

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **VICE CHAIRMAN TRUDI SCHMIDT**, on January 17,
2005 at 8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

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

Members Excused: Rep. Tim Callahan, Chairman (D)

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,
Secure Facilities
Executive Action: None

VICE-CHAIRMAN SCHMIDT called the meeting to order.

Montana Women's Prison

Bill Slaughter, Director of the Department of Corrections (DOC), introduced Montana Women's Prison, stating they are the hardest population due to the number of pregnancies and methamphetamine (meth) addictions. He commended Warden Acton for her volunteer recruitment and good community relations.

Jo Acton, Warden of Montana Women's Prison, informed the committee of the size and programs of the Montana Women's Prison. The prison currently has 197 inmates, ten of which are part of the Billings Assessment Sanction Center (BASC) program. The women's prison has been stressed in recent years due to the increased use of meth, and populations have been steadily increasing. There has been no increase in staff to deal with the growing population. Exhibits 1, 2 and 3 were distributed relating to Montana Women's Prison

EXHIBIT(jch12a01)

EXHIBIT(jch12a02)

EXHIBIT(jch12a03)

Community Corrections works hard to keep women in the community. Nonviolent offenders that have been given multiple chances are 70% of the prison population. These are women that cannot hold a job, are often addicted to at least one substance, and many have children without a support system. There are two mentoring programs for these women to prepare them for release from prison. Group homes provide a support system and outward bound teaches the women how to access services such as insurance, childcare, and job training.

{Tape: 1; Side: A; Approx. Time Counter: 14.7 - 18.6; Comments: Montana Women's Prison Statistics}

Ms. Acton then discussed the statistics involving Montana Women's Prison (MWP), noting that the average age is 35 years, although the population is getting younger. The base budget is \$4,311,989, 61% of which goes to personal services. The per diem is \$64.18 excluding outside medical costs.

{Tape: 1; Side: A; Approx. Time Counter: 20.2 - 30}{Tape: 1; Side: B; Approx. Time Counter: 0 - 10.1; Comments: Problems Facing Montana Women's Prison}

She also outlined the biggest problems seen in the MWP and related stories to the committee of inmates experiencing these problems. Chemical dependency is the largest problem. Meth is the drug of choice. The addiction creates multiple medical problems, specifically dental. It also creates problems with personal emotions, where the person loses the skills of how to feel or react.

Gambling problems are also addressed because drug and alcohol addiction often coincide with gambling. In addition to medical costs created by alcohol and meth addictions, the MWP also has pregnancies, with typically 10 to 12 pregnant women at a time in the facility. These are often high-risk pregnancies due to little prenatal care and lifestyle choices. The prison provides medical costs up to the point when the child is born.

The final problem discussed by Ms. Acton was mental health. Her facility sees many inmates with borderline personality disorder. Correctional officers need training on the potentially harmful effects of this disorder. The facility holds women who are severely affected by these problems and have been unable to remain in a community setting. Correctional officers need to understand and be trained on all of these issues in order to fully benefit the inmate population.

***{Tape: 1; Side: B; Approx. Time Counter: 10.1 - 17.5; Comments:
MWP PAWS Program}***

MWP has program opportunities that provide inmates with hands-on learning. The MWP Paws for Humanity Program teaches inmates through the training of service dogs, which are then sold for \$350. Over 45 inmates are involved in the training of these dogs, as well as dogs for outside parties, upon request. Working with the dogs teaches inmates about discipline, structure, drawing boundaries, consistency, tolerance, communication skills, and dealing with frustration. These skills are then related back to the life of the inmates.

The Intensive Challenge Program (ICP) is the intensive supervision program, that works in conjunction with the Billings Assessment and Sanction Center (BASC). This is a 120-day intensive treatment program with the purpose of providing assessment for community placement in a supportive therapeutic community. Forty beds will be added to this facility. **Ms. Acton's** goal is to have most of the prison set up as a supportive therapeutic community by the end of five years to create a smoother transition from prison to the outside community. The

program list at Montana Women's Prison are listed on Exhibit 1. This does not list all of the volunteer programs at MWP.

MWP uses Victim's Services to show the prisoners that what they do has an impact on others. In addition, MWP is developing a support group to show the families of inmates what happens at the prison and how the inmate can be held accountable. The average inmate only stays nine months, and almost all offenders return home. This helps the offender's support system learn how to best support the inmate when they are released. She concluded that the dedicated staff focuses on accountability because it is the most important lesson to teach inmates at MWP. Exhibits 2 and 3 were also given to the committee for further information on MWP.

Discussion:

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 13.5; Comments:
Discussion on MWP}***

REP. HAWK asked how long a meth addict will need to be imprisoned to treat the addiction. **Ms. Acton** replied that addicts typically remain addicts their entire life. However, studies have shown that around 15 months of treatment is an optimum level for effective therapy. **REP. HAWK** inquired whether a prisoner often leaves with the mentality that they will not do the drug again after completing treatment. **Ms. Acton** remarked that statistics say that treatment does work, but prisoners are only people so they can make mistakes and slip.

SEN. BALES referred to the 40-bed expansion, asking if this would be done within the current structure or outside of MWP. **Ms. Acton** replied that the program is moving out to the industries building. The women are doing the construction themselves thus far, so they are saving money for the state on construction costs.

SEN. BALES inquired how much more room there is for expansion in the current MWP facility with the projected increase. **Ms. Acton** stated the current facility physical plant (heating, cooling and kitchen) can maintain a population of 350, but would need an addition in space and staff. The current emergency capacity is 276. The need for an expansion is dependent on an increased prison population or on expanded prerelease programs.

Mr. Freebourn noted that the Information on the Women's Prison and their expansion plans are outlined on Page D-96 of the LFD Budget Analysis.

SEN. SCHMIDT pointed to MWP treatment programs, and specifically the PAWS program. She inquired if this program is unique to Montana. **Ms. Acton** indicated that Washington and Colorado have similar programs and that the current nationwide trend is to provide hands-on treatment for inmates.

SEN. SCHMIDT commented on the 5% recidivism rate of new convictions and the overall recidivism rate of 33%. **Ms. Acton** stated that this recidivism rate is mostly because of recurrent drug use and multiple violations.

Mr. Freebourn asked Ms. Acton to clarify the difference between the Intensive Supervision Program and the Intensive Challenge Program. **Ms. Acton** replied that the Intensive Challenge Program was the women's equivalent for boot camp, but is now incorporated with the BASC program.

SEN. SCHMIDT questioned Ms. Acton about how long BASC has been running and how long prisoners stay in the program before moving on to another program. **Ms. Acton** responded that BASC was located at MWP at the same time MASC was started. The prison has since had to cut down on beds, but since have maintained ten beds for MASC. More beds are being made available so there is flexibility to move prisoners around to especially prerelease programs. The average length of stay is around 45 days.

Montana State Prison

SEN. SCHMIDT informed the committee Montana State Prison (MSP) is next. If there is time, the committee will hear public testimony on contract beds if visitors have traveled to speak. Otherwise, the presentation on contract beds will be tomorrow.

Mike Mahoney, Warden of Montana State Prison, started by commending Community Corrections for their work referring people to the prison system that cannot get through the programs and have failed multiple opportunities. Prisoners that end up at MSP are "only safe incarcerated." MSP is the only public state prison facility. It is a 68-acre double-fenced facility that is located in Deer Lodge. He introduced the staff of MSP who were present at the meeting, proclaiming they are a diverse staff who provide thorough treatment. Other partners in Montana's prison system are noted on Exhibit 4, Page 2.

EXHIBIT(jch12a04)

**{Tape: 2; Side: A; Approx. Time Counter: 21 - 26.3; Comment;
Staff introductions}**

He then stated that of major concerns to the MSP are the lack of per diem rate increases as discussed in prerelease centers, and the contract beds issue.

Bill Slaughter noted that the contract beds issue is like taking on another prison, and involves trust and stability in working with other agencies.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 10.1; Comments: MSP Mission Statement and Guiding Principles}

Mr. Mahoney discussed the MSP mission statement and guiding principles, which emphasize public safety and trust, offender accountability, victim services, and providing opportunities for change. These principles are listed on Exhibit 4, Page 2 through 3. He pushes his staff to comply with these guiding principles at all times. He emphasized the size of the organization, noting that personnel services are the most expensive part of the system.

{Tape: 2; Side: B; Approx. Time Counter: 15.5 - 19.7; Comments: Contract beds auditing discussion}

Mr. Freebourn asked Mr. Mahoney to explain how the contract facilities interact with secure facilities. He inquired, "Who is ultimately responsible for the contract facilities in terms of who determines costs for their budget? Also, who audits the facility?" **Mr. Mahoney** replied that there are state staff at the regional facilities to ensure they are making the most of their money and complying with regulations. They also look at the placement of high risk inmates to ensure they are getting the best placement. As far as contract facilities, he is directly responsible for the facility because he is the administrator. For auditing, their security measures and fiscal spending are regularly checked by the DOC Fiscal Bureau. **SEN. SCHMIDT** inquired how often the facility is audited. **Mr. Mahoney** responded that the security is audited every two years but fiscally they are audited every quarter in order to flag big issues. He added he will supply the committee with an audit as requested by Mr. Freebourn.

Mr. Mahoney continued with his presentation on Exhibit 4, Page 5 with average daily population statistics and growth rate. He stressed that the system is full. The prison system currently fluctuates between emergency and operational capacity daily. He then discussed the seven classification levels. He stated that the inmate cost per day at MSP as shown Exhibit 4, Page 7 is higher because they are the only facility that can handle maximum

security inmates. These inmates, which are 28% of the MSP population, are very costly because they must have everything served to them and they are under constant supervision.

SEN. SCHMIDT asked if the different custody levels are all in separate buildings. **Mr. Mahoney** replied that most maximum security inmates are in the same unit. All elderly and mentally ill inmates with chronic care issues are kept in the same unit at MSP because there are staff in that unit who can care for their needs. He added that it is hard to keep a balance in the appropriate number of prisoners in a facility. As the committee and DOC talk about expansion there will need to be a discussion on what classification system has the highest need for beds.

SEN. GALLUS inquired, "If the Great Falls Regional rejects a prisoner, who has the final say on where the prisoner goes?" **Mr. Mahoney** explained the facilities work closely to place a prisoner appropriately. A facility gets briefed on who is being sent and why. Questions can be asked but there are usually no objections. One matter currently affecting placement is gang activity, because certain identified members must be separated.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 7; Comments: Geriatric Unit Discussion}

SEN. SCHMIDT referred to the nonviolent geriatric prisoners, questioning Mr. Mahoney whether there has been research on other states as to how they are handled. She also wondered if there was talk about removing these inmates from the most secure, most expensive beds. She also inquired if this was in the long range plan. **Mr. Mahoney** replied that bigger systems are able to make smaller, more specialized facilities. A geriatric unit is possible but it is not possible this session money wise. This issue is of growing importance because of the aging population, as well as a large number of inmates with a high medical age due to drug abuse. He discussed options, including a geriatric unit with the old prisoner reception area. He then mentioned the "building bridges" program which was created in 1999 in conjunction with the Department of Public Health and Human Services to help the growing incarcerated mentally ill population.

Mr. Mahoney returned to contract beds cost per day, noting that the DOC has done a remarkable job of coming up with alternatives to high security, high cost incarceration.

SEN. BALES inquired why the inmate cost per day went up in FY05, then back down in FY06 and FY07. **Mr. Mahoney** explained that as

the prison population increases, the cost per day decreases slightly. This occurs until 1,500 prisoners, at which point there would be need for expansion of existing infrastructure and staff.

Mr. Freebourn asked Mr. Mahoney to explain why there was a budget supplemental in 2005 but there is no expected supplemental in FY06 or FY07. **Mr. Mahoney** stated one issue that affects the secure care budget is vacancy savings. Secure facilities have traditionally been exempt from vacancy savings because they are an around the clock operation. People still have to work if they are short of staff, creating overtime. The money that goes towards overtime and vacancy savings should be closer in FY06 and FY07.

SEN. SCHMIDT stated she would expect a higher cost per day in another institution if there is a decrease in the MSP facility. She inquired why the other per diem rates remain steady. **Joe Williams, Department of Corrections**, replied that at MSP there is a sliding scale in place that does not exist in other contract facilities. Until other contract facilities increase in size, the slight rise in cost will not affect the steady rates. **SEN. SCHMIDT** asked if other facilities adjust the rate by taking in federal offenders or cutting back programs. **Mr. Williams** affirmed both of these actions are taken to compensate, especially with Corrections Corporation of America (CCA). **Mr. Mahoney** added that the addition of the US Marshall service to CCA created further flexibility for the prison.

{Tape: 3; Side: A; Approx. Time Counter: 19.2 - 23.0; Comments: Expenditures and Population Demographics}

Mr. Mahoney returned to Exhibit 4, Page 6 to discuss budget expenditures and population demographics. The total budget of MSP and Contract Beds is \$48,898,752, 64% of which goes to MSP and 36% to contract beds. He emphasized that the biggest expenditure is for personal services. The biggest issues in male inmate populations are the large Native American population and the aging population.

SEN. SCHMIDT observed that over 30% of the inmate population are over 40, with a medical age of probably 15 to 20 years over their actual age. She asked if the DOC has an idea on what it would cost to convert the old prisoner reception center into a geriatric unit. **Mr. Mahoney** estimated the conversion would cost half a million dollars as a conservative estimate. **SEN. SCHMIDT** asked how much the DOC is proposing the other expansion to the

prison system. **Mr. Mahoney** responded that the DOC has a presentation planned for this proposal along with other options.

***{Tape: 3; Side: A; Approx. Time Counter: 23.7 - 30; Comments:
Ross Swanson, Deputy Warden of MSP, Issues with Contract Beds}***

Ross Swanson, Deputy Warden of Montana State Prison, spoke to the committee about the issues and challenges in contract beds, found on Exhibit 4, beginning on Page 8. The major issues are the prison population growth, increased length of stay, prison gangs, and the lack of increase in per diem rates to compensate for inflationary costs. Another issue is the new reception unit, which opened in May 2004. This became maxed out immediately because of overcrowding, but staff had not yet been hired. As a result staff were pulled from other facilities that were already overtaxed.

***{Tape: 3; Side: B; Approx. Time Counter: 1.6 - 7.2; Comments:
Staff Recruitment and Retention Issues}***

Mr. Swanson then highlighted the major issues in staff recruitment and retention, outlined on Exhibit 4, Page 10 through 12. The largest problems are in the current wage plan, transportation to facilities, and childcare. Between the problems in staff recruitment and retention, along with vacancy savings, the DOC is short-staffed and compensates with forced overtime.

***{Tape: 3; Side: B; Approx. Time Counter: 7.2 - 13.2; Comments:
Health Care Issues}***

He then outlined the major issues in health care for MSP and contract beds. The DOC is combating escalating health care costs at the same time as they are receiving an increased number of patients in need of chronic care. In addition, there are staff vacancies in the nurse profession due to a nationwide shortage.

SEN. GALLUS asked about information given on Exhibit 4, Page 12, Hepatitis C treatment, inquiring if preventative treatment for the staff is necessary. **Cathy Redfern, Health Services Bureau Chief**, replied that staff is treated for Hepatitis B but it is not necessarily effective to pre-treat Hepatitis C.

***{Tape: 3; Side: B; Approx. Time Counter: 13.2 - 15.7; Comments:
Physical Plant Issues}***

The Physical Plant Issues are listed on Exhibit 4, Page 14. Many of these issues were raised with the recent audit. He noted that

physical plant issues will arise with further talk of expansion, such as what could be done with the old reception unit. Also, there will be issues in the need for infrastructure growth at Montana State Prison upon further expansion at this facility.

{Tape: 3; Side: B; Approx. Time Counter: 15.8 - 20; Comments: Inmate Treatment Programs}

Mr. Swanson then discussed inmate treatment programs, beginning on Exhibit 4, Page 16. The goal of MSP is to keep the inmates busy. This cuts down on recidivism rates as well as civilian staff needed to watch over inmates. The secure facilities use programming and work assignments to engage inmates in productive behavior. The benefits of these programs are Exhibit 4, Page 17.

Mr. Mahoney remarked that the DOC needs to strike a balance between the Community Corrections Programs and those at Montana State Prison. Mr. Ferriter is in charge of 7,000 prisoners daily, while the prison has approximately 2,500. The department needs to look at the costs and benefits of the two programs and find what works best. He stated that programming is the most effective way to get positive results for a prisoner.

SEN. SCHMIDT inquired whether the 41% recidivism rate is specifically for MSP or for all of the secure beds. **Mr. Mahoney** responded that it represented all adult male secure beds. **SEN. SCHMIDT** requested recidivism rates broken down by facility, which will be provided by Mr. Mahoney. **Mr. Mahoney** added there is now a Prison Issue Task Force, which has allowed streamlining of programming so that a prisoner is transferred while in the middle of treatment, the prisoner can start where they left off in the new facility. **Mr. Slaughter** added that it is hard to break down recidivism rates by facility because prisoners continually move through the system.

SEN. SCHMIDT also inquired about cell study. **Mr. Mahoney** responded that if a prisoner cannot leave their cell then the treatment or education program is brought to them, often as an instructor with supervision.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 16; Comments: Transportation Issues}

Mr. Mahoney asked to move the discussion on secure bed expansion to tomorrow, from Exhibit 4, Page 18. Instead, he discussed the DOC issues with transportation of inmates. He stated that inmates are moved between facilities according to their needs and resources. For instance, MSP is the only facility with a sex

offender program. He explained that the DOC does not have the manpower to facilitate movement and the current contract with Transcorp will expire in April of 2005. This issues needs to be given consideration. He recommends a study of the transportation issue during the interim to determine who is able to effectively provide this service.

SEN. GALLUS spoke of a recent tragedy that occurred during transportation of inmates, and asked Mr. Mahoney to inform the committee what security changes have been made. **Mr. Mahoney** informed the committee that the indicated tragedy involved the escape of a homicide inmate as well as other high security inmates during a transportation. He said he could provide a copy of the changes to the committee, one of which involves notifying local law enforcement officials if a stop needs to be made. **SEN. GALLUS** commended the DOC on the response of this specific incident, noting that it was fast, thorough and appropriate.

SEN. SCHMIDT inquired about the cost of the discussed incident. **Mr. Mahoney** said the cost for the helicopters and resources used for the recovery effort were approximately \$25,000 which were billed to Transcorp, the transportation company under contract with the DOC.

SEN. SCHMIDT asked, "How long has this company been in the transportation business?" She also inquired if there was a lot of talk concerning transportation procedures. **Bill Slaughter** responded that Transcorp is the largest private transportation company in the U.S. The problem that led to the escape is that the company was not following their own policies. They were given 60 days to comply with changes after this event, which led to tightening up policies and defining roles between their company and the local law enforcement.

Mr. Slaughter reiterated that a transportation study is needed. This issue affects every sheriff, as well as the DOC and prisoners who are waiting for placement elsewhere.

Exhibit 5 was distributed for further information on the Sex Offender and Chemical Dependency Treatment Programs.

[EXHIBIT\(jch12a05\)](#)

2005 Budget Requests

Mr. Freebourn stated today's hearing is limited to Program 3, Montana Women's Prison and Montana State Prison, that begins on Page D-94 of the LFD Budget Analysis.

Rhonda Schaffer, Fiscal Bureau Chief of the DOC, began with Decision Package (DP) 6, Secure Custody Overtime, noting that this is a one-time-only appropriation. DP 7, MSP Inmate Pay is zero based, \$182,938 general fund and \$100,000 state special revenue. DP 11 is for MSP Federal Authority. DP 17 is a State Full-Time Equivalent (FTE) reduction to be taken at MSP.

Mr. Doig explained that the FTE reduction is making permanent what the committee did last session with a 2% personnel services reduction.

Discussion:

{Tape: 4; Side: A; Approx. Time Counter: 16 - 29.5}{Tape: 4; Side: B; Approx. Time Counter: 0 - 12.7; Comments: Discussion}

SEN. SCHMIDT asked how this FTE reduction affects overtime. **Mr. Mahoney** replied that it does not affect overtime because it is not in custody staff, it is in support staff. This will instead lengthen the waiting list for treatment programs, which in turn will increase length of inmate stay and prison costs.

SEN. SCHMIDT inquired if the offset of this reduction has been recorded. **Mr. Mahoney** explained that it is a matter of best managing resources. If there is less programming, then inmate length of stay is increased. However, the bottom line is that with this reduction the safety of every day operations are not compromised.

SEN. BALES asked if there is a possibility of reduction in overtime in the future by doing something with vacancy savings. **Mr. Mahoney** replied that the problem is not only in vacancy savings, but also with the shortage of officers in recruitment, which makes overtime necessary. **SEN. BALES** reiterated that the overtime problem is not necessarily due to vacancy savings, but more about pay scale or a shortage of employees in the area. **Mr. Mahoney** affirmed that the recruitment and retention of security officers is hard, along with compliance of vacancy savings.

SEN. BALES asked about the trend in supplemental overtime, whether it is increasing or if it stays the same. **Mr. Mahoney** explained that there is currently a spike in overtime, perhaps due to two factors; the mobilization of National Guard troops and a higher pay scale with law enforcement.

Mr. Slaughter added that upon exit reviews, employees stated that they liked their job but they are leaving due to transportation and child care issues. He also stated vacancy savings creates an

inability for the DOC to move money around. The bottom line is that vacancy savings does not allow the DOC to manage their system.

Mr. Freebourn discussed the confusing dynamic of why the department cannot create vacancy savings because it is a 24-7 operation. Also certain positions are not being filled to create vacancy savings, but this creates overtime. He then pointed to Page D-76 of the LFD Budget Analysis to explain the global issue of overtime. He stated the LFD issue with the overtime request is that the DOC is asking for less overtime than in the past, which will lead to an appropriation shortfall of approximately \$0.9 million in the 2007 Biennium.

Mr. Mahoney clarified that vacancy savings results in nurses and staff cuts and have nothing to do with the guards. The net effect of the reduction is that releases do not happen as expeditiously.

Mr. Doig explained that in terms of the predicted overtime appropriation shortfall, the governor's office gave the DOC this budget target. The DOC did with the budget what they thought best.

SEN. SCHMIDT inquired about how the secure facilities can go about getting staff, whether it means using buses for transportation or creating a nearby childcare. **Mr. Mahoney** replied that they have looked towards creating a transportation system.

SEN. SCHMIDT asked if the DOC has had to use traveling nurses with the nurse shortage. **Mr. Mahoney** confirmed that traveling nurses have been one of the options tried, and they are very pricey.

SEN. BALES pointed to Montana Women's Prison, inquiring if they are experiencing the same problems with attracting staff. **Ms. Acton** responded that there is not as much problem with recruitment but that turnover is high. People often use the prisons as a training ground for alternate, higher-paid positions.

Mr. Freebourn discussed tomorrow's meeting, which will cover Secure Custody Facilities, Regional Prisons and Shelby. This program has large decision packages that will need review.

ADJOURNMENT

Adjournment: 11:50 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch12aad0.PDF](#))