

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN TIM CALLAHAN**, on January 13, 2005 at
8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Tim Callahan, Chairman (D)
Sen. Trudi Schmidt, Vice Chairman (D)
Sen. Keith Bales (R)
Sen. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)

Members Excused: Rep. John E. Witt (R)

Members Absent: None.

Staff Present: Brent Doig, OBPP
Harry Freebourn, Legislative Branch
Shannon Scow, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 2; Department of Corrections,
Community Corrections
Executive Action: None

Joe Williams, Department of Corrections, opened the meeting by distributing Exhibits 1-4, which are in response to questions presented by the committee yesterday.

[EXHIBIT\(jch09a01\)](#)

[EXHIBIT\(jch09a02\)](#)

[EXHIBIT\(jch09a03\)](#)

[EXHIBIT\(jch09a04\)](#)

Rhonda Schaffer, Fiscal Bureau Chief for Department of Corrections, began by pointing to Page D-80 in the Legislative Fiscal Division (LFD) Budget Analysis for the Decision Packages related to Program One, Administrative and Support Services. Decision Package (DP) 12, IWF Statutory Authority, has been moved from the budget, so legislative authority is not needed for this DP. DP 14 on D-80 is for Restitution Program Increase, and is to annualize the cost of \$19,899 from the special revenue account.

CHAIRMAN CALLAHAN asked if the fees are being collected on the front end or after the victim has been paid. **Ms. Schaffer** responded that 10% in fees are collected on the front end to pay for the administration cost of the restitution program. **Mr. Freebourn** remarked that if 10% is taken from fees that often total \$2 million; \$200,000 is collected. **Ms. Schaffer** noted that if the fees were collected from the county, the Department of Corrections (DOC) would not collect the same fee. **Mr. Freebourn** inquired if there is a specific account where these funds can be found. He asked, "How much is left and where does the excess go? Is the fee always a 10% charge?" **Ms. Schaffer** said that currently 10% is charged for maintenance fees. However, there is a cash flow analysis to ensure the money is being used efficiently. **Mr. Williams** added that the excess will go to the Crime Victims Compensation Fund. **CHAIRMAN CALLAHAN** stated that he understands there are start-up and maintenance costs, but he would prefer the money went to the victims and not to the State.

Rhonda Schaffer continued with DP 18, Board of Pardons Member Per Diem, which is a zero-based item. This is the \$50 per day that is paid for a board member to engage in board activities. The final DP for Program One is DP 1, for the new Offender Tracking System. This is restricted to the Offender-Tracking (O-Track) system and is one-time-only. **Mr. Freebourn** noted that there is an error in how much is really needed, pointing to Page D-81. There was a double-up in certain items, which led to an overstatement in FY06 of \$186,584 and an understatement of \$12,000 in FY07. The LFD recommended to the committee that these adjustments be taken into account during executive action.

CHAIRMAN CALLAHAN asked, "Regarding the O-Track system, what changed between now and the time of the audit?" **Mr. Williams** responded that after the audit, the DOC decided not to create a distraction for the new administration. The main problem is an issue of primary documentation. The new administration said to leave in the money and go ahead with the project by working on this primary documentation. They also recommended restricting the funds and making it one-time-only. **CHAIRMAN CALLAHAN** asked about a timeline for this documentation. He is concerned that there is no indication that this new system would get us to where we need to be. **Mr. Williams** concurred with **CHAIRMAN CALLAHAN**, stating that if there is no documentation by April, then there is no point in going ahead with the new system. **CHAIRMAN CALLAHAN** discussed potentially holding the issue until the committee can see what happens with the documentation.

SEN. SCHMIDT asked if there is overlap with the Victim Information Notification Everyday (VINE), System as well as the Justice Exchange Program. **John Dougherty, Information Technology**, replied that VINE is designed to notify the victims of an offender's whereabouts if the victims desire. This is updated two times a day. The Justice Exchange system is a jail tracking system for all jails across the state. There is no direct interaction with O-Track. **SEN. SCHMIDT** inquired if VINE or Justice Exchange system could encompass the proposed O-Track system. **Mr. Dougherty** responded that they could not encompass O-Track as they are designed because VINE contains little information exchange; it is mainly used to put watches on people.

SEN. SCHMIDT clarified that the Justice Exchange Program expands the offender network to city, county and state facilities. **SEN. SCHMIDT** asked if the O-Track is a completely new system. **Mr. Dougherty** said the O-Track would replace the current offender management system.

SEN. BALES commented that the O-Track is still in development. He asked, "Will the program be fully integrated down the line?" **Mr. Dougherty** stated he does not see O-Track replacing VINE down the line. **CHAIRMAN CALLAHAN** inquired if there is a plan or vision for full integration. **Mr. Dougherty** informed the committee there is a board called the Montana Justice Information Sharing Project of which DOC is a member. The board has continually moved forward then stalled, and is currently stalled due to lack of a chairman. This is not funded.

SEN. SCHMIDT queried as to why the DOC does not pursue the Justice Exchange Program. **Bill Slaughter, Director of the**

Department of Corrections, stated that the current offender management system is now outdated. Separate from the system, the DOC has contracted the Atlas Corporation for a victim notification system, which has done a good job. The Montana Sheriff and Police Officers' Association brought forth this Justice Exchange system. The O-Track is different because it is not for jails, as is the Justice Exchange, but for the DOC. If the DOC takes the O-Track system, we would be partners in victim sign-up. There is continuation in service attributes, in that once an offender leaves the county jail, they automatically enter the DOC system.

SEN. BALES stated that he believes the court system computer program is "in shambles." He inquired if the O-Track has the capability of creating a seamless system through the courts as well. **Mr. Slaughter** replied that would probably not happen, but it would be easier to export data. Mr. Slaughter noted that the O-Track system was designed by people that work within the system, not by Motorola. Therefore, a more comprehensive understanding of the professional needs of the system was the goal of this design, not money.

John Dougherty returned to the Justice Exchange Program, noting that this system is no more than a "glorified jail block." There are no treatments or classifications noted in the Justice Exchange Program. In terms of the county court problems in Judiciary, these go way beyond the O-Track. They have dissimilar systems in every county that do not communicate with one another. The DOC and Judiciary cannot talk integration when there is no system in place.

SEN. GALLUS commented he has heard of only one State computer system that has been on time and within budget. He inquired, "How do you know you will not be back next session?" **Mr. Dougherty** explained the contract is fixed monetarily. As for the time frame, the O-Track designers said 12 months until completion; the DOC said in more practical terms 18-24 months. Realistically, an ending date cannot be guaranteed.

SEN. GALLUS asked if there are firewalls in O-Track both in and out of the State network. **Mr. Dougherty** said there is a Citrix firewall from outside the State system. From within, there is a Department of Administration firewall in which an encrypted password is in place.

CHAIRMAN CALLAHAN inquired what the DOC pays for VINE. **Mr. Dougherty** replied \$3,600 per year. **SEN. SCHMIDT** asked what would

be the ongoing cost with O-Track. **Mr. Dougherty** estimated it would cost \$12,000 a year for ongoing technical assistance.

Mr. Freebourn pointed to Figure 8 on D-81 of the LFD Budget Analysis, asking for a description of what is one-time-only for the O-Track System. **Mr. Dougherty** replied that the basic module is the fixed bid amount, the juvenile module is a best-guess estimate of cost, as well as the medical module. The ITSD Hosting and IBM support are ongoing costs, and the remaining items in Figure 8 are one-time-only. **SEN. SCHMIDT** inquired how the "best-guess" estimates are determined. **Mr. Dougherty** replied that there is no juvenile module in other states, so it is the first prototype. As for the medical module, the final test phase is occurring in Utah. The DOC believes there were only minor modifications, specifically in terminology.

SEN. SCHMIDT queried if the medical module is linked to the regional prisons and prerelease or if it is all at Montana State Prison. **Mr. Dougherty** said the medical module would include all prison facilities. However, the prerelease centers do not have any direct medical care, so they are not included. **SEN. SCHMIDT** asked if Crossroads Correctional Facility would be included in the system. **Mr. Dougherty** responded that the Shelby facility will continue to input data into the system.

SEN. BALES inquired about the current cost of the system being used. **Mr. Dougherty** did not have an exact figure, but noted that the AS400 within the current system is nearing replacement if the DOC does not move forward with O-Track.

SEN. BALES asked if there would be manpower savings. **Mr. Dougherty** said there will not be a change in the workforce, but that workload will become more efficient because there will be more immediate information. **SEN. SCHMIDT** inquired if the Information Technology (IT) staff will be increased, and was informed by **Mr. Dougherty** that it would not.

SEN. SCHMIDT desired more information about the extent of the medical module. **Mr. Dougherty** replied that all employees that currently use the medical system will transfer to this system. However, with the O-Track system the nurses will know what treatment has been given the patient.

Joe Williams elaborated on the above question on IT staff, stating that the DOC currently has 21 IT staff, in comparison to an IT staff of 50 at the Department of Justice. The DOC IT staff is extremely busy and would be relieved with the transition to O-Track.

SEN. SCHMIDT returned to the "best-guess" estimate. She wondered if this estimate is on the high end. **Mr. Dougherty** surmised that this estimate is on the high end, but the DOC will not know more about changes to the medical until the test is completed in Utah. A federal grant was received for juvenile systems, not to build a computer information system, but to find out what needs to be shared between the Supreme Court, Department of Health and Human Services and the Department of Justice. This will help evaluate needs in relation to the juvenile module.

CHAIRMAN CALLAHAN asked if the noted cost includes converting current data into the new system. **Mr. Dougherty** replied that an analysis has been done on that cost, and the amount included for conversion is feasible.

LFD Issues

*{Tape: 2; Side: A; Approx. Time Counter: 8.6 - 14.6; Comments:
LFD issues on Program 1}*

Mr. Freebourn explained to the committee that executive action on the Department of Corrections is next Thursday, January 20. The committee can reopen the agency at any time after it is closed until the 45th day if things change.

Mr. Freebourn noted the LFD issue on DP14 is that the 10% collected is just the bare minimum amount needed for operations, but there is no real regulation of the excess. He recommends the committee place assurances on this appropriation. The LFD issue is on DP 1, the O-Track System. **Mr. Freebourn** declared that any new technology system is a huge undertaking, and that other systems have advisory committees. The committee could consider legislative oversight to have an update on where the system is, versus where the DOC said they would be.

SEN. BALES inquired about DP 14, asking if the committee could line item their appropriation and make it maximum tiered for operational expenses. Anything above the defined expense should be returned to a designated fund.

Mr. Freebourn said that the DOC will need a little flex, but the DOC might have ideas on how an agreement can be made. **Mr. Williams** added that the DOC is comfortable with the current system, but he could certainly check into their statutes to determine other options for the excess funds. **Mr. Freebourn** said that the committee can ask the DOC to report to an interim committee on this matter.

Community Corrections

***{Tape: 2; Side: A; Approx. Time Counter: 15 - 29.5; Comments:
Community Corrections}***

Mr. Slaughter introduced Community Corrections, emphasizing that it is the most significant program this year for the DOC because the department is heading toward considerably expanding community corrections programs.

***{Tape: 2; Side: A; Approx. Time Counter: 19 - 29.5}{Tape: 2;
Side: B; Approx. Time Counter: 0 - 4; Comments: Mike Ferriter,
Administrator of Community Corrections}***

Mike Ferriter, Administrator of Community Corrections for the Department of Corrections, noted that he appreciates the financial support the legislature has given community corrections, and that only through this support has the community corrections program grown.

Community Corrections supervises adult offenders, providing safe, effective alternatives to prisons. Community corrections is requesting nearly \$28 million for FY06 and the same in FY07, which is approximately 20% of the DOC budget. However, community corrections manages over 75% of the state's offenders. There are four present law budget requests on D-84 of the LFD Budget Analysis. **Mr. Ferriter** believes these are needed to maintain public safety, and to serve the needs of the offenders as well as the victims. The requests are DP 1 for additional probation and parole staff, DP 2 to maintain Community Corrections Programs, DP 5 for Community Corrections Overtime, and DP 13 for supervision fee spending authority. A more thorough discussion on the present law adjustments will follow a program explanation found in Exhibit 5. The key issue in budget requests is in adult probation and parole, which will be discussed throughout the DOC departments. Throughout Exhibit 5 he highlighted their mission statement, goals and objectives.

EXHIBIT(jch09a05)

Probation and Parole

***{Tape: 2; Side: B; Approx. Time Counter: 3.2 - 29.5; Comments:
Ron Allsbury}{Tape: 3; Side: A; Approx. Time Counter: 0 - 16.1}***

Ron Allsbury, Bureau Chief of Probation and Parole, is testifying to provide current information for the probation and parole base

budget and present law adjustments. He began by commenting on the high-quality staff in probation and parole, noting that there has been so much success because people love what they do and are good at it. There has been such success that the DOC wants to extensively expand this system. DP 13 is for 19 additional probation and parole staff over the biennium, which is a 12% increase from the current staff. This will relieve stretched staff and expand where the DOC wants to go. The workload of our current staff cannot be determined by our caseload. The caseload is only the raw numbers and not the extensive amount of time to handle a case.

The probation officers play two main roles. The first is in preparing pre-sentencing court-ordered investigation. This investigation gives a life sketch of the offender, what happened to bring the offender in front of the court, and information about what happened to the victim if a victim was involved. This guides the courts in making their decisions on placement of the offender. The other role of the probation officer is in supervision. This involves law enforcement intelligence sharing, visiting the offenders at their homes as well as checking in with family members and neighbors, testing the offenders for substance abuse, and performing searches when there is reasonable cause. The probation officer also checks in with mental health and chemical dependency counselors. **Mr. Allsbury** then gave a description of the bureau, as outlined in Exhibit 6.

EXHIBIT(jch09a06)

***{Tape: 2; Side: B; Approx. Time Counter: 18 - 29.5; Comments:
Explanation of figures in Exhibit 6}***

Mr. Allsbury described the layout of Community Corrections, their budget breakdown and descriptions of the programs. He then emphasized the importance of Community Corrections, noting that it creates accountability in a community for the offender. The offender learns self-reliance.

Additional programs are also important in creating programming appropriate to the offender. The Boot Camp program also addresses many issues of self-reliance, discipline and self-confidence. The prisoner is there for four months of intense supervision. Also, the assessment centers are a good place for a "time out" for the offender, allowing the system to decide the safest and best next step for a prisoner. These systems are needed because in Montana State Prison the offender is less self-reliant, make less decisions, and often become less able to return to a safe community. The department does need that

ultimate consequence of State prison, but options allow an offender to get treatment more specific to their needs. Probation and parole officers can be part of this specified treatment.

{Tape: 3; Side: A; Approx. Time Counter: 16.1 - 29.5}{Tape: 3; Side: B; Approx. Time Counter: 0 - 17; Comments: Monty Letexier}

Monty LeTexier, Montana State Probation and Parole Officer out of Butte, Montana, stated his most important job is to implement public safety and serve the offenders. He praised the increased oversight on offenders, noting that he has performed greater service to the community and the offender by increasing collateral contacts with mothers and neighbors. He emphasized his commitment to his work, explaining that his job takes much time away from his family and kids, but he is proud and believes in his job in public safety. **Mr. LeTexier** distributed Exhibit 7, conditions of probation and parole, to inform the committee of the rules which the officers enforce.

EXHIBIT(jch09a07)

In addition to the rules listed in the document which is signed by all offenders on probation and parole, **Mr. LeTexier** stated that in his opinion reporting is the most important tool. The number of times per month an offender must report is determined by their level of supervision. **Mr. LeTexier** asserted that he can tell with these appointments if an offender is using meth, or if they have done something wrong. "Special Conditions" on the bottom of Exhibit 7 are assigned to an offender by a judge, and can include anything from no bars and alcohol, to completing programs or community service.

Mr. LeTexier shared stories of both violations and successes, emphasizing to the committee that no system is perfect, but community corrections can work, and that there are dedicated staff involved. His testimony is included in Exhibit 8.

EXHIBIT(jch09a08)

{Tape: 3; Side: B; Approx. Time Counter: 17 - 29.5; Comments: Annette Carter}

Annette Carter, State Probation Officer II for the Helena area, explained she is one of 14 Probation Officer II's in adult community corrections. She shared with the committee the duties of a Probation Officer II. One of their duties is to staff cases and come up with a plan for the offender. One of their options

for offenders is an intervention hearing, where the DOC takes probation violators and try to put them back in compliance by either a 30-day jail sentence or 30 days of house arrest. Another option is a disciplinary hearing, which occurs with offenders on inmate status such as those at a prerelease centers and those on conditional release. This hearing is a reassessment of the offender's needs for success. Also, Ms. Carter performs on-site hearings with parole inmates. In Helena, there is a Drug Information System that helps maintain accountability to these offenders. This system requires an offender to call in on a daily basis, with the goal of catching offenders that have recently relapsed. Another option for parole inmates is house arrest for nonviolent offenders.

Ms. Carter also works with personnel issues, assessing offender risks, placing offenders in appropriate programs, evaluating case files, issuing travel permits, and making sure required paperwork has been done. Ms. Carter also creates a link to various levels of Community Corrections by involvement with the prerelease centers, the local screening committee and the drug traffic unit by way of the Missouri River Drug Task Force. Additionally, she assigns cases to probation and parole officers to best suit the needs of the offenders and the officers. She concluded by reiterating that the probation officers take their jobs very seriously, ensuring that offenders learn the tools to be successful, and apply them to their community. Her testimony is included in Exhibit 9.

EXHIBIT(jch09a09)

Discussion:

SEN. BALES inquired how the DOC is able to enforce house arrest, and if this involves a coordination of efforts by local law enforcement. **Ms. Carter** replied that it often takes a coordination of efforts to monitor the offender. House arrest frees up the bed and cost of a prison bed.

REP. WITT referred to Exhibit 6, Page 13, pointing to the large number of probation officers in the Helena area. He asked, "Is the Helena region larger than other regions?" **Ms. Carter** responded that Helena is largest region case-wise and size-wise. **Mr. Ferriter** added that the Helena region encompasses other counties with three major communities: Helena, Butte and Bozeman.

SEN. SCHMIDT asked for a breakdown of what towns are included in other regions. **Mr. Ferriter** reported Missoula includes Great Falls, Havre and Fort Benton. Billings manages Yellowstone and

Big Horn Counties. Kalispell manages Polson and Libby. Glendive includes Sidney, Miles City and Glasgow. Mr. Ferriter will supply a map to explain the county districts.

SEN. BALES inquired about the average time on probation. He asked, "How long do offenders stay on certain levels?" **Mr. Ferriter** stated he will give this information to the committee.

CHAIRMAN CALLAHAN requested that someone explain the difference between probation and parole to the committee. **Mr. Slaughter** stated the most common sentence in Montana is probation. The offender is sentenced to a certain length of time in probation or the offender is sentenced to prison and then has that sentence suspended. If the person spends time in a prison, they fall under the jurisdiction of the Board of Pardons and Parole.

CHAIRMAN CALLAHAN inquired about offenders that are sentenced to the DOC. **Mr. Slaughter** replied they are under the Board of Pardons and Parole. Any offender that goes into secure care goes into parole.

REP. WITT asked if courts often ask for a recommendation on an offender. **Mr. Slaughter** replied that many judges order a pre-sentence investigation, and if this is not requested, a post-sentence investigation is ordered.

Mr. Slaughter pointed to Exhibit 6, Page 12 to discuss the levels of supervision and the workload that arises from each area. He also clarified the LFD on Page D-90, noting that Probation and Parole Officers II's do not carry a caseload; therefore, the numbers for caseload are inaccurate. **Mr. Freebourn** said that he will recalculate the numbers and bring them back to the committee. **Mr. Slaughter** reiterated that aside from the calculations, the caseload does not indicate the workload or time of supervision needed.

Mr. Slaughter summarized that Community Corrections truly are a good buy, pointing to the cost-per-day analysis on Exhibit 6, Page 23. He stated the DOC cannot maintain their current approach of prisoner management, and urged the committee to support the transition to Community Corrections.

SEN. SCHMIDT inquired if there is a trend in education with offenders in the Community Corrections Division. **Mr. Slaughter** stated the offenders often have family trauma, a hard time in school systems and, at times, mental disabilities. **Mr. Ferriter** responded with WATCH program stats, noting that education level average is 11.81 years and the age of first alcohol use averages 13 years. These statistics and others are tracked in this

program. He stated that people with lower education levels and lower amounts of job training have a higher chance at recidivism.

Decision Packages

{Tape: 4; Side: B; Approx. Time Counter: 4 - 7.6; Rhonda Shaffer describes Decision Package 1}

Rhonda Schaffer, Fiscal Bureau Chief of the Department of Corrections, described the breakdown of DP 1, Additional Probation and Parole Staff as described on D-89. **Mr. Freebourn** presented new calculations from the LFD of the number of officers needed for the caseload. He noted that currently 6,500 offenders are supervised by 94 probation and parole officers. He explained the LFD issue of trying to see if the new officers requested are needed for a new, projected caseload or to lower the existing caseload. If it is to lower the caseload, Mr. Freebourn inquired why the current caseload needs to be lowered. **CHAIRMAN CALLAHAN** articulated his interpretation of workload versus caseload, saying he understands the workload per caseload is increasing. **Mr. Slaughter** added the goal of the Montana officers should be to have a caseload of 1.0. **CHAIRMAN CALLAHAN** hypothesized the relationship between caseload and workload, supposing that as workload increases; that the number of cases would decrease due to the attention the cases were getting.

REP. WITT referred to Exhibit 6, Page 3, asking if the department has any idea why more probation officers are needed in certain areas. **Mr. Slaughter** stated some areas have a lot more drug enforcement issues. Also, regions that host prisons are often higher because released prisoners stay in the area where there are smaller amounts of employment opportunities.

SEN. SCHMIDT inquired if offenders are assigned to probation and parole in areas from which they come or to where they go to prison. **Mr. Slaughter** responded that the institutional parole officers make a parole plan which usually includes returning the prisoner to their support system. Sometimes an offender is restricted from returning to an area or at times an offender goes to a prerelease center in a different community than their home. **SEN. SCHMIDT** asked about the families that relocate to Shelby to be closer to an inmate, inquiring if the inmate is then on probation in Shelby. **REP. WITT** interjected that there was concern of this happening in the community, but no complaints have been heard from the district. **Mr. Ferriter** commented that when an offender is sentenced to probation, they stay in the town in which they are convicted. Offenders on parole go to a prerelease center after prison and often stay in that community.

Billings and Missoula need more parole officers because they have stressed prerelease centers and more violations.

Rhonda Schaffer continued discussion on DP's, explaining DP 13 on D-90.

REP. WITT asked how the Annual National Fee was calculated. **Mr. Ferriter** explained this is an \$18,000 fee to the Interstate Compact provider, which is determined by population. There are three pay tiers, and Montana is on the bottom tier. The money for this DP is collected from the offenders that are applying to transfer to other states. Therefore this DP is merely for the spending authority for this fund and not for any general fund money.

ADJOURNMENT

Adjournment: 12:05 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/SS

Additional Exhibits:

EXHIBIT ([jch09aad0.PDF](#))