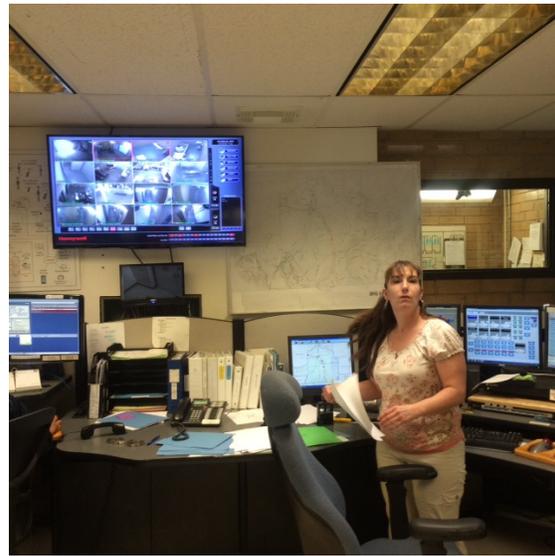
Kitchen is very clean and very small



Laundry is quite limited



The only "space" dedicated to Health Services is this box mounted to a wall. At the time of the TA no nurses were coming into the Jail. All inmates who need medical attention are transported elsewhere.



Sheriff's Dispatch/911 is adjacent to the Jail.

Although at the time of the Technical Assistance there was no medical staff or medical providers, the County was looking for a part-time nurse. Medications were being distributed by security staff, reportedly with little training.



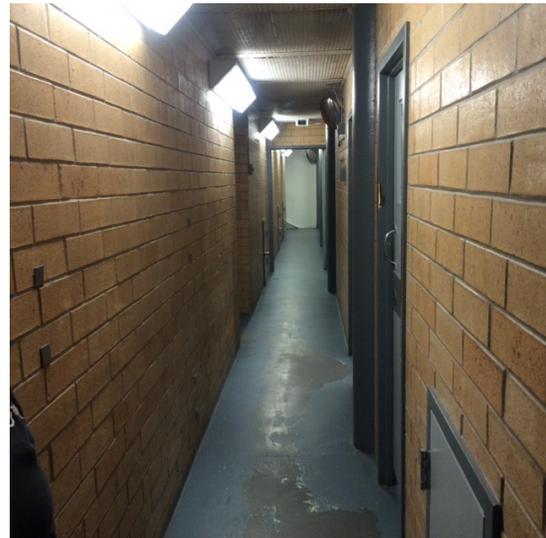
Non-contact Visiting doubles as the Library



The Outdoor Recreation Area is quite functional but appears to be used infrequently, in part because of the Jail's layout and too many functions for the one or two staff on duty at the same time



The Jail is not fully handicapped accessible.



Corridors are very narrow.

The layout of the Big Horn County Jail is not conducive to continuous supervision of inmates by staff. There are no places from which staff can see into more than one or two housing units. This problem is exacerbated by the fact that often there is only one staff at a time in the entire Jail.



Site Option 1 for the build-and-operate-its-own-county-jail option: Across the street from the Courthouse



Site Option 2 for the build-and-operate-its-own-county-jail option: Build in the parking lot immediately adjacent to the Courthouse and Annex

Assessment of the Two Rivers Detention Facility's Building

Before the site visit Goldman obtained considerable information about the Two Rivers Detention Facility from the internet. It had received notoriety because it had been built on speculation, was completed in 2007, and had never been occupied.

Facts about the Two Rivers Facility (from the Two Rivers Authority, Wikipedia and newspaper articles).

- In 2004-5 a Texas prison and jail development consortium convinced the City of Hardin's (Big Horn County's largest town) industrial development authority to float bonds to build a speculative detention/correctional facility.
- Many in the community were in favor of it as a means to employ about 100 people and stimulate the economy.
- Capacity is 464 inmates.
- Most of beds are in dormitories: 62% (288) in 24-bed dorms, and 17% (80) in 8-bed dorms; only 10% (48) in single cells, and another 10% (48) in two person cells.
- Contains approximately nine spaces for inmate programs, although all of these are relatively small and they are distant from some housing units.
- Contains 92,273 gross square feet, which is a hair less than 200 gross square feet per bed. This is comparatively low compared with other prisons and jails.
- Has been labeled "minimum to medium security."
- Construction costs were reportedly \$19.6 million; total costs to date may have been as much as \$27 million (\$42,000 to \$58,000 per bed).
- Located on 40 acres within the City of Hardin in Big Horn County.
- Construction was completed and it was slated to open in 2007, but the state of Montana did not approve it.
- The Two Rivers industrial development authority defaulted on bonds in 2008.
- The consortium attempted to lease beds to the State of Montana, counties, and Native American Tribes. Note that more than half of the citizens in Big Horn County are Native American, and there are two Indian Reservations partially within the County.
- At least one sheriff has described Two Rivers as a "warehouse."
- The consortium's contract was terminated in 2009.
- At least two other entities have come close to operating the facility since then, including one that was, reportedly, a "scam."
- The Montana Department of Corrections considered leasing beds at Two Rivers but decided against it.
- The City of Hardin approached the Department of Justice about housing inmates from the Guantanamo Bay, Cuba federal prison, although state congressional leaders opposed the plan.
- At the time of the NIC Technical Assistance, the Two Rivers Authority was negotiating a contract with Emerald Correctional Management to operate Two Rivers.

Walkthrough of the Two Rivers Detention Facility

Goldman toured the Two Rivers Detention Facility with several County officials and Two Rivers Authority representatives.

The main entry is opposite a large parking lot.



The only windows in the facility are in staff offices, as seen on the right side of the entry. Virtually no natural light in inmate areas is one of the major weaknesses of the building.

Many rolls of razor wire surround the Two Rivers Facility. This gives it the appearance of a maximum-security prison.



Some components, such as Visiting, appear quite undersized for the number of beds. Other areas, such as the Kitchen, appear spacious and well equipped.



“Outdoor recreation” is quite spacious, but it hardly appears “outdoors,” with only a small portion of the ceiling open to light and fresh air. This deficit is exacerbated by the lack of natural light and views in all cells, dormitories and dayrooms.

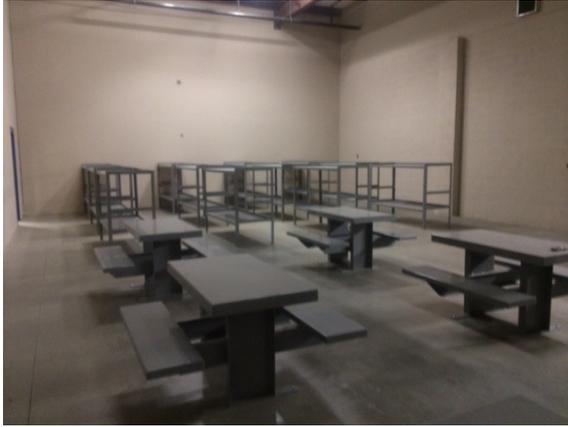


Two Rivers has seven to nine classrooms/ multi-purpose rooms, but they are all relatively small. On the positive side, smaller classes and groups can be effective. On the negative side fewer inmates may be able to have access to programs due to the cost of program staff and the limited size of program spaces.



The Central Control room is quite spacious, however the size may make it staff-intensive. The Vehicular Sallyport is also comparatively large – big enough for a bus.

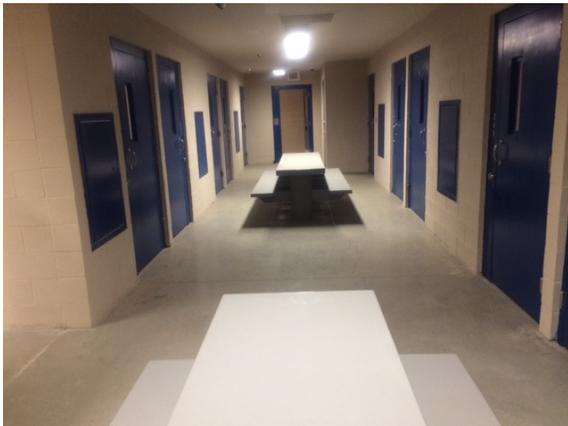




Typical 24-person Dormitory and Dayroom. These comprise most of Two Rivers' housing. The sleeping area appears crowded.



Typical 8-person Dormitory and Dayroom.



12-Cell Housing Unit. The Dayroom looks like a wide hallway. Providing observation of inmates in units like this is staff intensive, and unless there are plentiful staff, cell checks may occur less frequently than desired or required.



Isolation Cell with its own shower. Rooms like this are well suited for those who need to be isolated from others and housed in a very high security environment. Too much isolation can, especially in concert with a total lack of windows, aggravate anti-social behaviors and mental illnesses, so it would be important for inmates in cells like these to have out of cell time every day and converse with others.



Two Rivers' dormitories have barriers that provide some privacy to inmates in bathroom areas, but these same barriers also pose security and safety concerns, especially if staff supervision is intermittent.

Montana and National Jail and Prison Standards and Two Rivers

Montana's Standards, revised in 2012, are very similar to those of the American Correctional Association (ACA). Here are excerpts from Montana's Standards that Two Rivers' building does not or may not appear to follow. Note that evaluating compliance with many of the standards was impossible because there were no correctional officers or inmates in the building during the walkthrough (and ever, to date).

| Montana Standard | Extent to which Two Rivers' Building Complies |
|---|---|
| <p>07.06 The facility has staff posts located in or adjacent to inmate housing areas to permit facility employees to hear and respond promptly to problems or emergency situations.</p> <p>19.22 Correctional officer posts are located in or immediately adjacent to inmate living areas to permit officers to see or hear and respond promptly to emergency situations.</p> | <p>There are no Direct Supervision workstations within any housing units, or Indirect Supervision workstations outside of the housing units. Note, however, that staff workstations in or adjacent to housing units could be built.</p> |
| <p>08.16 Inmates in administrative segregation or protective custody have access to programs and services to the same extent as the general population, except where such participation threatens the safety and security of the facility or community.</p> | <p>All of the program rooms are collocated, and are relatively far from the single cell housing units.</p> |
| <p>14.15 A secure and suitable area is provided for inmates and visitors to converse at normal voice levels.</p> | <p>The Contact Visiting room is very small and the number of Non-Contact Visiting booths is few compared with the capacity of the facility.</p> |

| Montana Standard | Extent to which Two Rivers' Building Complies |
|--|---|
| 14.17 The facility provides inmates adequate opportunities to meet with attorneys and clergy. | The number of attorney and clergy-client visiting rooms is very few compared with the capacity of the facility. |
| 17.01 Inmate programs and services are available and include, but are not limited to, social services, religious services, recreation, and leisure time activities. | Two Rivers' program rooms are all relatively small, and they are collocated and away from half or more of the housing units. This could negatively impact the provision of programs – as programs might be relatively expensive (staff to move and supervise inmates moving to/from programs plus needing to have, for example, more GED classes because of the relatively few students that can be seated in a small classroom at one time). |
| 17.08 Inmates have access to exercise opportunities including at least one hour daily of physical exercise outside the cell, when available. Inmates have opportunities to participate in leisure-time activities outside their respective cell or room on a daily basis. | Again the layout may make this challenging for the operator to comply as it would be staff-intensive. |
| 19.04 All inmate rooms/cells provide the occupants with access to natural light. | None of the cells or dorms receive any natural light. The only windows in the building are in staff areas. |
| 19.05 Inmates in the general population who are confined in their rooms/cells for 10 or more hours daily have access to natural light by means of an opening or window of at least three square feet. Inmates in the general population who are confined in their rooms/cells for less than 10 hours daily have access to natural light through an opening or window as described above or through an opening or window of at least three square feet between their room/cell and an adjacent space. | Ditto. |
| 19.06 Noise levels in inmate housing units do not exceed 70 dBA (A Scale) in daytime and 45 dBA (A Scale) at night. Measurements are documented by a qualified, independent source and are checked not less than once per three years. | With most of the housing in 24-person dorms with all hard surfaces excessive noise <u>could</u> become an issue. |

| Montana Standard | Extent to which Two Rivers' Building Complies |
|--|---|
| 19.15 Each dayroom provides a minimum of 12 square feet of transparent glazing with a view to the outside, plus two additional square feet of glazing per inmate whose room/cell does not contain an opening or window with a view to the outside. | None of the dayrooms receive any natural light. |
| 19.14 Multiple-occupancy rooms/cells house between two and 64 occupants and provide 25 square feet of unencumbered space per occupant. When confinement exceeds 10 hours per day, at least 35 square feet of unencumbered space is provided for each occupant. | In the dormitories, the bunk beds appeared to be very close together and there may be too little space/inmate when confinement exceeds 10 hours per day. |
| 19.16 Dayrooms with space for varied inmate activities are situated immediately adjacent to inmate sleeping areas. Dayrooms provide a minimum of 35 square feet of space per inmate (exclusive of lavatories, showers, and toilets) for the maximum number of inmates who use the dayroom at one time. No dayroom encompasses less than 100 square feet of space, exclusive of lavatories, showers, and toilets. | Some of the dayrooms appeared to be moderately wide hallways rather than well laid out dayrooms. |
| 19.24 Physical plant designs facilitate continuous personal contact and interaction between staff and inmates in housing units. All living areas are constructed to facilitate continuous staff observations, excluding electronic surveillance, of cell or detention room fronts and areas such as day rooms and recreation spaces. | Given Two Rivers' physical layout providing continuous staff observations would be staff intensive and expensive. |

While discussing the Two Rivers option with Big Horn County officials, it became apparent that more information was needed to further clarify and define the option, and that this additional information was needed from the likely operator, the Emerald Corporation, and also from two organizations that had reportedly previously studied and formed opinions on Two Rivers: the Montana Department of Corrections (MDOC) and the Montana Association of Counties (MACO).

Concerns Raised about the Possibility of Big Horn County Leasing Beds at the Two Rivers Detention Facility

Various individuals that Goldman interviewed regarding the Two Rivers Detention Facility raised the following concerns (note that these do not necessarily represent the views of the TA consultant or NIC):

- Other governments that have considered leasing beds there have decided against it (although, according to Emerald, recently a federal agency and numerous Indian Tribes have decided to lease beds there).
- Failure to comply with national and state standards pertaining to the design of detention and correctional facilities (although Emerald claims that the building meets all mandatory standards).
- Almost no natural light (none in any of the housing units or program rooms).
- Most of the housing is in 24-bed dormitories which are too large and inappropriate for many of Big Horn County's inmates.
- Facility is considered by some to be unsafe for officers and for inmates.
- No staff stations adjacent to or within housing units. It appears to have been designed for housing staff to continuously walk around and look into housing units from corridors.
- Blind spots within some of the housing units.
- The building itself is not in keeping with research on environment and behavior, "best practices," or direct supervision.
- Reportedly the ACLU has and will continue advocating against housing inmates in the facility, partially due to its lack of natural light.

Additional Information from Emerald Correctional Management

Mark Goldman called Emerald Correctional Management and the Chief Operating Officer, Steve Afeman, returned the call and also responded to a follow up email. Here are Goldman's questions and Afeman's responses.

Goldman: Who is the target population?

Afeman: Native Americans from tribes; all racial and ethnic groups from counties, Bureau of Indian Affairs' inmates, other federal inmates.

Goldman: What is the minimum number of inmates that are needed for the 464-bed facility to be economically feasible to Emerald?

Afeman: Approximately 250.

Goldman: What will the per diem be?

Afeman: \$68/inmate/day. This includes transportation and medical services.

Goldman: To what extent will Emerald vs. entities that provide inmates be liable for injuries at Two Rivers?

Afeman: Emerald will be liable; the company has \$5 million in liability insurance.

Goldman: How many staff will work at Two Rivers?

Afeman: 125 staff, including medical and food service staff. There will be one counselor per 30 inmates.

Goldman: Will there be any renovations to Two Rivers in the near future?

Afeman: None are anticipated other than to fence large areas behind the facility to allow more outdoor time and activities.

Goldman: What will be the mission of the Two Rivers Detention Facility?

Afeman: It will be based on therapeutic communities; there will be an emphasis on treatment. The aim will be to minimize the "revolving door." Programs will include re-entry, and families will be involved in this. For Native Americans, the treatment will in part be cultural, including having access to a sweat lodge behind the facility.

Goldman: Visiting and other program space are relatively sparse and the atmosphere does not appear therapeutic. How will Emerald overcome these constraints?

Afeman: Visiting will be enhanced by Video Visiting and Outdoor Visiting. Some programs will take place within fenced in areas behind the facility.

Goldman: Who will staff the Two Rivers Detention Facility?

Afeman: 95% of the staff will be local. The administrator will be Bob Pease who formerly managed correctional facilities for the Bureau of Indian Affairs.

Goldman: With an agreement between Emerald Corporation and Big Horn County, could Big Horn County inmates be booked at Two Rivers or would they first need to be booked elsewhere?

Afeman: Big Horn inmates could be booked at Two Rivers.

Goldman: Would Big Horn County be billed \$68 as the per diem based on the number of bed days occupied by Big Horn County inmates or based on an agreed upon constant number of beds?

Afeman: Presently the bed space is on a first come first serve basis and Big Horn would be billed the per diem of \$68 based on the number of beds occupied. If Big Horn would like to have a guaranteed number of beds available, Big Horn would need to guarantee 75 percent occupancy. Example: Big Horn needs 100 beds. Big Horn would pay for 75% (75% x 100 beds x \$68 x 30 days = \$153,000) for one month whether they used 75 beds or not. This would guarantee the bed space is available all of the time.

Goldman: Are we correct in assuming that Two Rivers would be able to house Big Horn County's females, not just males?

Afeman: Yes, Two Rivers will be able to accommodate females as well as males. Females will be separated by sight and sound, and operationally consistent with Montana DOC standards.

Goldman: Are there any plans for a portion of Two Rivers to be used for very short term holding of juveniles, with sight and sound separation from adults until they can be transported to a juvenile facility?

Afeman: At this time Two Rivers is not set up to handle juveniles, but we will explore how we could assist Big Horn County.

Goldman: Would Emerald employees transport Big Horn County's pre-sentenced inmates back and forth to/from court?

Afeman: Yes but there would be a charge for the guards' hours. This charge would be for only the actual hours the guards are on duty away from the unit.

Goldman: If so would Emerald employees stay with Big Horn County inmates in court, providing security?

Aferman Yes, they would provide security.

Goldman: For how long would the \$68/day/inmate rate be guaranteed?

Afeman: For two years. Any increase would be minimal after that time and would be based on CPI or if the County requested extra-ordinary services outside the normal scope and services provided.

Additional Information from the Montana Association of Counties

While in Big Horn County Goldman was informed that the Montana Association of Counties (MACO) had expressed concern about counties housing inmates in the Two Rivers Detention Facility. Goldman followed up with MACO's Loss Control Specialist, Jim Muskovich.

During a phone conversation Muskovich said that MACO does not have an official stance on Two Rivers but has the following significant concerns:

- It may be difficult to find sufficient qualified and interested staff for a 464-bed facility in Hardin, Montana.
- The Two Rivers facility does not comply with some Montana and American Correctional Association (ACA) standards.
- The environment does not appear suitable for inmates who are mentally ill including those who are suicidal.
- The American Civil Liberties Union (ACLU) has raised apprehension about risks and liabilities associated with housing inmates in the Two Rivers facility.
- The facility may be expensive to maintain.

Additional Information from the Montana Department of Corrections

As part of the assessment of the Two Rivers Detention Facility, Goldman contacted the Montana Department of Corrections. This is because he had been informed that the Montana DOC had considered using the Facility for State inmates and had decided against it. The TA provider contacted Patrick Smith, DOC's Contract Placement Bureau Chief, and DOC's Director of Communications, Judy Beck, returned the call. She provided a link to Montana's Code pertaining to private prisons, and she suggested that I review it and then follow up with additional questions.

Goldman emailed Ms. Beck the following questions:

- 1.) Montana code (thanks for sending that) stipulates that private facilities conform to ACA and National Commission on Correctional Health Care Standards. The Two Rivers facility clearly does not comply with all ACA standards, such as the one about natural lighting. But the likely private operator has pointed out that the natural lighting standard and many others are not "mandatory." Does Montana DOC expect private operators to follow all ACA standards, or just the relatively few that have been considered "mandatory"?
- 2.) Has anyone with DOC or any DOC consultants written a report after they walked through and studied (or even briefly looked at) the Two Rivers facility? If so, I request a copy of that report.
- 3.) Did the builders of Two Rivers consult with DOC during the design process? If so, did DOC provide input regarding the design?
- 4.) I have heard that Montana DOC decided that Two Rivers was inappropriate for DOC's inmates. Is this true? If not, please clarify.
- 5.) Does DOC have a position on Montana counties contracting with Two Rivers to house the counties' inmates? If so, what is that position?

At the time of the completion of this report, Goldman had not received responses from Montana DOC to these questions.

Estimated Differences in Costs

The following is the start of an exercise to compare the cost of Big Horn County's primary options. All assumptions and numbers should be verified and revised as warranted.

Assumptions include the following:

- The Average Daily Population (ADP) is assumed to be 60 inmates, and the number of beds built is assumed to be 75 as many correctional professionals recommend that ADP should be approximately 80 percent of capacity in order to accommodate most peak populations and to house inmates by classification category. Some have suggested that Big Horn County build a new jail with as many as 100 beds. This exercise uses a much smaller number as very little data on Big Horn County's inmates and trends have been made available to the TA provider, the County currently has few alternatives to incarceration which would help control the need for additional beds, and if there were a "shelter" for "drunks," as suggested by several people who were interviewed, the number of needed jail beds could be contained or reduced, but other costs to the County would be added.
- Inflation and likely future increases in Two Rivers' per diem charges (for one option) and Big Horn County's expenses (for the other option) are not accounted for.
- For the option with Big Horn County building its own jail the cost number used is the same as the cost number that an architect recently proposed to the County. It is recognized that this number depends upon exactly what is build, what, if anything is renovated, whether it includes space for other Sheriff's Office functions or not, the types of materials used, the design, the site, whether demolition is needed, and many other factors.
- With the option in which Big Horn would build its own jail, if the County would need to borrow money it would incur additional costs. These are undetermined and not included in the comparison.

Conceptual Cost Comparison of Big Horn County Building & Operating its Own Jail vs. Leasing Beds at the Two Rivers Detention Facility

| | Big Horn County Jail | Leasing at Two Rivers |
|--|--------------------------|---|
| Current annual operational costs with 1 staff during most shifts | \$444,645 per year | |
| Additional cost if double number of officers, plus add counselor & nurse | \$394,000 per year | |
| Additional costs for food, utilities, uniforms, supplies, transportation, etc. with ADP increasing from 40 to 60 inmates, & much larger building | \$100,000 per year | |
| Total projected operational cost for Big Horn operating its own 60 person jail | \$938,645 per year | |
| Current Average Daily Population | 40 inmates/day | |
| Estimated Average Daily Population | 60 inmates/day | 60 inmates/day |
| Operational Cost per Inmate/Day for 60 inmates | \$43 per inmate /day | |
| Rough Estimate of Building Cost based on Big Horn County's prior discussions with an Architect | \$11,000,000 | for construction, site work, furnishings & fees |
| Building Cost per Inmate per Day based on ADP of 60 over 30 years | \$16.74 | |
| Total Cost / Inmate / Day over 30 Years without inflation or increases in Costs, with ADP of 60 | \$59.60 per inmate / day | \$68 per inmate / day |

Comparison of Big Horn County's Options

The concluding activity of the on-site portion of the TA was to compare the leasing beds at Two Rivers option with the option of the County building its own new Jail. Meeting participants included the three County Commissioners, the Sheriff, the Undersheriff, and the Commissioners' Administrative Assistant.

The participants and TA provider developed a list of criteria and evaluated both options against these criteria. The following table shows the criteria and how both options were rated by the group.

Summary Comparison of the Two Primary Options for Big Horn County

| Factors | Big Horn County Building & Operating its own Jail | Big Horn County Leasing Beds at Two Rivers Detention Facility |
|---|---|--|
| When available to occupy | At least 1.5 years, more likely 2 years | Reportedly 90 days from the end of late April |
| Enough beds for Big Horn County's inmates? | Yes | Yes (and for other entities) |
| Appropriate physical environment for Big Horn's inmates? | Yes | No |
| Initial costs for Design, Site Development, Construction | High | None (for the County) |
| Operational / Per diem costs | Expected to be less than for Two Rivers but much more than now (currently understaffed so costs may be unrealistically low) | Emerald stated will be \$68/inmate/ day, but could increase over time |
| Liability | Big Horn County liable | Emerald would be liable; County concerned about also being liable |
| Assurance of Continuity | Yes | Likely but less certain, especially considering the history of Two Rivers. If the operations of Two Rivers should fail, Big Horn County could be without any beds. |
| Big Horn County's ability to Control Operations | Yes | No |
| Would accommodate Females? | Yes | Yes |
| Would accommodate Juveniles for short-term (with sight & sound separation)? | Yes | Not as currently planned, but feasible. Could renovate a small portion of facility to enable this. |
| Court Transportation | Safer & more convenient (shorter distance) | Would require either transportation by Big Horn County deputies, or by Two Rivers for an added cost |
| Inmate Programs | Yes, but would depend on volunteers and/or would increase staffing and operational costs | Yes. With a larger facility and more inmates, more feasible to offer a wider range of programs |

Recommendations & Next Steps

Recommendations

- To contain the number of beds needed for any option, Big Horn County should consider increasing its use of alternatives to incarceration for pre-trial and sentenced offenders. Particular alternatives to consider include:
 - Supervised Probation for Misdemeanants (currently Unsupervised Probation is provided for some Misdemeanants)
 - Drug/Alcohol Court
 - Shelter for those who are inebriated
 - Community Service
 - Day Reporting

- There are many pros for and cons against Big Horn County leasing beds at the Two Rivers Detention Facility that may warrant further study including the visit to another facility operated by Emerald.

The major pros include the County not bearing the expense and the time and effort it takes to plan, design, construct and operate a jail, and the operator's stated plans to offer many rehabilitative programs including some outdoors, behind the building.

The most significant cons for Big Horn County include the possibility of Two Rivers not staying open and the County having to follow another course of action in the future, the County having limited control of its inmates, and the unfortunate physical characteristics of the facility.

- One of the major concerns with the Two Rivers building is that the building itself is not supportive of rehabilitation. Rehabilitation-supportive correctional facilities have lots of natural light, are colorful and not depressing, utilize outdoor spaces for some activities (when the weather permits), have sound-absorbing materials that minimize unwanted noise, and with housing primarily in one and two person cells. Some of the deficiencies from an environment such as Two Rivers can be partially counteracted by excellent programs, activities, direct supervision, and inexpensive improvements to a building that can be achieved with paint, acoustical panels, direct supervision workstations, and the like.

Reportedly, Emerald operates a correctional facility in Arizona in a building that is similar in design to Two Rivers, and that this facility is very treatment-oriented. Emerald claims that this facility is operated as a "therapeutic community." To help Big Horn County make an informed decision about whether or not to house County inmates in Two Rivers, Goldman recommended that several Big Horn County representatives tour the Arizona facility with a focus on the extent to which its operations support rehabilitation, and the extent to which inexpensive means to soften a hard environment have been implemented. Seeing Emerald operate this similar facility should help Big Horn County's decision-makers determine whether the Emerald/Two Rivers option would be the best way to go – or not.

Next Steps

If the County decides to move forward with building its own new jail, the following next steps are recommended:

- Create a Jail Planning Committee. The Committee should include staff and administrators that represent custody/security, mental health/medical, and facilities/maintenance. Some members of the Planning Committee should also become the Transition Team.
- Appoint a Big Horn County project manager to actively manage the project from initial planning through activation.
- Engage a corrections planner to conduct a needs assessment and develop a detailed plan. The scope of work should include profiling the jail population, projecting bed needs by category and by future time period, developing a mission statement, studying alternatives to incarceration and their impact on bed needs and costs, and creating a master plan. If needed, develop a request for proposals.
- Develop a mission statement, operational objectives, and design objectives for the mental health units.
- Profile inmates – define each sub-category of alleged and convicted offender, characteristics that will help define group sizes, eligibility for non-custody alternatives, and programs.
- Project bed needs by inmate category and time period (e.g., males who pose a risk to other inmates and/or themselves) – in 5-year increments over the next 15 to 20 years.
- The Committee and consultant tour and review information about other jails. Confirm/learn “best practices” and “what works” both operationally and pertaining to design; confirm/learn what not to do. In addition to structured tours with agendas and questionnaires, also review relevant studies and reports.
- Develop an Operational and Architectural Program. Once the numbers of beds and the number and sizes of the various mental health housing units are determined, then the planning consultant can lead the way in developing an operational and architectural program. This detailed document specifies functions, activities, staffing, numbers of spaces by type, sizes of spaces, space descriptions, and adjacency/flow requirements.
- Hire architects/engineers. Develop criteria and then a Request for Proposals. Review proposals. Check references. Score proposals. Develop short-list. Interview short-listed firms, and review their fee proposals. Hire best architecture/engineering team for Big Horn County.
- The Planning Team works closely and continuously with the architect/engineer, always ensuring that the design is following the mission and objectives; is in concert with the inmate profile and projections, and follows the operational and architectural program.
- The Transition Team develops Staffing Plan, Job Descriptions, Policies and Procedures, and Post Orders.
- Site options are studied and the site is selected.

- Transition Team, Sheriff's Office, and Personnel recruit and hire staff.
- Sheriff's Office or an academy train staff regarding precisely how to best operate the new jail.
- The Jail administrator and staff participate in NIC training.
- The architects/engineers develop at least two Conceptual Design Options. Planning Team and Decision-Makers review the Conceptual Designs and select elements of each one for the architect into incorporate in Schematic Design.
- Architects/engineers develop the Schematic Design for review and approval.
- The Transition Team selects and orders furniture and equipment for the new units and new support and program areas.
- Architects/engineers produce Design Development documents, again with reviews and approvals.
- Architects/engineers develop Construction Documents, including Working Drawings and detailed Specifications.

Appendix A: Montana Jail Standards Regarding the Physical Plant

Note that many other Montana Jail Standards indirectly impact the jail buildings. These, too, should be utilized in the planning and design of jails in Montana.

Detention Standards

Physical Plant

CHAPTER 19

Physical Plant for New Construction and Renovation

(Renovation, Additions, New Constructions only)

New Construction and Renovation

19.01 The facility conforms to applicable federal, state, and local building codes.

19.02 The facility conforms to applicable federal, state, and/or local fire safety codes. The authority having jurisdiction documents compliance. A fire alarm and automatic detection system are required, as approved by the authority having jurisdiction, or there is a plan for addressing these or other deficiencies within a reasonable time period. The authority approves any variances, exceptions, or equivalencies and these must not constitute a serious life-safety threat to the occupants of the facility.

General Conditions

19.03 Light levels in inmate cells/rooms are at least 20 foot-candles in personal grooming areas and at the writing surface. Lighting throughout the facility is sufficient for the tasks performed.

19.04 All inmate rooms/cells provide the occupants with access to natural light (existing, renovation, addition only).

19.05 Inmates in the general population who are confined in their rooms/cells for 10 or more hours daily have access to natural light by means of an opening or window of at least three square feet. Inmates in the general population who are confined in their rooms/cells for less than 10 hours daily have access to natural light through an opening or window as described above or through an opening or window of at least three square feet between their room/cell and an adjacent space (new construction only).

19.06 Noise levels in inmate housing units do not exceed 70 dBA (A Scale) in daytime and 45 dBA (A Scale) at night. Measurements are documented by a qualified, independent source and are checked not less than once per three years.

19.07 Temperature and humidity are mechanically raised or lowered to comfortable levels.

19.08 A ventilation system supplies at least 15 cubic feet per minutes of circulated air per occupant with a minimum of five cubic feet per minute of outside air. Toilet rooms and cells with toilets have no less than four air changes per hour unless state or local codes require a different

number of air changes. Air quantities are documented by a qualified independent source and are checked not less than once every three years.

19.09 The facility perimeter ensures inmates remain within the perimeter and that access by the general public is denied without proper authorization. Pedestrians and vehicles enter and leave at designated points in the perimeter. Safety vestibules and sallyports constitute the only breaches in the perimeter.

19.10 Essential lighting and life-sustaining functions are maintained inside the facility and with the community in an emergency.

Inmate Housing Areas

19.11 The facility supports separation according to existing laws and regulation and/or according to the facility's classification plan (addition, new construction).

19.12 Single cells provide at least 35 square feet of unencumbered space. At least 70 square feet of total floor space is provided when the occupant is confined for more than 10 hours per day.

19.13 Each inmate confined in a cell/room is provided with the following:

- A sleeping surface and mattress that allows the inmate to be at least 12 inches off the floor
- Access to a writing surface and proximate area to sit
- A place to store personal clothes and belongings

19.14 Multiple-occupancy rooms/cells house between two and 64 occupants and provide 25 square feet of unencumbered space per occupant. When confinement exceeds 10 hours per day, at least 35 square feet of unencumbered space is provided for each occupant.

19.15 Each dayroom provides a minimum of 12 square feet of transparent glazing with a view to the outside, plus two additional square feet of glazing per inmate whose room/cell does not contain an opening or window with a view to the outside

19.16 Dayrooms with space for varied inmate activities are situated immediately adjacent to inmate sleeping areas. Dayrooms provide a minimum of 35 square feet of space per inmate (exclusive of lavatories, showers, and toilets) for the maximum number of inmates who use the dayroom at one time. No dayroom encompasses less than 100 square feet of space, exclusive of lavatories, showers, and toilets.

19.17 Dayrooms provide sufficient seating and writing surfaces. Dayroom furnishings are consistent with the custody level of the inmates who are assigned.

19.18 Single cells provide at least 35 square feet of unencumbered space. At least 70 square feet of total floor space is provided when the occupant is confined for more than 10 hours per day

19.19 Adequate space is provided for administrative, security, professional, and clerical staff. This space included conference rooms, storage room for records, public lobby, and toilet facilities.

19.20 Both outdoor and covered/enclosed exercise areas for general population inmates are provided in sufficient number to ensure that each inmate is offered at least one hour of access daily. Use of outdoor areas is preferred, but covered/enclosed areas must be available for use

in inclement weather. Covered/enclosed areas can be designed for multiple uses as long as the design and furnishing do not interfere with scheduled exercise activities.

The minimum space requirements for exercise areas are as follow:

- Outdoor exercise areas in facilities where 100 or more inmates utilize one recreation area – 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 1500 feet of unencumbered space
- Outdoor exercise areas in facilities where less than 100 inmates have unlimited access to an individual recreation area – 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 750 square feet of unencumbered space
- Covered/enclosed exercise areas in facilities where 100 or more inmates utilize one recreation area have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 1000 square feet of unencumbered space.
- Covered/enclosed exercise areas in facilities where less than 100 inmates utilize one recreation area have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, with a minimum ceiling height of 18 feet, but not less than 500 square feet of unencumbered space.

19.21 Segregation units have both outdoor and covered/enclosed exercise areas. The minimum space requirements for outdoor and covered/enclosed exercise areas for segregation units are as follow:

- Group yard modules – 15 square feet per inmate expected to use the space at one time, but not less than 500 square feet of unencumbered space
- Individual yard modules – 180 square feet of unencumbered space.

In cases where cover is not provided to mitigate the inclement weather, appropriate weather-related equipment and attire should be made available to the inmates who desire to take advantage of their authorized exercise time.

Operational Support Areas

19.22 Correctional officer posts are located in or immediately adjacent to inmate living areas to permit officers to see or hear and respond promptly to emergency situations.

19.23 Space is provided for a 24-hour secure control center for monitoring and coordinating the facility's security, life-safety, and communications systems. Staff assigned to a control center has access to a toilet and wash basin. There are multiple communication systems between the control center and inmate-occupied areas.

19.24 Physical plant designs facilitate continuous personal contact and interaction between staff and inmates in housing units. All living areas are constructed to facilitate continuous staff observations, excluding electronic surveillance, of cell or detention room fronts and areas such as day rooms and recreation spaces (Renovation, addition, new construction only) .

19.25 Space is provided in the facility to store and issue clothing, bedding, cleaning supplies, and other items required for daily operations.

19.26 Janitorial Closets – Adequate space is provided for janitorial closets accessible to the living and activity areas. The closets are equipped with a sink and cleaning implements.

19.27 Mechanical Equipment – Separate and adequate space is provided for mechanical and electrical equipment.

19.28 Space is provided for the secure storage of less lethal devices, and related security equipment. Access is restricted to authorized persons only, and the storage space is located in an area separate and apart from inmate housing or activity areas.

Appendix B: Excerpts from Montana Codes pertaining to Private Detention & Correctional Facilities

The following is from Montana State Codes. Highlighted statements are particularly relevant to the Two Rivers facility.

53-30-604. Department duties and responsibilities -- rulemaking authority. (1) (a) The department shall adopt administrative rules that include the minimum applicable standards for the siting, construction, operation, and physical condition of a private correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a private correctional facility.

(b) The administrative rules must require that a private correctional facility conform to applicable American correctional association and national commission on correctional health care standards for the facility and achieve accreditation from the American correctional association and national commission on correctional health care within 3 years from the date the facility begins operation.

(c) The administrative rules must provide for review and approval of facility design and construction by the department of administration.