



# HB 5 Select Committee Report on Correctional Capacity

**2025 BIENNIUM**



## CONTENTS:

1. Motivation and Authority
2. Background and Past Commissions
3. Data and Findings
4. Options to Consider
5. Implementation

## SECTION 1: MOTIVATION AND AUTHORITY

In response to the ongoing challenges of Montana prison facilities operating over capacity and anticipating future capacity needs, the 2023 Montana Legislature established the House Bill 5 committee to ["focus on establishing an overall framework and implementation plan for long-term facility needs and immediate improvements for department of corrections facilities."](#) The committee consists of nine legislators who met on four occasions to consider testimony concerning prison building plans, alternative programs, and sentencing and parole decisions. The committee's final recommendations are described in detail in section 4 of this report.

### Summary of Findings:

- The overall facility offender population has grown by nearly 65.3% over the last 24 years while the Montana resident population has grown by about 26.3%
- Every secure prison facility in the state is at or over capacity. In FY 2024, men's facilities average 5.0% over capacity including 245 contracted beds in Arizona, and women's facilities average 14.0% over capacity
- While overall rates of reported crime have been declining in Montana, reported violent crime and sexual crime rates have been increasing. This has led to a larger proportion of individuals being sentenced for more serious offenses, which led to longer sentences and additional capacity challenges
- The state is projected to see up to 230 new female offenders and 1300 male offenders within the next two decades. The state is already at capacity and experiencing difficulties in taking custody of convicts post-sentencing, stressing local detention centers to hold offenders. Approximately, an additional 450 beds are needed if the state is to address the backlog of inmates who are held in local jails because there is not enough space in state facilities

### Summary of options to consider:

- Fund identified infrastructure improvements needed to complete the current build provided for during the 2023 Session
- Fund two additional housing units and a programming/dining building as part of the current low-side replacement for an increase in capacity of approximately 512 beds
- Fund the construction of a new 450-500 bed women's prison and repurpose the existing MWP as additional secure capacity or consider a new facility at approximately half of this size and split the woman offender population between the two areas
- Fund additional contracted capacity in lieu of facility construction to cover the projected increase in offender populations

## **SECTION 2: BACKGROUND AND PAST COMMISSIONS**

This section will review the findings and recommendations of past committees and commissions that have investigated the Montana justice system from 1988 to 2016.

### **Criminal Justice and Corrections Advisory Council – 1988 & 1990 Background and Recommendation**

This investigative council, established by executive order, began in 1989 out of concerns of prison overcrowding. It “culminated in 17 recommendations which, if fully implemented, could alleviate prison overcrowding in Montana through 1995.”<sup>1</sup> Prison populations had grown 8.8 % year-over-year nationally from 1980 to 1986, and Montana was experiencing rising prison populations even though crime rates were decreasing and the population of males ages 18-34 had been consistent.

The council cited many reasons for the increasing prison population, including a doubling in consecutive sentences rather than concurrent ones, 55.0% of bills from the previous six legislative sessions increasing prison populations while only 19.0% decreased prison populations, a decrease in parole releases granted, and an increase in the proportion of the incarcerated population that were serving a sentence for their first felony conviction in Montana.

Nine of the recommendations addressed overcrowding issues, in three broad categories: expansion of electronic supervision for pre-prison diversion and supervised release, changes to parole, and jails for brief holds instead of prisons. The changes to parole are the most expansive, including discretionary early discharges from parole, better programming to improve inmates’ eligibility for parole, and an increase in parole officers. The council projected that these changes would save about six hundred prison beds and cost about \$1.8 million.

### **Corrections Advisory Council - Managing Montana’s Growing Adult Offender Population 2009**

The 2007 Legislature authorized a long-term study of the adult corrections system (including hiring consultants) the same year as Governor Schweitzer issued an executive order in 2007 to extend the Corrections Advisory Council with the goal of strategically planning for the growth in Montana’s prison capacity due to increasing population. This combined report<sup>2</sup> addressed alternative programs and community corrections, and projected future facility capacity needs and offered solutions.

---

<sup>1</sup> [126676NCJRS.pdf \(ojp.gov\)](https://www.ojp.gov/ncjrs/126676/126676NCJRS.pdf)

<sup>2</sup> [https://wayback.archive-it.org/499/20090911182500/http://cor.mt.gov/content/Resources/CorAdvCouncil/Archive/August\\_2009/GovReport.pdf](https://wayback.archive-it.org/499/20090911182500/http://cor.mt.gov/content/Resources/CorAdvCouncil/Archive/August_2009/GovReport.pdf)

Consultants on the project estimated the offender population to grow by 3.9% annually, leading to an expected shortage of 2,172 prison and treatment center beds by 2020, though the Corrections Advisory Council thought these figures might be an overestimate. The consultants also projected the number of offenders on parole to increase by 52% by 2025.

The consultants proposed building a new correctional facility for men and women in the Billings area that would increase capacity by 1,800 beds, including mental health beds and a mixture of security levels.

In light of this recommendation and their own research, the Corrections Advisory Council offered four recommendations to the governor: establish an out-of-prison treatment program for level 1 and level 2 sex offenders; create a facility to treat medical and mental health of inmates; provide up to 512 new beds for male inmates (no specification of where or how) and up to 256 new beds for women inmates (either new building or expansion, Billings preferred location). The Council did not adopt the consultants' recommendation to build a large correctional complex in Billings.

#### **NGA Center and Pew Charitable Trusts with Montana Department of Corrections and the Governor's Office** Policy Options for Improving Public Safety, Holding Offenders Accountable, and Containing Corrections Costs in Montana 2014

This interesting partnership to better understand the Montana criminal justice system found that since 1998, the prison population has increased by 32 percent<sup>3</sup>, offenders are spending more time in prison (20 percent more, on average), and the prison population is mostly at low risk of reoffense.<sup>4</sup> Additionally, fewer probations are ending in the offender's release, with more being terminated by technical violations (such as missing a meeting or failing a drug test). In a similar vein, reoffense rates were up, but 89% of reoffenders returned for a technical revocation, rather than a new crime. So the report found that more offenders are coming into the system, staying longer, and are more likely to return to prison (all compared to 1998). Intakes to prison alternative programs nearly tripled between 1998 and 2013.

This report offered a framework for approaching the problems facing the Montana justice system, but no recommendations.

#### **Justice Reinvestment in Montana:** Report to the Montana Commission on Sentencing – 2015 to 2016

---

<sup>3</sup> Interestingly, the report includes this footnote: "Although there has been a slight increase in the violent crime rate (33 percent) between 1998 and 2013, the state's property crime rate declined 38 percent. Based on the analysis, the changes in crime rates are not driving the prison population increase." <https://leg.mt.gov/content/Committees/Interim/2015-2016/Sentencing/Committee-Topics/Study-Resources/nga-pew-report-2014-montana-corrections.pdf>

<sup>4</sup> <https://leg.mt.gov/content/Committees/Interim/2015-2016/Sentencing/Committee-Topics/Study-Resources/nga-pew-report-2014-montana-corrections.pdf>



This commission was established by the 201 Legislature to offer policies to devote resources to the offenders most likely to reoffend and reduce recidivism to alleviate prison overcrowding and reduce future prison expenses. Their final report included seventeen recommendations on many angles of the criminal justice system, sorted into the categories “increase public safety and reduce recidivism”, “avert prison population growth”, “provide tools to reduce pressure on jails”. In light of the NGA Center and Pew report above, the recommendations included several parole reforms: focusing on those likely to reoffend; implement consistent and evidence-based parole board standards; and limiting terms of incarceration for technical violations of probation and parole to focus re-incarceration resources on those who are charged with new crimes. The commission also recommended a few changes to divert offenders away from prison, including removing prison time as a sentence for traffic offenses except driving under the influence, and establish or expand substance abuse treatment program alternatives to prison.

Considering their recommendations, the commission voted to forward 12 bills to the 2017 Legislature. Below is a table of the contents of each bill and how each fared in the 2017 session.

#### **Final Status of 2015-2016 Commission on Sentencing Bills**

<b>Bill #</b>	<b>Short Title</b>	<b>Description</b>	<b>Status</b>
SB 59	Generally revise criminal justice laws	Establishes pretrial risk assessment and deferred prosecution grant programs and allows courts to use pretrial risk assessment information; eliminates a required report from judges or justices related to drug users; creates an oversight council to monitor and report on criminal justice legislation; creates reporting requirements for the Department of Corrections; requires the department's Quality Assurance Unit to adopt an evaluation tool to use to conduct program evaluations; requires the department to adopt an incentives/interventions grid to use for community supervision.	Enacted
SB 60	Generally revise criminal justice laws	Revises presentence investigation laws; requiring training for corrections employees on risk assessment and evidence-based practices; requiring the department to use risk and needs assessments to drive supervision and correctional practices and to validate the risk assessment tool.	Enacted
SB 61	Requiring certain facilities providing behavioral health srvcs to be lic by DPHHS	Requires facilities to be licensed by the Department of Public Health and Human Services if the facility provides inpatient behavioral health treatment services and is operated by or contracts with the Department of Corrections.	Died in process (Tabled in Senate Judiciary)
SB 62	Certification for behavioral health peer support specialists	Creates a certification process for behavioral health peer support specialists through the Board of Behavioral Health.	Enacted
SB 63	Revise laws related to supervision of offenders/defendants	Revises laws related to the supervision of probationers and of defendants servicing a deferred or suspended sentence; requires the Department of Corrections to adopt an incentives/interventions grid to use for community supervision.	Enacted

Bill #	Short Title	Description	Status
SB 64	Generally revise laws related to the board of pardons and parole	Revises the board's size and structure to make it a five-member, full-time board; requires the board to adopt structured parole guidelines and provide training; revises supervision and revocation processes.	Enacted
SB 65	Generally revise laws regarding housing options for offenders	Creates a housing policy for the state; establishes a supportive housing grant program; allows the Department of Corrections to offer rental vouchers to certain offenders and to keep data on certain offenders.	Enacted
SB 66	Generally revise the crime victims compensation act	Revises times and qualifications for claims; increases funeral benefits and adds clean up and relocation benefits.	Died in process (Tabled in Senate Judiciary)
SB 67	Generally revise offender intervention program laws	Requires Board of Crime Control to adopt statewide standards for services offered through the offender intervention program; allows grant funding to be used to develop and implement standards.	Enacted
HB 133	Generally revise sentencing laws	Revises criminal sentencing laws, including drug sentences, drug education courses, persistent felony offender designation, theft and related offenses, certain mandatory minimums, and other sentencing laws.	Enacted
HB 143	Generally revise criminal justice laws	Creates an oversight council to monitor and report on criminal justice legislation; creates reporting requirements for the Department of Corrections; requires the department's Quality Assurance Unit to adopt an evaluation tool to use to conduct program evaluations; requires the department to adopt an incentives/interventions grid to use for community supervision.	Bill withdrawn by the sponsor  [SB 59 was amended by the House Judiciary Committee to include HB 143 language]

Bill #	Short Title	Description	Status
SJ 3	Interim study of tribal resources for members involved in crim justice system	Requests an interim committee study to explore increasing access to tribal resources for tribal members who are in the state's criminal justice system.	Enacted

Last updated May 19, 2017

Senator Cynthia Wolken was the main sponsor of all of the Senate Bills. Representative Nate McConnell sponsored HB 133, and Rep. Ryan Lynch sponsored HB 143.

## **SECTION 3: DATA AND FINDINGS**

This section will include a summary of what the committee has learned in terms of data presented.

### **HISTORICAL POPULATIONS WITHIN FACILITIES**

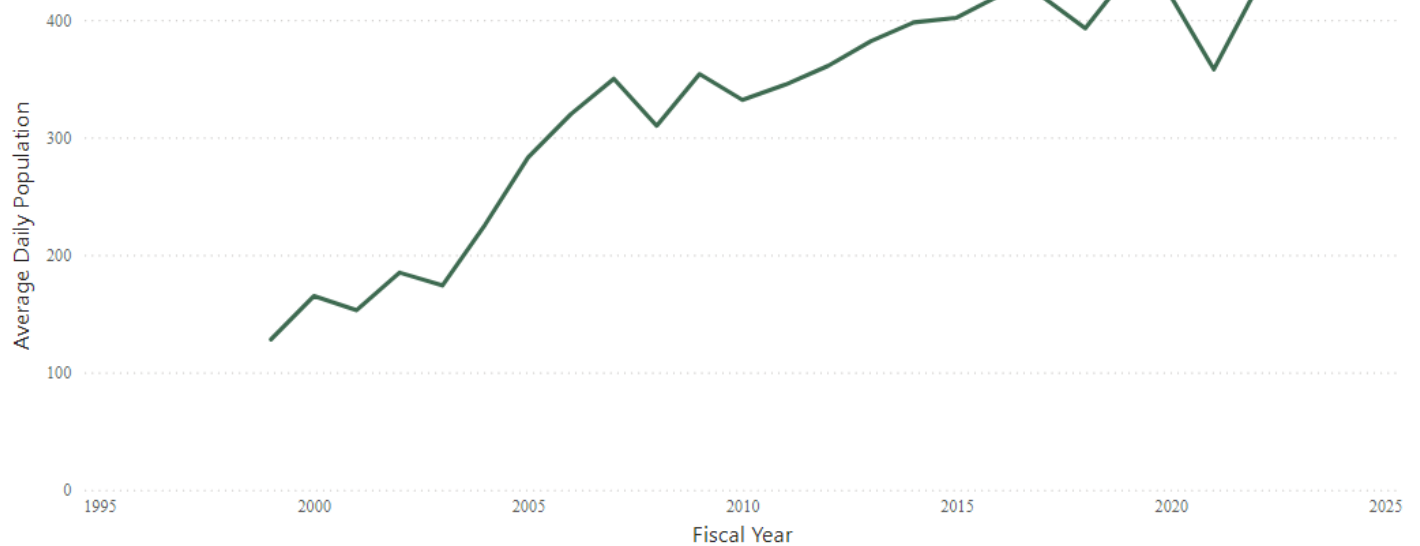
A large amount of data was requested at the beginning of the interim from the Department of Corrections (DOC) to aid the committee in understanding the capacity within Montana's offender correctional system and how the population of the offenders has been trending and may continue to trend in the future.

For the purposes of this report, facility capacity within the Montana correctional system is separated into two main categories, secure facilities and alt-secure facilities. Alt-secure facilities can be thought of as alternatives to secure placements and include treatment, pre-release, and assessment / sanction centers. For the next section which provides a historical look at the overall offender populations housed within facilities, pre-release centers are not included in the numbers. Within data received by the DOC, these facilities are categorized in community supervision populations and are lumped into a category with offenders on probation and parole, making historical numbers hard to identify. A more detailed look at current populations within pre-release centers are provided in the Alt-Secure Facilities section of this report.

#### **Total Population in Secure and Alternative Facilities:**

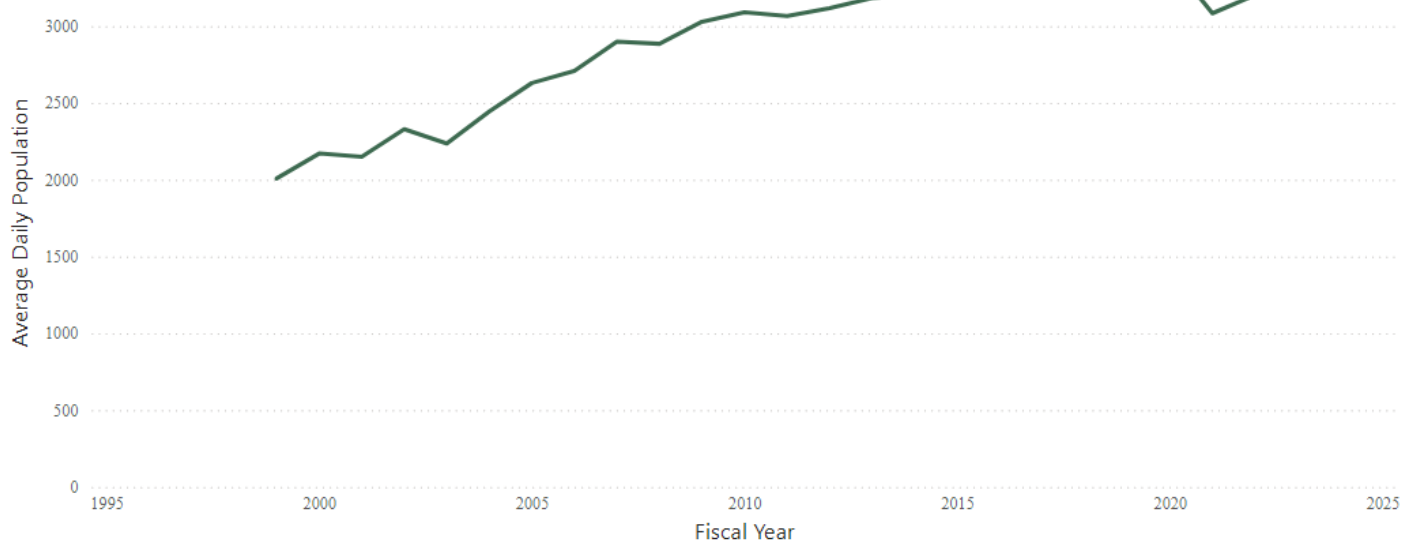
The following data combines all facilities by gender providing an encompassing look at changes in the female and male offender populations within facilities over time. Data is provided for the period FY 1999 – FY 2024 with numbers for FY 2024 being based off results through September 2023. Data includes all secure and alternative facility counts except pre-release centers. Historical jail holds have been included in the numbers. Jail holds refer to local detention centers in which DOC is housing a convicted offender but does not have available placement for that offender in another facility. The top chart below reflects changes within the average daily population (ADP) of male offenders while the lower chart focuses on the female population.

Historical Female ADP by Fiscal Year



Source: DOC Average Daily Population Data

Historical Male ADP by Fiscal Year



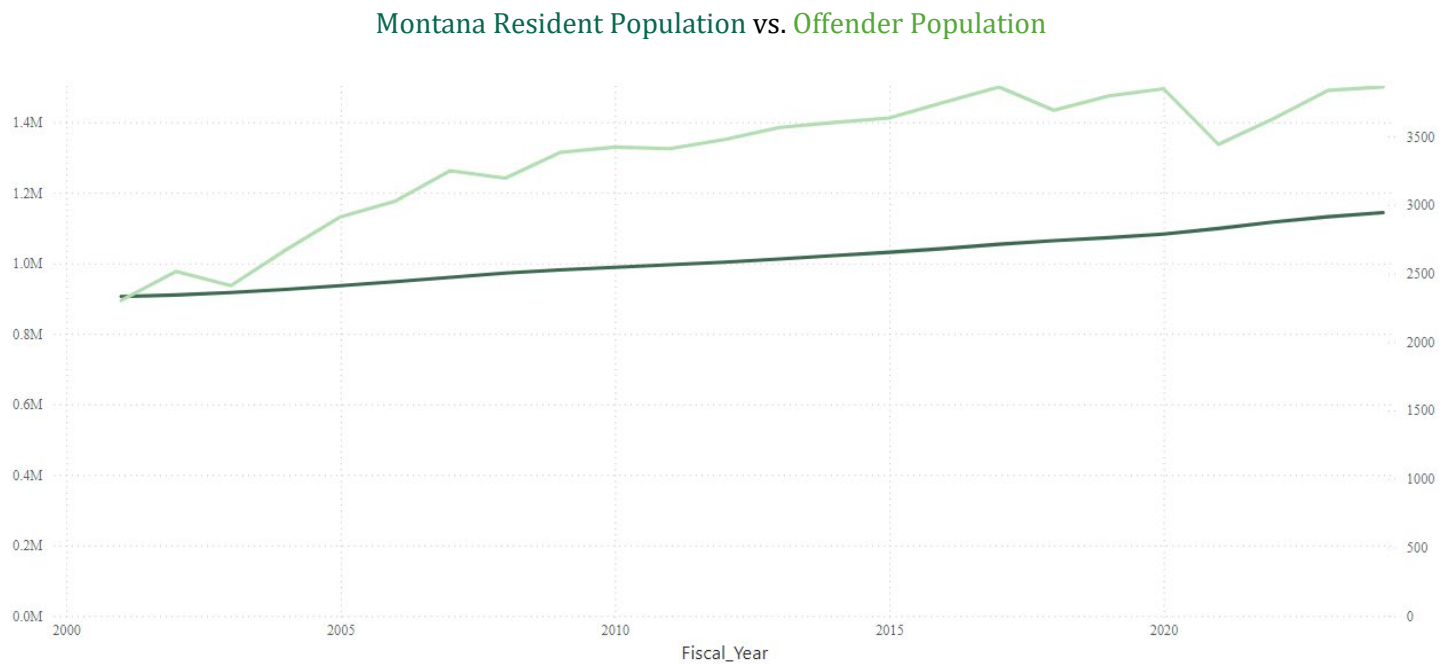
Source: DOC Average Daily Population Data

When looking at the male offenders, the overall population within facilities (including those waiting secure placement and sitting within county detention centers) has grown from just over 2000 individuals in FY 2000 to nearly 3500 in FY 2024. This represents growth of nearly 57.5% over the last quarter century. Within female



facilities and holds awaiting placement at female facilities, the offender population has grown from roughly 150 offenders in FY 2000 to 450 offenders in FY 2024 representing an overall increase of 170.0% in that time frame.

Total combined offender populations within facilities have historically outpaced the growth of Montana's overall resident population for the period of FY 2000 – FY 2024. This is evident when viewed below. The lighter line reflects offender populations while the darker line reflects Montana resident populations containing both males and females.



*Source: LFD created*

The overall facility offender population (minus pre-release) has grown by nearly 65.3% over the last 24 years while the Montana resident population has grown by about 26.3%.

### **Secure Facilities:**

Montana currently has six adult secure facilities, which includes state-owned facilities and contracted facilities. These facilities, including their capacity and most recent average daily population (ADP) numbers, are as follows:

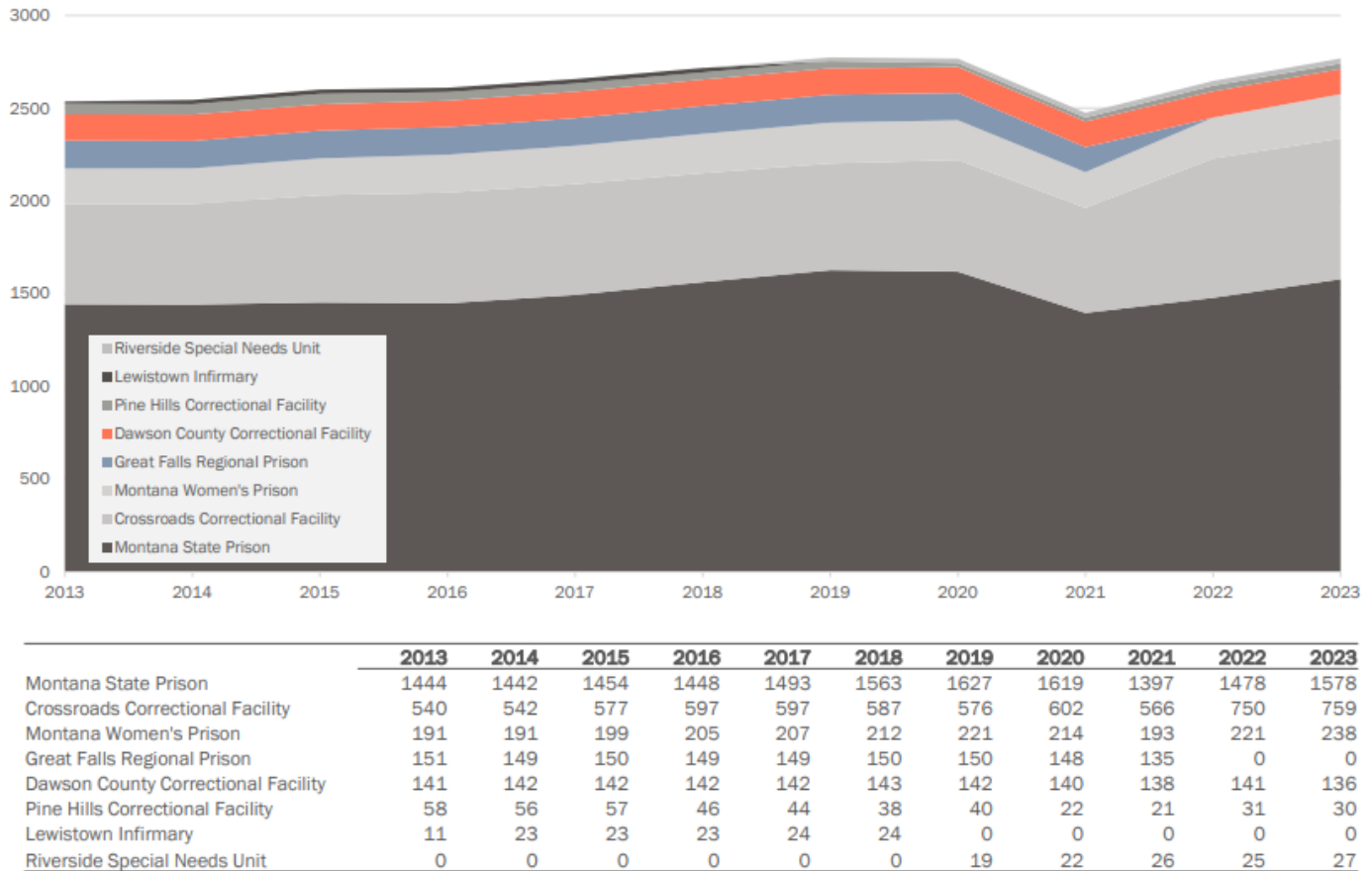
Current Secure Facilities in Montana			
Facility	Operational Capacity	FY 2024 ADP*	Current % of Total Capacity
Montana State Prison	1526	1576	103.3%
Riverside Special Needs Unit	25	28	112.0%
Crossroads Correctional Center	753	757	100.5%
Saguaro Correctional Center	120	120	100.0%
Dawson County Correctional Facility	141	142	100.7%
Male Secure Jail Holds	0	66	
<b>Male Total</b>	<b>2565</b>	<b>2689</b>	<b>104.8%</b>
Montana Woman's Prison	240	247	102.9%
Female Secure Jail Holds	0	26	
<b>Female Total</b>	<b>240</b>	<b>273</b>	<b>113.8%</b>
* ADP numbers for FY 2024 are calculated off first quarter (July 1 - September 30) data			

The majority of secure facility capacity (approximately 91.4%) is used to house male offenders. Currently within secure facility capacity, the Department of Corrections operates 63.9% of total secure capacity with the remaining capacity received through contracts. As seen in the table above, the Department is currently utilizing all capacity in secure facilities. In almost all instances, facilities are over capacity. One recent addition to secure capacity comes in the form of additional secure facility beds at the Saguaro Correctional Facility in Arizona secured by a contract with Core Civic. The Department began utilizing 120 beds in November 2023, and all 120 beds are currently being utilized. This capacity was increased to 240 inmates in August of 2024. The situation regarding offenders being housed in local detention centers has gotten worse throughout FY 2024, and in addition, the department was unable to renegotiate a new contract with the Missoula Assessment and Sanction Center which resulted in the need for immediate additional capacity. This effectively added additional secure capacity but at the loss of alternative placements at MASC. Due to the timing of some of the data sets utilized, these changes may not have been incorporated into some of the charts reflected below. While this occurred outside of the first quarter of FY 2024, this is current capacity being utilized and is included.

Jail holds is another area worth noting. Due to facilities being at capacity, the Department contracts with local county detention centers to house offenders who have been sentenced and are waiting a placement within a secure facility. As of the first quarter of FY 2024, 92 offenders were currently in these local detention placements and contribute to the secure population. These jail holds reflect those waiting for a secure placement and do not include those waiting for placement within an alternative facility. Those remaining jail holds will be discussed in the next section. In May of 2024, the department was operating with a total secure population that exceeded current operational capacity by approximately 5.6%. Jail holds have increased over the interim reflecting the need for additional capacity. Current jail hold numbers in September were 450-470 daily.

The following data presented to the committee by the Department of Corrections shows a more historical look into how the offender population in these secure facilities has changed from FY 2014 – FY 2024. A few changes in terms of which facilities contribute to this overall secure population are described as well.

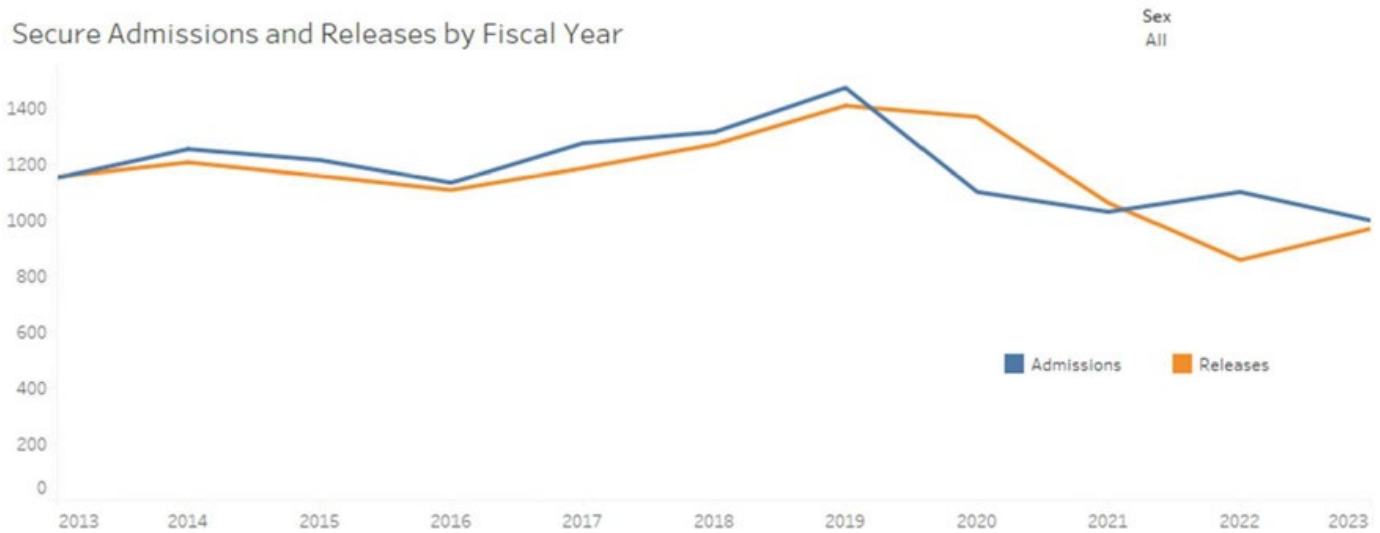
Montana Secure Facility Average Daily Population, FY2013-FY2023



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

During the last ten years, there have been two major changes to secure facility capacity in Montana. In FY 2019, the Lewistown Infirmary was repurposed for use by the Department of Public Health and Human Services, and this offender population was moved to the Riverside Special Needs Unit. In FY 2021, contracts with the Great Falls regional prison ended, and this capacity was moved to an expansion at the Crossroads Correctional Center. There were no real changes to capacity related to this change.

As seen in the figure above, the offender population housed within secure facilities has been increasing (albeit at a relatively small rate) except for the period between FY 2020 and FY 2021. This decreasing trend reflects the effects of COVID on the criminal justice system and can also be attributed to efforts made to prevent institutional outbreaks of COVID. This becomes evident when looking at the number of admissions into secure facilities for the last ten fiscal years. Admissions have always outpaced releases in these facilities with the exception of FY 2020 and 2021 during the peak of the COVID pandemic.



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

## Alt - Secure Facilities

The committee wanted to look at bed capacity and needs of the state as a whole and not just those needs within secure facilities. There are other types of facilities within the Montana offender system that are utilized as alternative placement options to incarceration in a secure facility. These facilities can be separated into three main categories representing pre-release centers, assessment/sanction centers, and centers for the treatment of substance use disorders. These are all contracted facilities, and capacity available to the Department of Corrections is based off contracted amounts and facility availability.

Contracted assessment and sanction centers act as housing for offenders awaiting a bed placement at another facility or to house offenders serving sanctions for disciplinary actions. Offenders will participate in an assessment process which includes mental health evaluations, chemical dependencies, and more. Current assessment and sanction centers in Montana include the following:

<b>Currently Utilized Assessment/Sanction Centers</b>			
<b>Gender</b>	<b>Facility Name</b>	<b>Operational Capacity</b>	<b>Current ADP*</b>
Female	Passages Assessment and Sanction Center	72	57
Male	Pine Hills Correctional Facility	88	65
Male	Missoula Assessment And Sanction Center	144	134
Male	Start	152	153
<b>Totals</b>		<b>456</b>	<b>409</b>
* Current ADP numbers taken from the MT DOC website on 6/1/2024			

NOTE: Since the creation of this report, the Missoula Assessment and Sanction Center (MASC) is no longer available as contracted capacity for the DOC. The DOC was unable to renegotiate contract terms, and thus, has increased capacity in Arizona to replace that capacity that was originally housed at MASC.

Contracted treatment centers offer more intensive residential inpatient treatment for substance use disorder. These facilities can be split into three different purposes: DUI treatment, 90-day substance use disorder treatment, and long-term treatment. Current treatment facilities in Montana include the following:

<b>Currently Utilized Treatment Facilities</b>			
<b>Gender</b>	<b>Facility Name</b>	<b>Operational Capacity</b>	<b>Current ADP*</b>
Female	Elkhorn Treatment Center	51	55
Female	Passages Alcohol And Drug Treatment	55	67
Male	Connections Corrections Program (Butte)	62	61
Male	Connections Corrections Program (Warm Springs)	86	80
Male	Nexus	82	82
Male	Watch - West	81	89
<b>Totals</b>		<b>417</b>	<b>434</b>
* Current ADP numbers taken from the MT DOC website on 6/1/2024			

Contracted pre-release centers make up the remainder of alternative facility capacity in Montana. Pre-release facilities serve two purposes. First, pre-release centers act as an alternative to traditional incarceration for some offenders. Second, these facilities serve to assist offenders transitioning from a secure facility back into the community. These tend to be six-month programs in which offenders will live at the facility but work in the community. Current pre-release centers in Montana include the following:



<b>Currently Utilized Pre-Release Centers</b>			
<b>Gender</b>	<b>Facility Name</b>	<b>Operational Capacity</b>	<b>Current ADP*</b>
Female	Missoula Correctional Services (Prerelease)	23	21
Female	Butte Prerelease Center - Female	60	64
Female	Great Falls Transition Center	34	36
Female	Passages Prerelease Center	76	95
Male	Gallatin County Re-Entry Program	34	45
Male	Missoula Correctional Services (Prerelease)	94	53
Male	Helena Prerelease Center	109	103
Male	Billings Pre Release Center	173	184
Male	Great Falls Transition Center	171	155
Male	Butte Prerelease Center - Male	120	132
<b>Totals</b>		<b>894</b>	<b>888</b>
* Current ADP numbers taken from the MT DOC website on 6/1/2024			

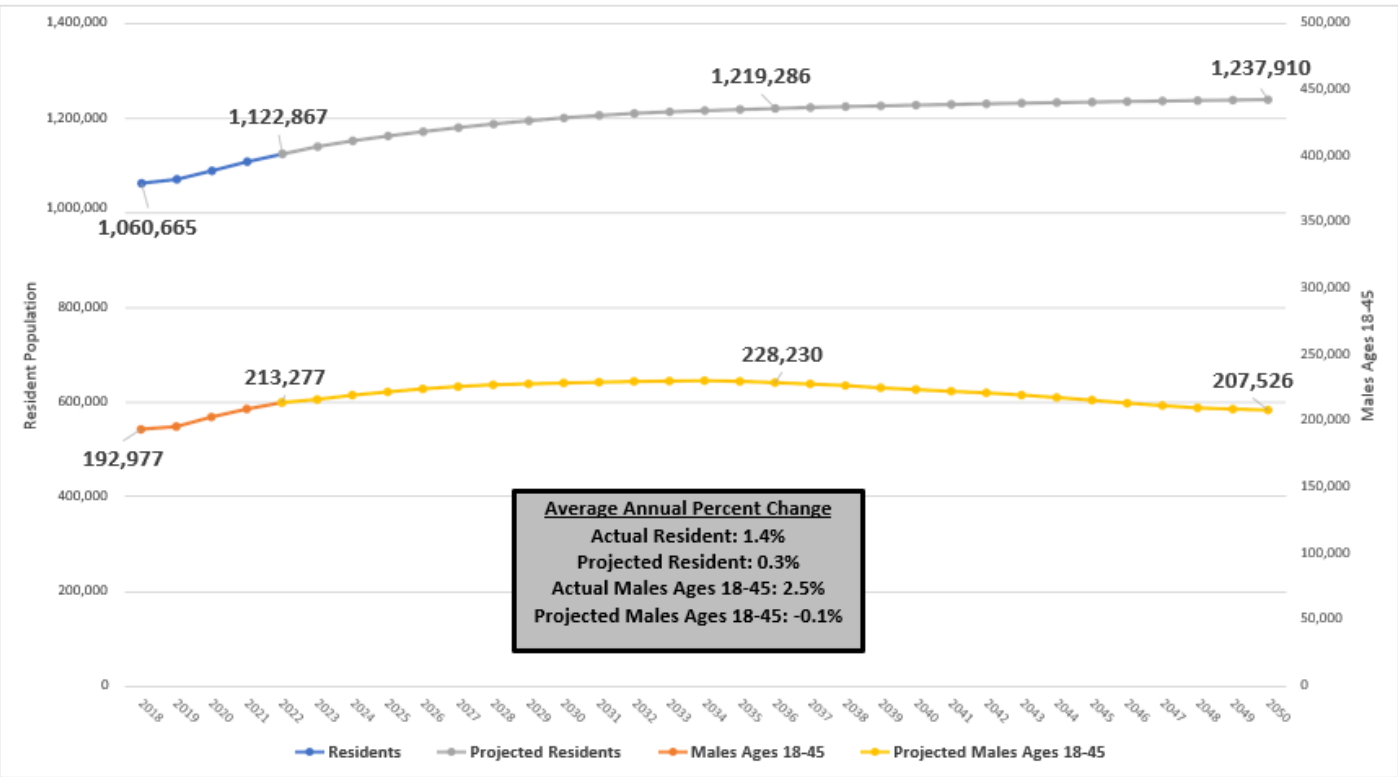
## **RECENT CHANGES IN CRIME AND OFFENDER POPULATIONS**

The committee was particularly interested in data looking at the makeup of offenders who have recently entered Montana's correctional system in terms of their prior history, current offenses, and length of stay. The following data comes from the Department of Corrections in conjunction with the JFA Institute for the purposes of analyzing the drivers behind Montana's prison population. The JFA Institute is a non-profit agency that works with government entities to evaluate criminal justice practices and design policy solutions.

Crime data is used as an exploratory reference to attempt to explain the recent rise in offender populations despite the lower number of admissions in more recent years. An important point to consider is the disconnect between reported crime and the offense to which an individual is ultimately sentenced for due to what happens within the court system. If crimes do not get reported, they will not show up in the data. Additionally, a jury may find a defendant not guilty of the offense. Crime data provides some possible explanations as to why populations continue to increase, but there is not a direct relationship between committed crime and convicted offenses. This area of the report attempts to provide a look into that disconnection in lieu of the creation of the criminal justice data warehouse contained in SB 11 of the 2023 Session which looks to connect data from all aspects of the system including the courts. A look at the offenses of the individuals under DOC custody is provided further down in this section of the report.

The chart below was presented by the JFA Institute and shows census data including projections for the overall population of Montana in addition to what is considered the most crime-prone population, males between the ages of 18-45. As seen in the chart, Montana has experienced a large increase in terms of resident population of approximately 1.4% each year since 2018 and an even larger spike in the at-risk population of 2.5% per year. The data projects that the proportion of individuals in Montana who are part of this crime prone population would start to decline, but this is an assumption that may not come to fruition.

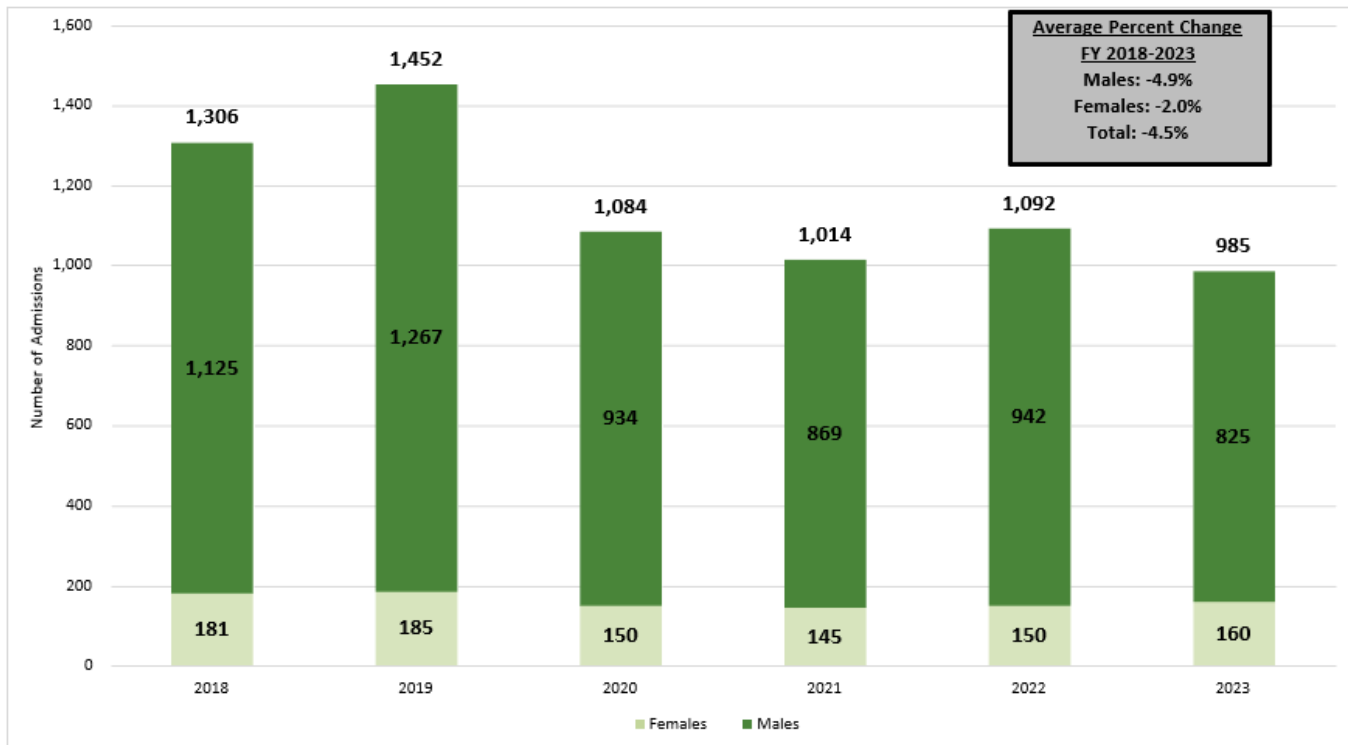
# Historical & Projected Montana Resident Population



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

COVID changed many aspects of the correctional system including the number of admissions into the system. Admissions to prison dropped dramatically during the COVID years as can be seen in the chart below. This was seen all over the country, and prison admissions within Montana have been holding relatively stable since the COVID decrease as seen in the table below.

## Historical Montana Prison Admissions

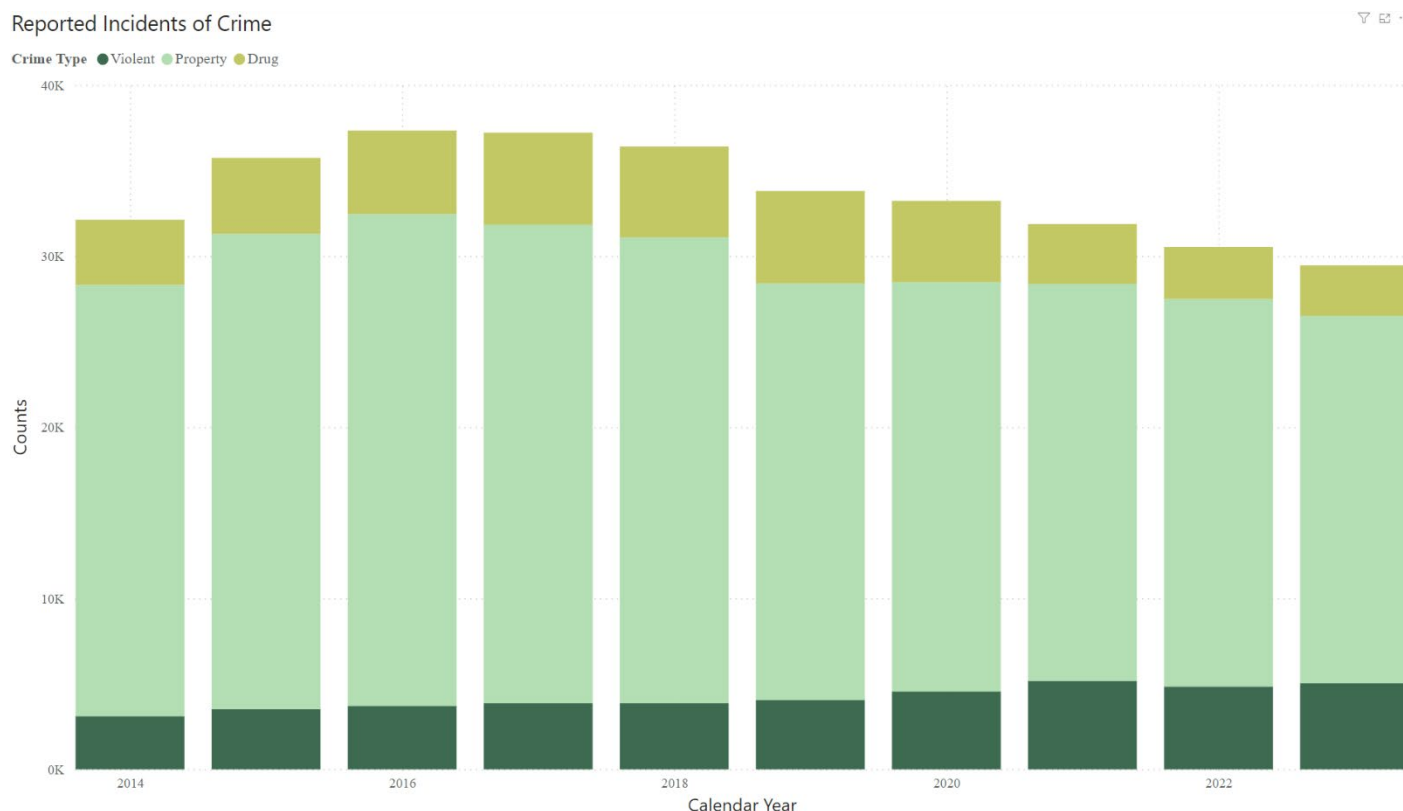


Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

With total admissions being down and the population continuing to increase, something must be explaining this trend. The number of individuals supervised within the system for property and other less serious offenses went down during the last 7 years, but the number coming into the system for more serious offenses (violent, weapon, sexual) has increased. However, the increase in the proportion of offenders supervised for a more serious offense has not increased at the same level of reported violent crime incidents indicating the disconnect between what happens during arrest and conviction.

When viewing the picture of crime committed in Montana, it has begun to shift in more recent years towards more violent or “serious” offenses that are typically associated with longer sentences / length of stay within the system. The next chart reflects reported incidents in terms of property, drug, and violent crimes. Violent crime follows the FBI definitions and includes offenses such as murder, rape, robbery, aggravated assault, etc. Data was obtained from the Montana Board of Crime Control Dashboards found here:

<https://mbcc.mt.gov/Data/Montana-Reports/Crime-Dashboards>.



Total numbers of reported crime related to property, drug, and violent incidents have been declining since calendar year 2016, but violent crime numbers have been increasing. From calendar year 2016 through 2023, the total number of reported crimes within these three categories went from just over 37,300 incidents to 29,400 representing a 21.2% drop in total reported crimes. When looking solely at violent incidents, activity has increased from 3714 incidents to 5034, representing an increase of over 35.0%.

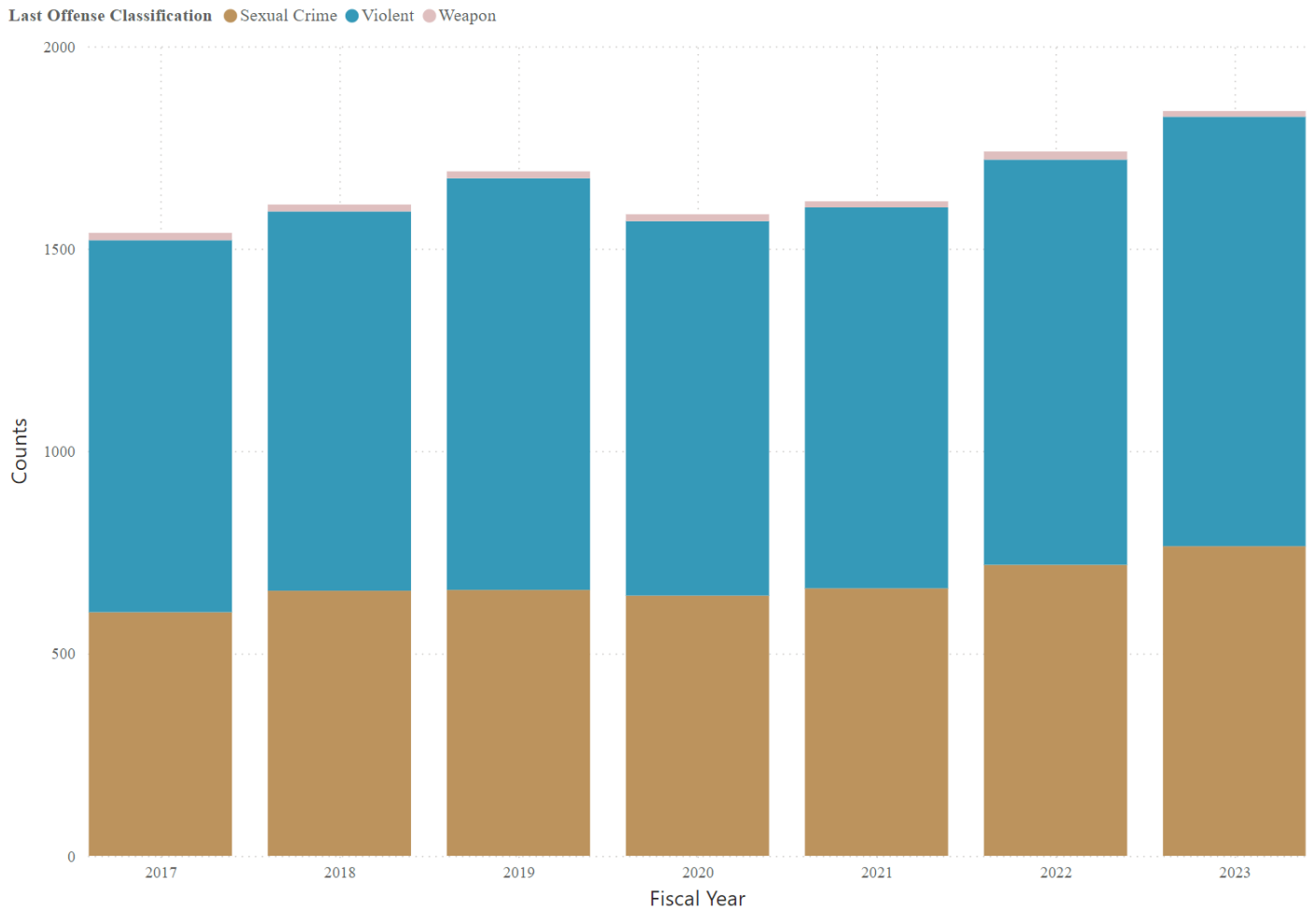
The situation in Montana does not compare favorably when looked at side-by-side with national trends. The resident population in Montana is growing faster than that of the United States, and rates of violent crime incidents are higher in Montana (440 per 100,000 residents) vs the national average (381 per 100,000 residents). However, this represents only those crimes that have been reported.

With what we have seen in terms of reported criminal incidents, we also see the effects this increased crime can have in terms of the makeup of the offender population. The chart below shows the amount of individuals who were being supervised by the DOC in secure and alternative facilities for the last seven fiscal years. Offenses shown include violent, weapon, and sexual offenses.

Over this period of time, there has been an increase in the number of people being housed for these more serious offenses. There was a drop from FY 2019 to FY 2020 reflecting the impacts of COVID on the overall offender population, but all other years reflect a year over year increase. With the more substantial increase seen in FY 2022 and FY 2023, the overall proportion of individuals sitting under DOC custody within facilities has increased to approximately 64.0%, up from 54.0% just five years ago. This increase in these offense types

effects the overall length of stay of individuals in facilities and disrupts the flow of individuals being admitted to and released from the system.

### Counts of More Serious Offenses



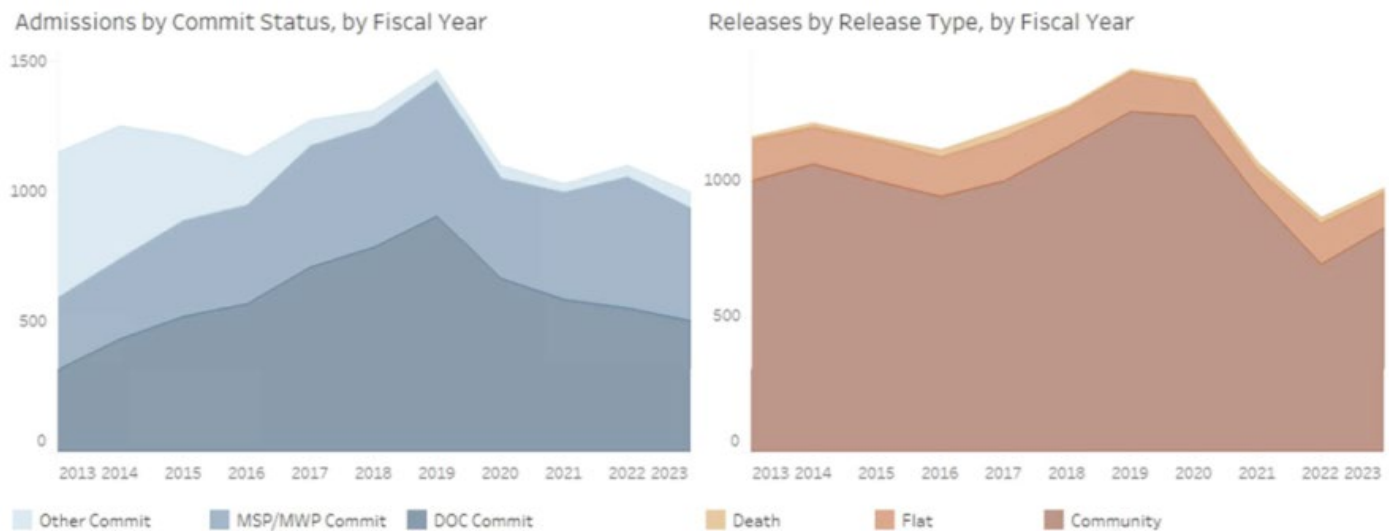
*Source: DOC Population Demographic Data*

The chart above shows the stacking effect and increase in the average daily population realized by this trend towards more violent offenses. The number of admissions is down, but the offender population in Montana continues to increase resulting from more individuals being sentenced for longer periods of time for these offenses.

One point to note is that the average length of stay has not substantially increased in previous fiscal years. The issue with this metric is that it is calculated based on the inclusion of released individuals only and does not yet reflect this increase in violent offenses due to many of these individuals still being housed within facilities.



The Department of Corrections provided some additional data to better analyze the population being admitted into prison in more recent fiscal years. Revisiting the chart from previous sections which looked at the number of admissions and releases coming into secure facilities, the following charts look at these numbers in terms the admission and release status of the offender.

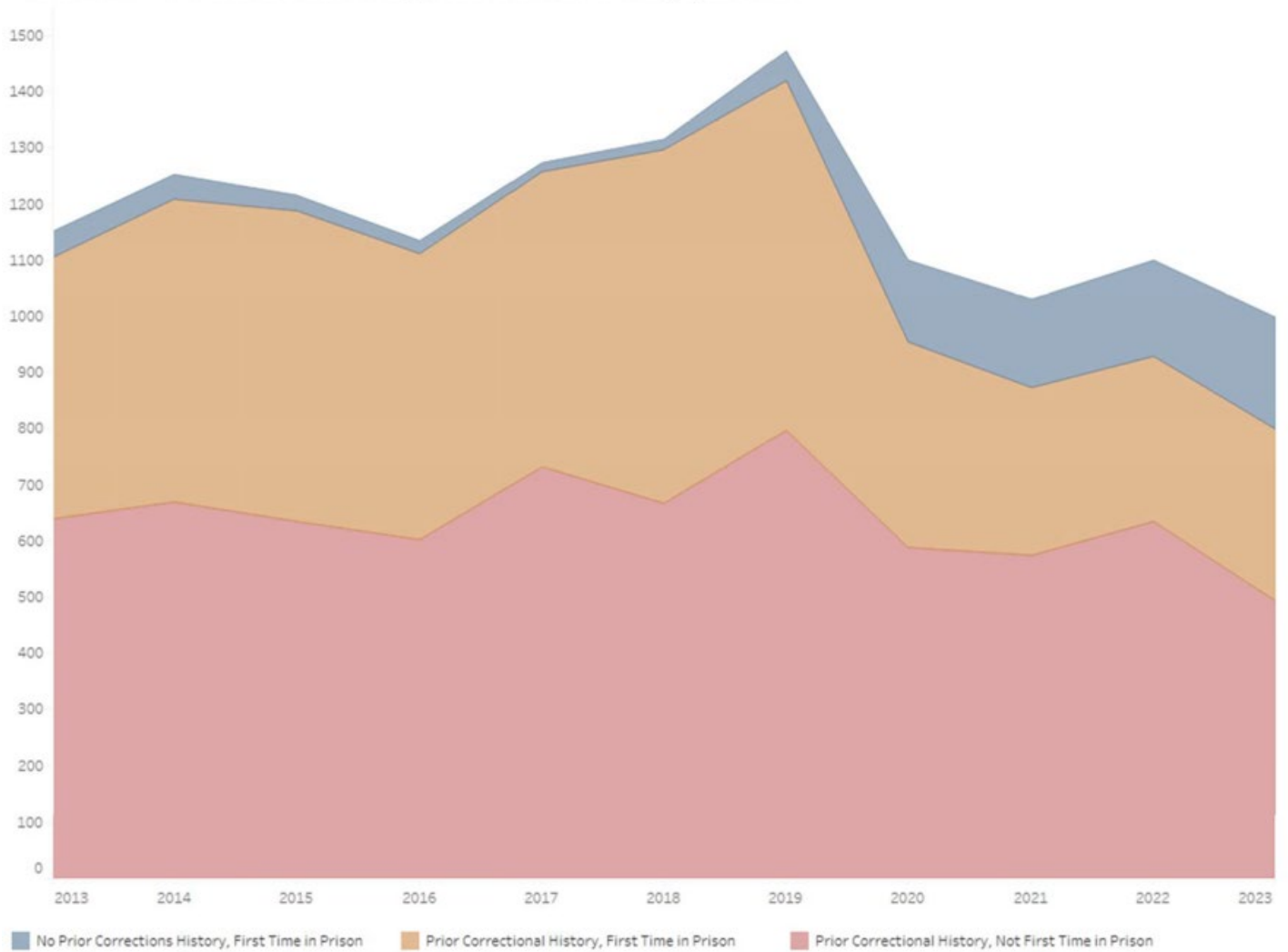


Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

Historically, offenders committed to the custody of the DOC made up the largest portion of admissions to secure facilities. A DOC Commit is a concept not utilized by other states in America and represents an individual being sentenced to the supervision of the DOC who will determine and provide accurate placement for that individual. This is different than a direct sentence to prison. The makeup of these admissions has shifted slightly in more recent years in which a larger number of offenders have been receiving direct commitments to either the Montana State Prison or Montana Woman's prison. Direct commitments to the state prison now account for nearly the same percentage of admissions as DOC commitments in which final placement is determined by the department. Within releases, the greatest proportion continues to be for offenders being released onto community supervision before being completely released from the department.

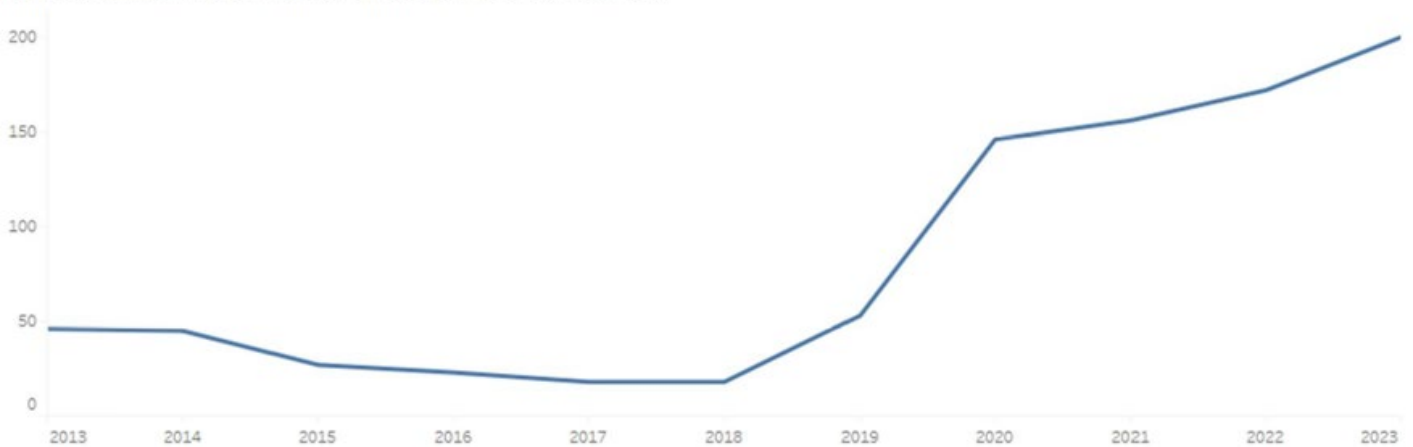
These last three charts below look at the correctional history of those being admitted into secure facilities. Data shows the admissions by three categories: Those admitted to prison for the first time with no prior correctional history, those admitted to prison for the first time with correctional history, and those being admitted who have been to prison in Montana before. The second two charts focus on these first-time offenders with no prior correctional history and the type of offenses to which these individuals have committed.

Number of Admissions to a Secure Status by Level of Corrections History, by Fiscal Year



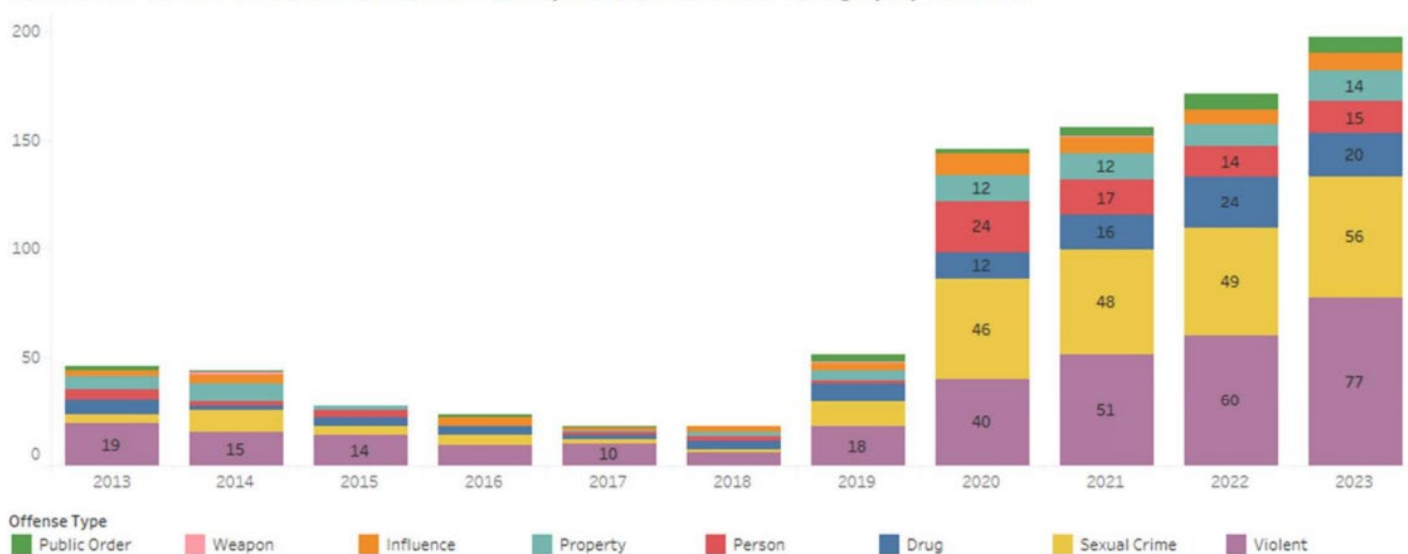
Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

Number of First Time Offenders Admitted to Prison by Fiscal Year



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

Number of First Time Offenders Admitted to Prison by Most Serious Offense Category, by Fiscal Year



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

When looking at the chart on the previous [page](#), the largest proportion of individuals admitted to prison had prior history with the Department of Corrections. First time offenders made up the smallest proportion of admissions into prison but has begun to increase rather substantially in more recent fiscal years as evident in the bottom graph. The amount of offenders being admitted from this group held steadily around 40-50 admissions each fiscal year until 2020 where that number jumped dramatically and has continued to increase ever since. The proportion of offenses within this group of admissions has stayed quite similar since 2013 with violent and sexual crimes making up the majority.

Montana has seen a resident population boom that exceeds national trends. Likewise, while overall reported crime in Montana has been decreasing, rates for violent crimes have been increasing which does not follow national trends. This increase in violent crime being committed can have a direct impact on the system with more people coming in for more serious offenses. Even though admissions to prison have declined, offender populations have increased which is likely due in part to this shift in the makeup of the offender population. Without the ability to take an individual who was arrested for a reported incident and track them through the court system to see that same individual within the DOC, we have little ability to confidently know what is causing the increase in prison population.

### **RECENT CHANGES TO SENTENCING STATUTES (2013-2024)**

Overall, most changes to sentence lengths over the last decade have increased statutory sentences (12 out of 22 statutes), with 8 of these changes establishing mandatory minimum sentences. 4 of the 22 statutes reduced sentences, and the remaining 6 have an unclear impact on sentences or a very small impact on prison populations (ie. increasing the minimum sentence of an offense for which no one has ever been convicted). Several of these changes in statute are the result of the Justice Reinvestment (JR) Initiative, attempting to reduce the burden on the justice system, and reversals of those laws. Of the 9 bills associated with JR that passed in the 2017 legislative session, 3 have since been revised to increase penalties that were reduced by JR.

The groups of offenders most affected by longer statutory sentences are child sex offenders (3 statutes), child abusers (2 statutes), human traffickers (4 statutes), and domestic abusers (2 statutes). As human trafficking has been a rarely prosecuted crime in Montana, the changes to those statutes are not expected to make a noticeable difference in prison capacities. However, the other groups of crimes are more common, so there has likely been some impact on prison populations. In FY 2016, the DOC reported 104 cases of sex offense of a victim under 12 years old, a conviction that now carries a mandatory minimum sentence. The DOC only provided estimates of the likely number of offenses for a few other of the crimes, and those are each less than ten anticipated offenders per year, though the sentences can be long.

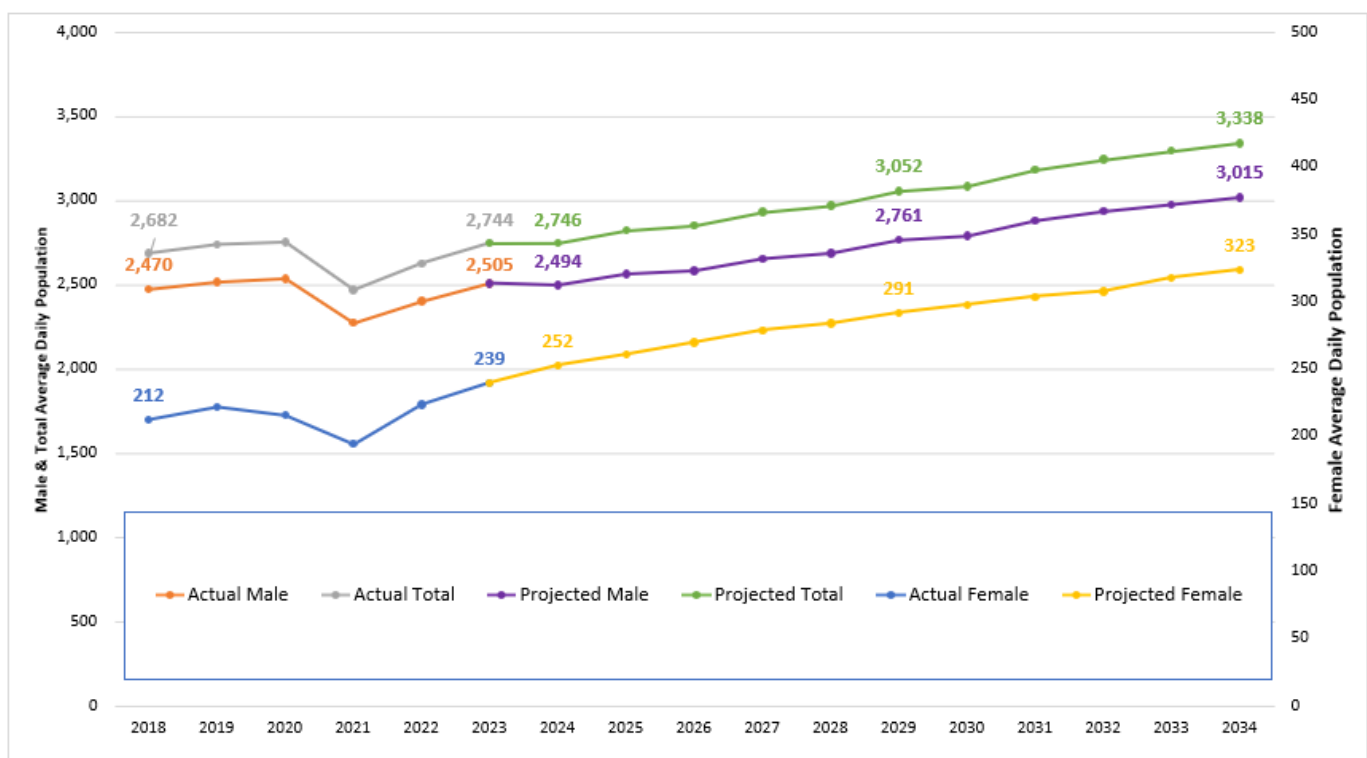
One of the changes in statute that decreased pressure on prison populations was HB 133 (2017), removing jail time for several categories of misdemeanors. However, this bill was viewed as a bit of a red herring as these misdemeanors were very often already not resulting in jail time. This bill also limited the sentence for a first conviction of disorderly conduct to a fine, though a later bill (SB 29, 2023) reverted these changes and allows imprisonment as a possible sentence.

### **PROJECTED FUTURE POPULATIONS**

Part of the responsibilities of this committee was to consider future needs in terms of offender capacity. This section of the report focuses on projecting the offender population forward to aid the committee. The first set of projections provided below analyze secure facility needs, while the second set of projections provided look at the inclusion of assessment/sanction centers and treatment facilities.

The Department of Corrections worked with Wendy Ware from the JFA Institute to develop projections within secure facility populations. The main assumption taken into account when developing these projections based off historical data is that nothing is assumed to change from what has already happened. If sentencing reforms or realized changes in the makeup of the offender population coming into the system were to change, the path the offender population takes moving forward can look quite different. The following projections were presented to the committee:

## Montana Prison Population Projections by Gender



Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

Time series modeling techniques were utilized by the JFA Institute to forecast three measurements or “building blocks” for use in projecting populations based off 2023 offender data. These three forecasted measurements represent the amount of admissions into secure facilities, the amount of releases from secure facilities, and the length of stay. With these three measurements and a point in time measurement, future population estimates can be constructed.

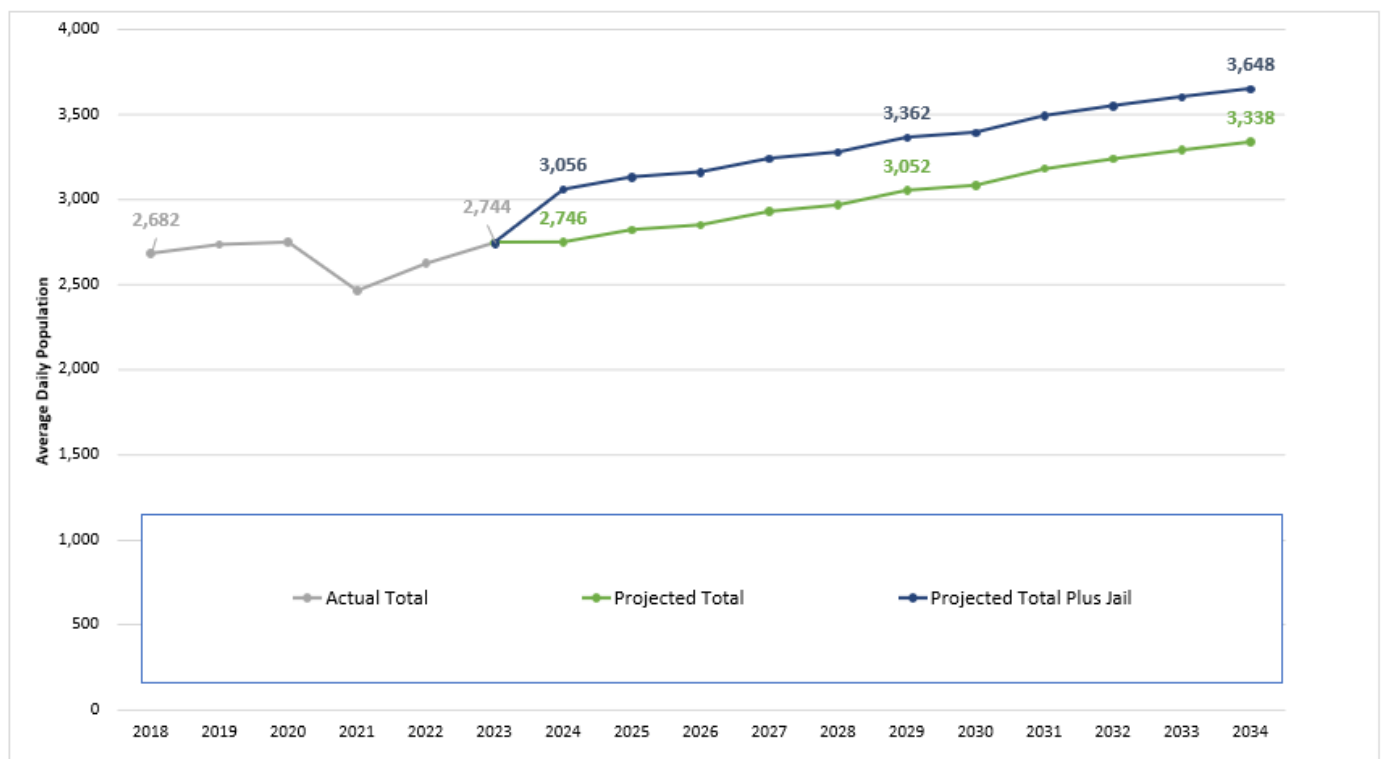
Even though admissions to secure facilities have come down in more recent years, the projected populations are expected to continue to grow as admissions outpace releases. Approximately 600 additional offenders are estimated to be in the system within the next decade (through FY 2034) as seen in the chart above. This results



from the stacking effect described earlier in which more individuals are receiving longer sentences for more violent offenses.

This number does not include those individuals who have been sentenced but are sitting in a local detention center awaiting placement within a DOC or contracted facility (see chart below). As of June of 2024, this number sat at approximately 320-330 offenders, and with the inclusion of these numbers and the additional 600 offenders described above, this model estimates an additional capacity need of over 900. Modeling ten years into the future contains much uncertainty, and these numbers are used to show the direction in which the offender population is heading.

## Montana Prison Population Projections with Jail Holds

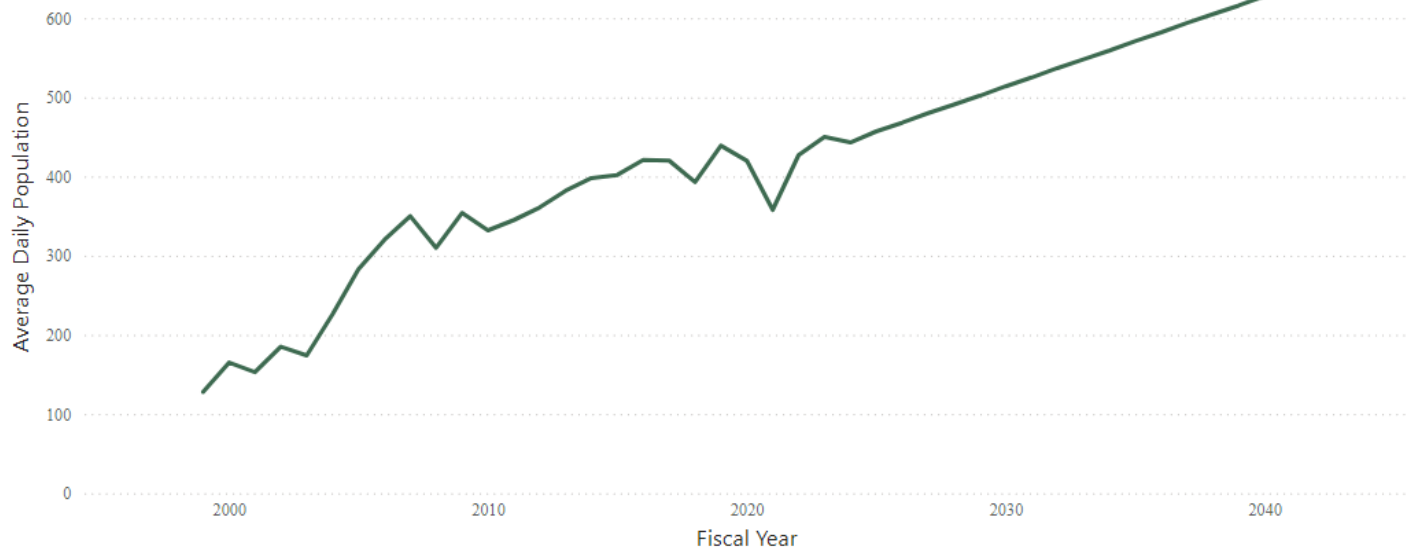


Source: Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023.

The LFD also worked on a set of projections which attempts to look out even further in the future (20 years) and provides a picture of what gender-based facility needs may be. Historical ADP data is received from the Department of Corrections on a quarterly basis and was subset into secure, assessment/sanction, and treatment centers based on the gender to which the facility houses. Similar to previous sections, pre-release centers are not included in the amounts shown based on their community supervision classification within the data received. The top chart reflects the female population, and the bottom chart reflects the male population.

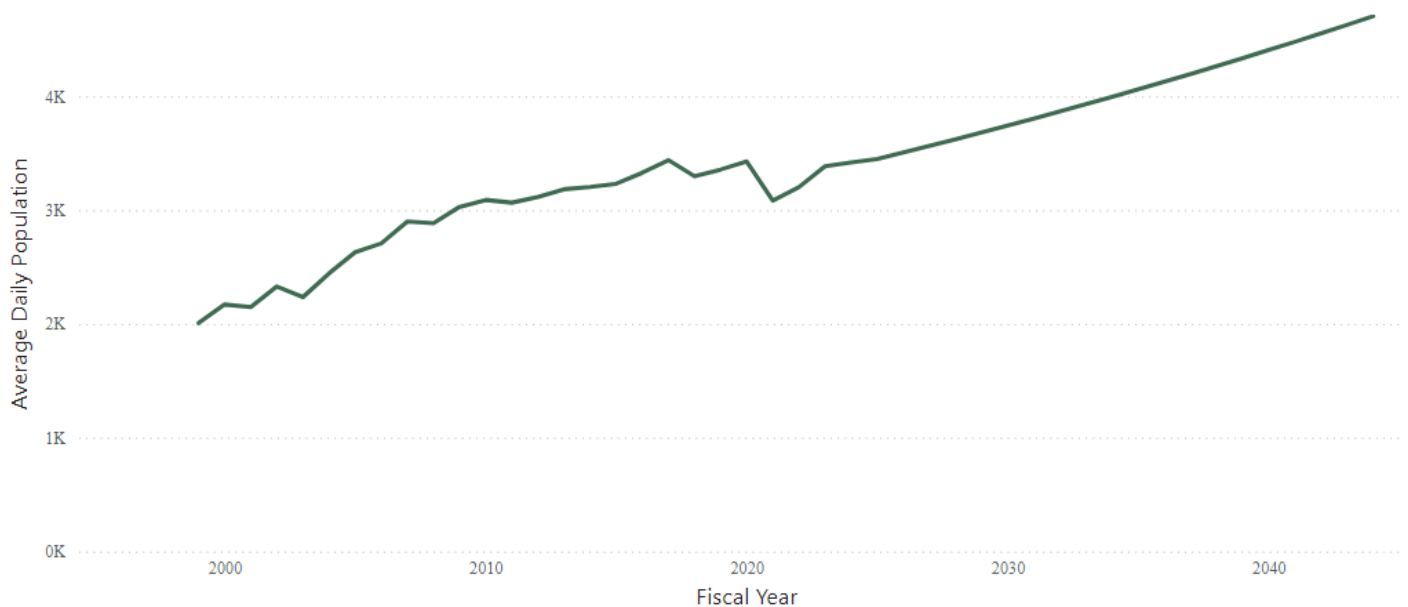
The technique utilized by the LFD relates to exponential smoothing in which the trend component within a given data set is “smoothed” and carried forward. Due to the nature of COVID and the results it had on the offender populations, this model was weighted more heavily to the three most recent years (FY 2022-FY 2024) and assumes that the more recent past is a better predictor of the future.

Female ADP by Fiscal Year



*Source: DOC Average Daily Population Data and LFD Projections*

Male ADP by Fiscal Year



*Source: DOC Average Daily Population Data and LFD Projections*

As seen in the charts above, projections out 20 years reflect a need for additional needs in terms of capacity. Roughly 230 additional offenders are estimated as part of the female population representing an increase of nearly 51.9%, and roughly 1,300 additional offenders are estimated for the male population representing a 37.6% increase.

One important distinction made by the Department of Corrections is the need for “open capacity” which would provide the department with the flexibility to move inmates around when situations or incidents arise. It has been determined that any increase in capacity should include roughly 10.0% of overall bed space to be used for this instance.

Again, these are baseline projections which assume no additional changes to sentencing laws, practices by the Board of Pardons and Parole, or potential changes to the makeup of the offender population in terms of severity of offense.

The offender population in Montana is expected to continue following increasing trends and Montana is currently at or exceeding capacity within all aspects of the system. It is also possible that the offender population could continue to change in terms of the proportion of more serious offenders coming into the system, meaning the need for additional capacity could potentially be larger than estimated. Changing makeups of the population also have a direct effect on the type of housing needed to house the more violent offenders.

## SECTION 4: OPTIONS TO CONSIDER

The strategy adopted by the HB 5 Select Committee was to look at ways to increase available capacity to house the projected growth in populations. Some of these options for consideration directly relate to the current build replacing the low side housing as provided during the 2023 Session. Another recommendation looks at the costs to increase outside capacity in Arizona.

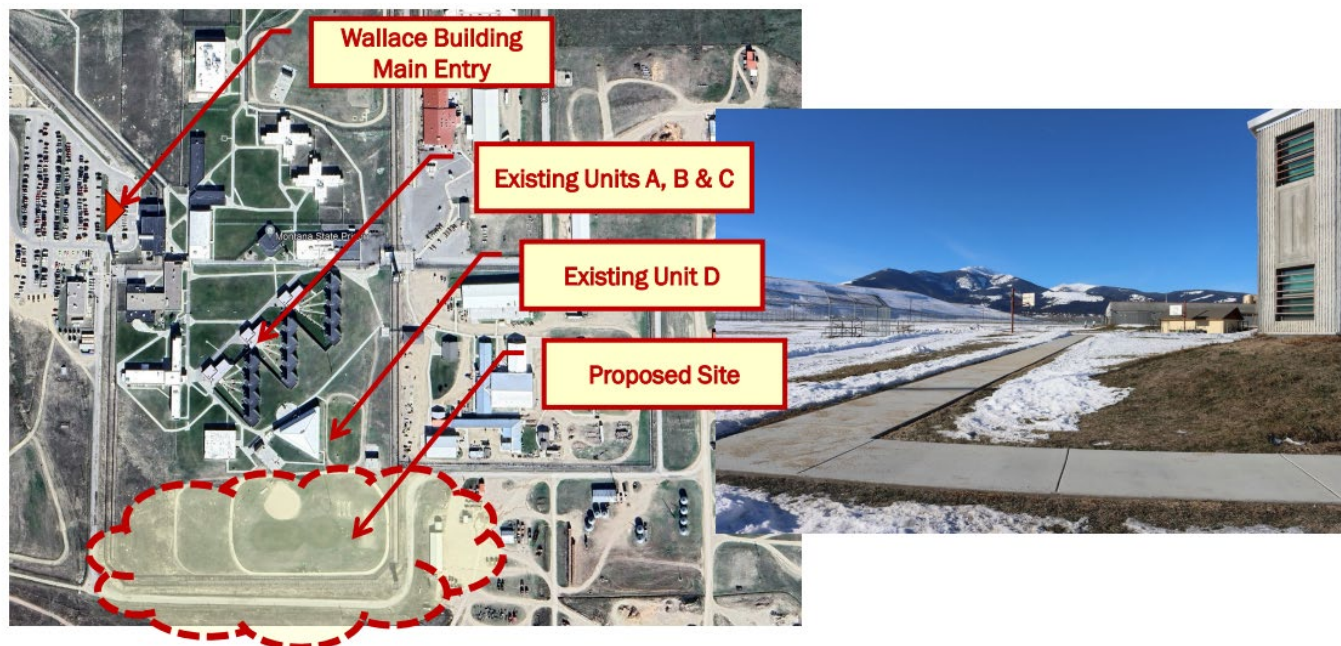
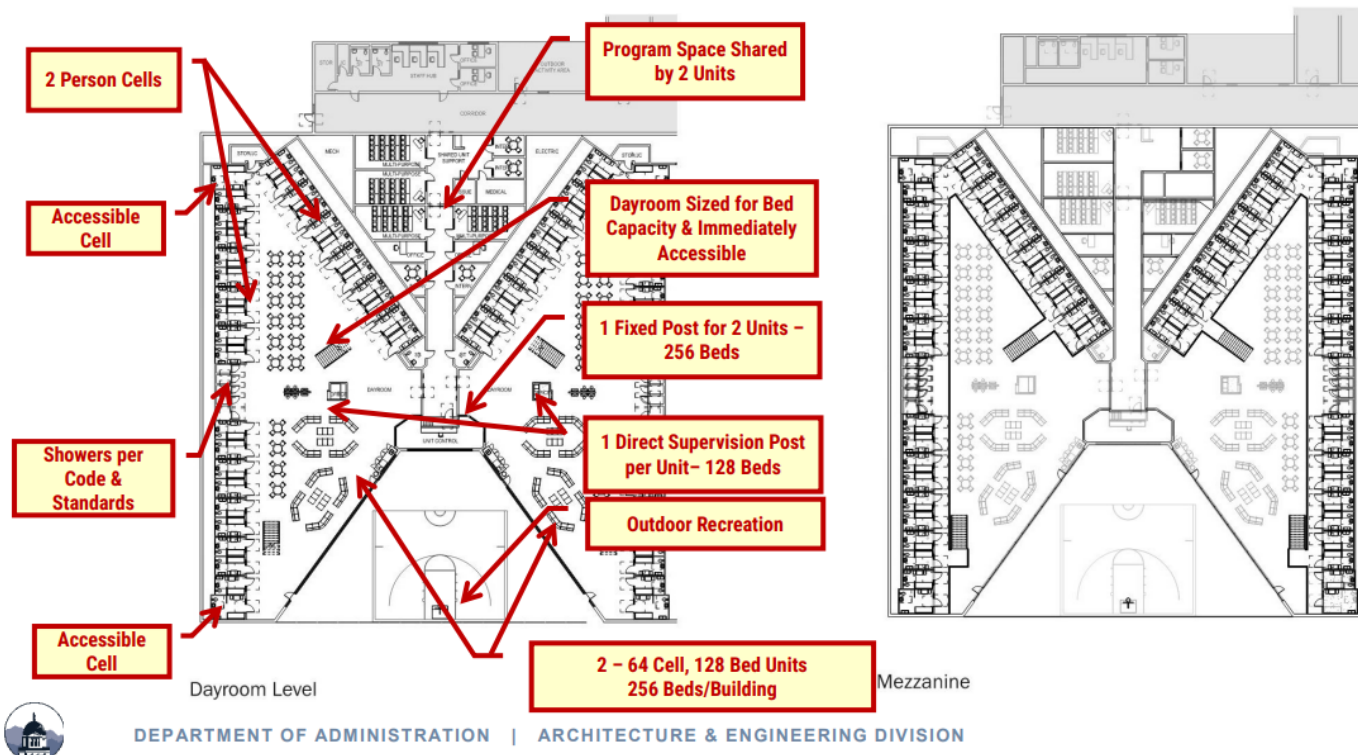
### THE CURRENT BUILD

HB 5 and HB 817 of the 2023 Session provided the Department of Corrections with approximately \$224.0 million in funding for a series of capital development projects at the Montana State Prison. The majority of these projects were provided in order to replace existing structures and infrastructure, and to renovate a few other areas of the prison campus. These projects are summarized in the following table:

HB 5 & HB 817- 2025 Biennium			
	Capital Dev. Fund	Proprietary Funds	Total
<b>Capital Development Projects</b> (Over \$2.5 million in repairs/renovations or over \$200,000 for new facility construction costs)			
<b>A&amp;E Capital Development Projects</b>			
<b>HB 5</b>			
Montana State Prison (MSP) Entry/Staff Services Addition to Wallace Building	12,800,000		12,800,000
MSP Replace Roofs	5,600,000		5,600,000
Xanthopoulos Building Repairs	2,950,000		2,950,000
MSP New Multi-Purpose Programs Building	9,000,000		9,000,000
Montana Women's Prison (MWP) Roof Replacement	5,000,000		5,000,000
MSP Check Point Building/Wallace Entry Security	3,000,000		3,000,000
DOC Flathead County Prerelease Center*	7,000,000		7,000,000
MCE Motor Vehicle Ventilation & Paint/Sandblasting Booths		590,000	590,000
Subtotal	45,350,000	590,000	45,940,000
<b>HB 817</b>			
HB 817 - MSP Replace Low-Side Housing	156,000,000		156,000,000
HB 817 - MSP Unit F Water Supply Upgrade	600,000		600,000
HB 817 - MSP Water Line Replacement	3,000,000		3,000,000
HB 817 - MSP Unit D Renovations*	18,840,831		18,840,831
Subtotal	178,440,831		178,440,831
<b>Total A&amp;E Capital Development Appropriations</b>	<b>\$223,790,831</b>	<b>\$590,000</b>	<b>\$224,380,831</b>
* Indicates project was added during the 68th Legislative Session, not included in the executive proposal.			

The largest of these projects includes \$156.0 million in appropriations and relates to the replacement of the current low-side housing unit (units A-C) and \$19.0 million to renovate housing unit D. Combined, these two projects are creating 117 additional beds over current existing capacity and will provide for easier future expansion. This will be discussed in detail further in the report.

Working with the Department of Administration and Sletten Construction, the Department of Corrections settled on the following enhanced design structure for the new low-side housing unit:



Each of the three new low-side housing units can house up to 256 offender creating total capacity of 768 beds. This is well over original design capacity and slightly lower than the current low-side usage capacity of 803, but an additional 152 beds are gained through the renovation of unit D. The Department of Corrections has



determined that no additional staffing is needed to cover these additional 117 beds. Effectively, costs needed to operate the new low-side build are estimated to be a wash with current costs to operate the existing low-side unit. In terms of future expansion, the build design allows for shared infrastructure between units and also allows for easier expansion.

With that said, there have been a series of infrastructure improvements which have been identified as needed in order to complete the current build replacing the existing low-side housing. These improvements relate to water distribution systems, wastewater lagoon systems, and electrical systems and would require approximately \$41.0 million in funding. Some of these improvements are required in order to ensure the MSP campus complies with code and life safety compliance requirements while others are needed in order to complete the construction of the new enhanced low-side unit. Estimates in terms of needed funding are based of FY 2024 numbers.

**EXISTING 50-YEAR OLD WATER DISTRIBUTION SYSTEM: Costs to replace = \$10.0 million**

- Inadequate, undersized line sizes
- Life Safety Concerns / Liability Issues

**DEQ Requirements:**

- Life Safety Fire Flows and Domestic water use Requirements

**Campus Water Distribution System**

- Replacement of undersized lines / connect to new Low Side Housing water mains

**EXISTING WASTEWATER 50-YEAR OLD WASTEWATER LAGOON SYSTEM: Costs to replace/reconstruct = \$16.3 million**

- Non-Functioning UV Treatment System
- Sewer Collection piping deterioration / replacement
- Lagoons are at capacity

**Aerated Lagoon Reconstruction:**

- DEQ Requirements for Public Wastewater treatment
- New UV System

**Existing Sanitary Sewer Main Replacement**

**EXISTING 1970'S MEDIUM VOLTAGE SYSTEM: Costs to rebuild/replace = \$14.4 million**

- Portions of the System Rebuilt 6 years ago, will mostly have to be rebuilt again as they were not designed for expansion
- All remaining sections of distribution will require replacement as they are past their design life-spans

**Immediate Electrical load need for Low Side Housing**

- Reconnector 960 ft of recently rebuilt line
- Replace NorthWestern Energy Transformer
- NorthWestern Energy Power Upgrades to Site\*

**Deficiencies of Existing Electrical**

- Rebuild Remaining aged Overhead Distribution Lines
- Reconductor 2020 rebuilt section feed to 6MVA

The costs for upgrading Northwestern Energy's Source to the site has been set as an allowance as the costs for this work will not be known for several months and the number may be higher or slightly lower than the estimated allowance.

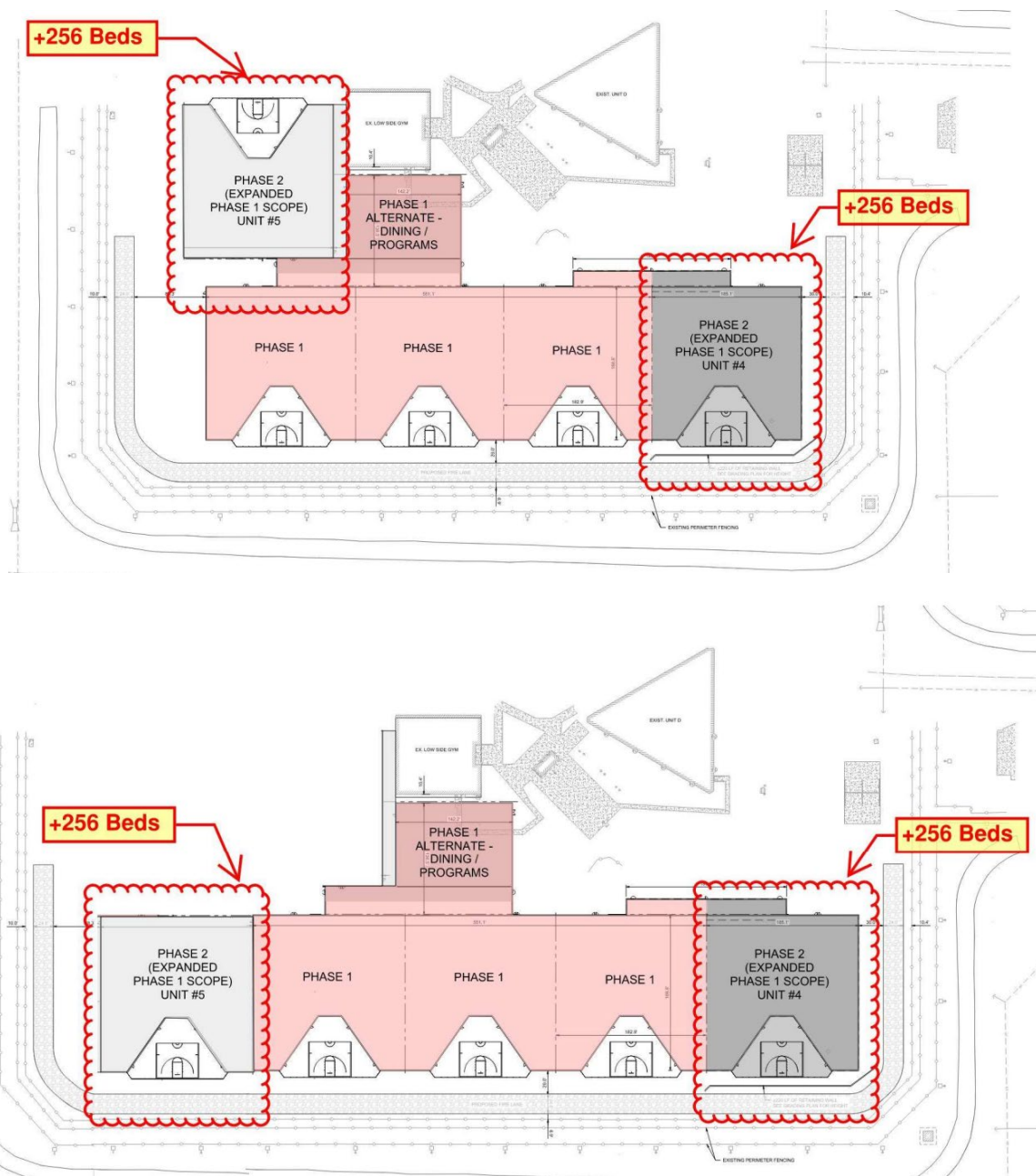
### **OPTION 1: FUND NECESSARY INFRASTRUCTURE AND PERIMETER UPGRADES**

The first option considered by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is to fund the infrastructure improvements needed to complete the current build. These are the improvements discussed above, and a total of \$41.0 million in funding is estimated to be needed based on FY 2024 numbers. The estimate increase in these costs based off a wait of two biennium is \$55.6 million.

In addition to the improvement in infrastructure, upgrades to the secure perimeter were estimated at \$6.6 million. Total improvements to the campus are currently estimated at \$47.6 million to provide for the completion of all listed projects.

### **OPTION 2: FUND TWO ADDITIONAL HOUSING UNITS AND A PROGRAMMING BUILDING**

The second option considered by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is to fund two additional units to be built along with the current low-side replacement and to fund a programming building for this new low-side complex. These new units would be able to be connected directly onto the current low-side replacement build and share existing piping, electrical, and other infrastructure which cuts down on the overall construction costs required for completion. The two images below shows the proposed additional two units and programming building in relation to the current build in two different formations.



The two additional housing units would take the capacity of the low-side housing unit from 768 to 1280. The ability to share infrastructure with the current build helps cut down on costs. The inclusion of the programming building and connecting corridor would allow the department to keep all dining and program related activities very close to the participating population. Doing so helps to mitigate any issues with different offender populations interacting as they are currently moved across the campus to complete the activities that would be directly attached to the new unit with this build.

Estimates to complete this additional build were provide by the Department of Administration Architecture and Engineering Division and were based off FY 2024 numbers. Additional estimates were provided attempting to project what costs would be to complete this build in 10 years after accounting for inflation to costs. This information is provided in the table below.

Project	2025 Budget Impact	2035 Budget Impact
Two Additional Housing Units	\$100,500,000	\$158,000,000
Connection Corridor	\$11,000,000	\$17,500,000
Dining and Programs Buiding	\$17,000,000	\$26,500,000
Total Investment	\$128,500,000	\$202,000,000

This works out to approximately \$216,000 per bed for the two additional units. If appropriations were to be provided for these additions by the 2025 Legislature, estimated completion would be Fall of 2028 for the two additional units and the Spring of 2029 for the programming/dining building and connection corridor. Upon completion of the project, staffing and operational costs would need to be assumed to operate this additional capacity.

One point to consider in relation to building more capacity at the current MSP campus relates to staffing. In FY 2022 and most of FY 2023, the DOC had a difficult time staffing correctional officer positions. The 2023 Legislature provided pay increases for correctional officer positions, and the department has adopted a change in culture to help create a better working environment for these individuals. The number of vacant correctional officer positions decreased substantially in FY 2024 due to the initiatives described above, and staffing these positions has not been the issue it was prior.

As stated earlier, the current construction of the new enhanced low-side unit is estimated to cost roughly the same as the existing low-side unit that is being demolished. If two additional units and programming were to be constructed, additional costs would be incurred. The table below shows rough estimates in terms of staffing needs, and operating costs will be discussed next:

Estimated Staffing Needs - Per Additional Unit	
Position Type	FTE Needed
Correctional Officers	16.80
Correctional Officer - Control Cage	4.20
Medical Staff	4.20
Mental Health Staff	4.20
Education Staff	2.00
IPPO	1.00
Case Manager	2.00
Kitchen Staff	1.00
Maintenance Worker	0.50
Warehouse/Canteen	0.50
Library Aide	0.50
Total FTE	36.9

Numbers above were determined by the DOC based off utilizing existing relief factors. These are rough estimates and have the potential to change as the DOC performs a full staffing analysis for these additional units. For the purposes of this report, current estimates for staffing needs sit at 36.9 FTE, per additional unit, for a total of 73.8 FTE for the scope of this project. As specific positions were not provided, the LFD averaged salary and benefit numbers submitted for the 2027 biennium for positions within the categories above to provide rough estimates related to staffing costs. Based on salary and benefit amounts submitted for the 2027 biennium, personal service costs are estimated at nearly \$3.2 million per housing unit or \$6.3 million for both units per year of the biennium. A broader picture of overall costs will be provided further on in the report.

### **OPTION 3: FUND THE CONSTRUCTION OF A NEW MONTANA WOMEN'S PRISON**

The third option studied by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is to fund the construction of a new Montana Women's Prison with a capacity of 450 – 500 beds.

During the interim, the committee learned of the situation currently being experienced within the Montana female offender population. Currently, the Montana Women's Prison located in Billings is the only state secure facility for women. Total operational capacity for this facility sits at 240 beds, and the department has been operating at or above this capacity since FY 2022. Additionally, the female offender population has grown more rapidly in more recent years than the male population and is projected to continue increasing at a faster rate. Currently, there are no other secure placements in Montana for female offenders. When this population backs up, these placements fall to local detention facilities to house these offenders until a space at the MWP opens up. Female offenders awaiting a secure placement at the MWP has begun accounting for a larger and larger proportion of the growing jail hold population.

Construction of a new MWP requires more planning and analysis than adding capacity to current builds like is being recommended at the MSP. Required square footage of the facility was estimated based on national standards and best practices. The following assumptions were considered when developing estimates for the new facility:

- A new site, likely outside the downtown core but with proximity to existing utilities and services by the city, county, and/or state
- Utility services include, but are not limited to, vehicular access, electricity, water, sewer, gas, etc
- Approximately 30 acres of clear, flat land of which, 24 acres would be inside the security fencing
- A secure perimeter would be required with a double fenced enclosure, which comprises roughly \$10.0 million estimated for land development
- A vehicular sallyport

While further assessment is required, there are spaces around the Billings area which may be able to provide for these requirements. Estimates for land development and utility access of \$500,000 per acre have been utilized. Additionally, parameters of approximately \$850 - \$1,000 per square foot has been estimated for

building the facility based on current labor and material costs in Montana. These estimates are based on current data, and an escalation factor of 6.0% was utilized to estimate future costs until the mid-point of construction estimated at Q4 of FY 2027. If appropriations were to be provided by the 2025 Legislature, the anticipated completion of this facility would occur sometime in calendar year 2030. The tables below, outline the estimated costs required for the construction of both a 450 bed and 500 bed facility for comparison purposes. Additionally, a low range and high range estimate is provided for each facility using either \$850 per square foot or \$1,000 when performing calculations.

Montana Women's Prison - ROM Cost for Facility Replacement

8/15/2024

Land Development (Same for both options)											
					Area (acre)	Cost/Acre	Hard cost	Soft Cost	Q3 2024 Dollars	Escalation (6%/year)	Subtotal
Either 450 or 500-Bed Facility					30	\$ 500,000	\$ 15,000,000	30%	\$ 19,500,000	6% * 3.5 years	\$ 23,921,556
450-Bed Facility											
	Area/ Bed		Bed Count	Facility Size	Cost/SF	Hard Cost	Soft Cost	Q3 2024 Dollars	Escalation (6%/year)		Subtotal
Low Range	425	SF	450	Beds	191,250	\$ 850	\$ 162,562,500	30%	\$ 211,331,250	6% * 3.5 years	\$ 259,249,867
High Range	475	SF	450	Beds	213,750	\$ 1,000	\$ 213,750,000	30%	\$ 277,875,000	6% * 3.5 years	\$ 340,882,178
Total Development Cost										Low Range	\$ 283,171,423
										High Range	\$ 364,803,734
500-Bed Facility											
	Area/ Bed		Bed Count	Facility Size	Cost/SF	Hard Cost	Soft Cost	Q3 2024 Dollars	Escalation (6%/year)		Subtotal
Low Range	425	SF	500	Beds	212,500	\$ 850	\$ 180,625,000	30%	\$ 234,812,500	6% * 3.5 years	\$ 288,055,408
High Range	475	SF	500	Beds	237,500	\$ 1,000	\$ 237,500,000	30%	\$ 308,750,000	6% * 3.5 years	\$ 378,757,976
Total Development Cost										Low Range	\$ 311,976,964
										High Range	\$ 402,679,532

Investments for the creation of a new MWP range from approximately \$283.0 million to \$400.0 million including the development of land and including escalation costs of 6.0% each year as construction occurs. This range depends on the size of the facility and the costs for materials and labor. The scope of required staff and operational functions/costs for a new women's facility of this magnitude have yet to be determined.

One benefit of the construction of a new prison to house the secure female population would be the availability of the current MWP for repurposing. This effectively opens up 240 beds to be used by the DOC for additional secure placements. However, there are many variables to consider in terms of needed bed types and for which specific population, and more work will need to be done in this area. The costs that would be needed for any capital projects to accomplish repurposing the current MWP are not included in this estimate.

The scope of the investment for an entire new MWP is quite large. It has been identified that there is potential to occupy some shared space with the new holding detention facility being built in Billings. The committee wanted to analyze pursuing this shared space and instead splitting the secure woman offender population into two separate groups: one to occupy the current MWP (either lower risk or higher risk offenders) and one to occupy the new facility space. This would require building a facility of roughly 200-250 beds. This would cost

approximately half of the estimates provided above but would result in a smaller capacity increase. The current MWP would also not be available for repurposing if this option was pursued.

Estimated construction costs based on the information provided above would total approximately \$144.0 - \$169.0 million to obtain 250 additional beds.

#### **OPTION 4: INCREASE CONTRACTED MALE CAPACITY IN LIEU OF NEW FACILITY BUILDS**

Montana currently utilizes contracted capacity within the state of Montana and contracted out-of-state capacity in Arizona. Nearly all of this capacity is contracted with CoreCivic and includes approximately 760 beds at the Crossroads Correctional Center (CCC) in Shelby, MT, and another 240 beds at the Saguaro Correctional Center (SCC) in Arizona. Currently, the department has appropriations to cover contracted amounts of \$92.00 per day per inmate at the CCC and \$90.00 at the SCC.

At the beginning of the interim, the Department of Corrections contracted for one “pod” of 120 beds in AZ. This was recently increased to two pods. To cover the number of beds included in option 2 above, the Department of Corrections would need to contract for an additional 4 units totaling 480 more beds regardless of where this capacity lies geographically. As stated earlier, appropriations of \$3.9 million are provided each year of the 2025 biennium for 120 beds. With three additional pods, capacity would be 600 beds. The additional 360 beds (480 if compared to the start of the interim) may be slightly lower than the 512 that could be obtained through building two additional units but will be amount used for the purposes of comparison.

These comparisons are not so straightforward. Currently, the HB 5 Select Committee has learned a great deal about the historic offender population and recent changes or shifts in this population. Modeling has been done in order to take a look at overall capacity needs in Montana, but this does not aide in answering the question of what type of capacity would best serve the state of Montana. If trends towards more violent and other severe offenses continues, the type of capacity (beds for higher or lower risk individuals) needed may be different than if these trends do not continue.

As stated earlier, estimated lifespans for prison facilities sit in the 30 year – 50 year range. Using this information, we can look at the long-term investment needed to obtain contracted capacity versus building additional capacity within Montana. Timelines for these comparisons are as follows assuming the low end of facility lifespan:

- Building additional capacity: Assume 3 years of construction followed by 27 years of operation. It is also assumed that contracted capacity will be utilized as state capacity is being constructed
- Contracted additional capacity: Assume current rates paid for out-of-state placements grown by cpi estimates out 30 years

We will start with contracted capacity. As stated earlier, the starting point utilized was \$92.00 per day per inmate. Assuming costs increase in conjunction with cpi estimates, funding needed to cover 600 contracted beds in FY 2026 is estimated at \$21.1 million. Over a period of 30 years, this estimate is expected to grow to

approximately \$38.3 million by FY 2056. Over the course of this 30-year period, total investment for 600 contracted bed spaces is almost \$904.0 million.

Typically, this out of state capacity is utilized as more temporary remediation capacity when other states are facing challenges. These are rough estimates that look at leasing space at existing facilities and not building new capacity in the state.

Currently, the DOC has five more years in its existing contract with Core Civic for capacity at Crossroads Correctional Facility. When that contract completes and is up for renewal, the new contract could contain additional capacity.

We can now compare this amount to building and operating additional capacity in Montana for the same time period. Assuming costs provided by the DOC and Sletten Construction shown above, and assuming construction will occur in FY 2026 – FY 2029, contracted capacity will be included for these first three years with ongoing staffing and operating costs assumed for the remaining 27 years. The table below outlines these costs:

Long Term Costs for Additional Low-Side Housing Units		
Costs	Period	Amount
Construction Costs	FY2026-FY2028	\$128,500,000
Contracted Capacity	FY2026-FY2028	\$64,848,294
Ongoing Staffing	FY2029 - FY2056	\$250,876,507
Ongoing Operations	FY2029 - FY2056	\$189,939,725
Total Estimated 30-year investment		\$634,164,526

While these are indeed rough estimates, the costs estimated to build, staff, and operate new capacity for the next 30 years totals \$634.2 million while estimated costs to obtain 480 additional contracted beds (for a total of 600) would be approximately \$904.0 million. The patterns of these investments differ due to large starting costs related to building facilities. As seen in the graph below, building additional capacity requires a larger amount of investment until FY 2039. After this point, the large up-front investment to build additional capacity is overtaken by the faster increases seen in contracted costs.

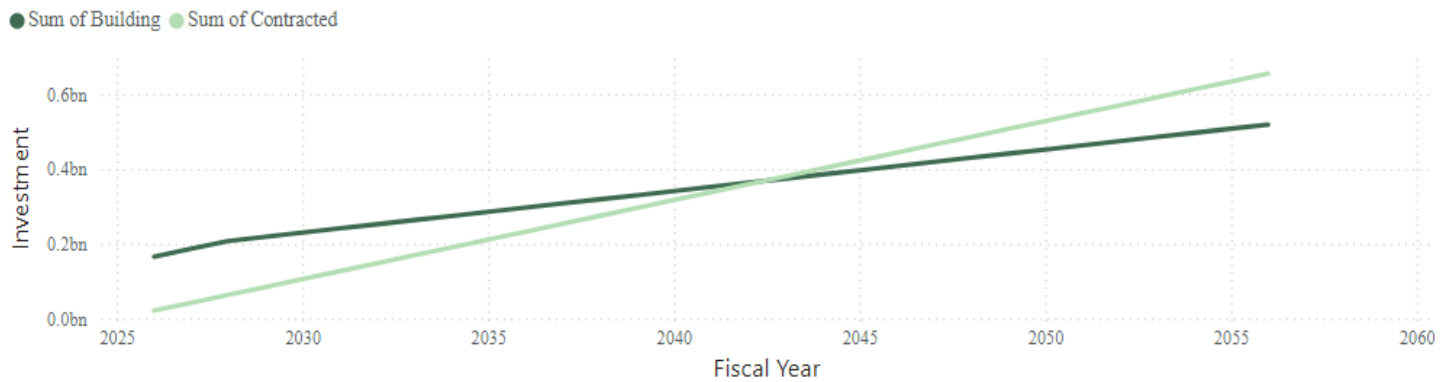
The overall value of these two projects is best looked at if costs are normalized to a given base year. When all costs are annualized in terms of FY 2026 amounts (the year in which these appropriations would be provided), the comparison changes slightly. The following table shows the rough costs of these projects for a 30-year period after being normalized in terms of FY 2026 costs:



Normalize Costs Comparison - Building vs Contracting			
Project	Costs	Period	Normalized Amount
30 years of increased contracted capacity	Contracted capacity	FY 2026 - FY 2056	\$655,180,174
Building additional capacity	Construction costs	FY 2026 - FY 2028	\$144,382,600
	Contracted capacity	FY 2026 - FY 2028	\$63,404,533
	Ongoing staffing	FY 2029 - FY 2056	\$177,156,000
	Ongoing operations	FY 2029 - FY 2056	\$134,125,600
Total Building Investment			\$519,068,733

As seen in the table above, the total investment normalized in terms of FY 2026 dollars compares more similarly between the two possible initiatives. This is due to the large up-front cost needed in order to construct capacity. We can plot the theorized spending patterns of these normalized investments to see the period in which the value of these investments switch. This can be seen below.

#### Total Normalized Investment - Building vs Contracted



Normally, contracted capacity tends to be the cheapest in terms of costs with per diem rates of \$92.00 at CCC and \$90.00 at SCC representing the cheapest daily costs for secure beds when compared with the MSP, MWP, and prison in Glendive. Efficiencies appear to be gained with the proposed construction of the low-side housing unit and the potential two extra units contained in option 2. This is a result of the nature of the build. Many aspects of what would be needed to construct additional secure capacity are not present due to this being capacity within an existing secure campus. The design nature of the build reflects lower operating and staffing costs as well when compared to new standalone capacity that could be constructed in our state.

These efficiencies can be viewed better when comparing the construction costs of options 2 and 3. Both of these options look at increasing secure capacity by roughly 500 beds whether it be for the male or female offender populations. Construction costs for 512 beds as part of the new low-side are lower than estimates needed to

construct 500 beds as part of a new MWP. Estimates for the new low-side of \$128.5 million (grown to approximately \$145.0 million by the midpoint of construction) only looks at the construction of two additional units that would share utilities and other infrastructure with the new unit. This is in contrast to the estimates of nearly \$400.0 million to construct a new MWP with 500 beds. Costs go way up with the need to develop infrastructure, perimeter security, and all other operational and programmatic aspects needed for a separate stand-alone facility.

Core Civic has expressed the potential to increase capacity in state. This could be done a few different ways. Additional capacity could be added at CCC in Shelby at the time of the new contract RFP in 2029. This would be more cost efficient than having additional contracted capacity developed elsewhere in the state for the same reasons as discussed above. Building onto existing infrastructure will always compare favorably in terms of costs with additional capacity built from the ground up. However, building capacity in areas already experiencing staffing issues may need additional initiatives in order to be successful investments.

## **SECTION 5: RECOMMENDATIONS FROM THE COMMITTEE**

Upon discussing the options, the HB 5 Select Committee made two recommendations that requested future analysis and information from the Montana Department of Corrections and two separate recommendations which specifically relate to combinations of Option 1 and Option 2.

### **RECOMMENDATION 1:**

The first recommendation made by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is that the Montana Department of Corrections work with Core Civic and other interested parties to prepare a proposal for the development of a new facility designed to house the projected needs for the Montana female offender population. The intent of this recommendation is that this proposal reflect a build-lease option in which the state of Montana would work with a contracted entity to construct a new facility for the secure female population, and in turn, this entity would then lease this facility back to the state. Furthermore, it is the intent of the committee that this proposal be brought to the 2025 Montana Legislature for consideration.

### **RECOMMENDATION 2:**

The second recommendation made by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is that the Montana Department of Corrections work with Yellowstone County and administration to bring forward a proposal discussing the development of additional capacity for the female offender population to be co-located on land currently associated with expansions for the Yellowstone County Detention Facility. It is the intent of the committee that a summary report or official contract be drafted between the state

and Yellowstone County outlining the needs and responsibilities of both parties. Furthermore, it is the intent of the committee that this proposal be brought to the 2025 Montana Legislature for consideration.

### **RECOMMENDATION 3:**

The third recommendation made by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is that appropriations be provided for two additional housing units to be constructed along with the current low-side replacement appropriated by the 2023 Legislature. Appropriations needed to complete the construction of these two additional units were estimated at \$100.5 million. Additionally, the committee recommends that \$20.0 million be provided to complete certain infrastructure improvements identified in order to complete the full construction of the enhanced low-side housing unit. The total impact of this investment based on amounts provided in FY 2024 is estimated at \$120.5 million.

### **RECOMMENDATION 4:**

The fourth and final recommendation made by the HB 5 Select Committee on Corrections Facility Capacity and Systems Development is that appropriations be provided for a programming building and connection corridor for the enhanced low-side unit. The total impact of this investment based on amounts provided in FY 2024 is estimated at \$28.0 million.

## **SOURCES:**

Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023  
[DOC-DLR-Group-Presentation-12-12-2023.pdf \(mt.gov\)](#)

Department of Corrections and DLR Group Presentation to the House Bill 5 committee, December 12, 2023  
<https://leg.mt.gov/content/Publications/fiscal/2025-Biennium/HB-5-Select-Committee/HB-5-Final-Presentation-June2024.pdf>

Criminal Justice and Corrections Advisory Council (1990). [126676NCJRS.pdf \(ojp.gov\)](#)

Corrections Advisory Council (2007). [Department of Corrections - default.mcp.x \(archive-it.org\)](#)

Commission on Sentencing (2016). <https://leg.mt.gov/committees/interim/past-interim-committees/2015-2016/2015-2016-commission-sentencing/>

Justice Reinvestment in Montana (2017). [CSG-Justice-Reinvestment-in-Montana.pdf \(mt.gov\)](#)

Criminal Justice Library, Montana Legislature. [Criminal Justice Library - Montana State Legislature \(mt.gov\)](#)