

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 31, 2005 at
8:20 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)
Rep. John E. Witt (R)

Members Excused: None.

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 Care Contract Beds Expansion
Executive Action: None

CHAIRMAN CALLAHAN called the meeting to order.

Opening Comments

{Tape: 1; Side: A; Approx. Time Counter: 0 - 30.0}{Tape: 1; Side: B; Approx. Time Counter: 0 - 11.7; Comments: Opening Comments and Discussion}

Mr. Freebourn stated that today the committee will be presented with options on how to handle the prison population growth projections. The original decision package (DP) is for a 500 bed expansion at Shelby. The Department of Corrections (DOC) has since created more options that are provided to the committee in Exhibit 1. Each description shows the number of beds that will be created, the cost and the advantages and disadvantages of each option. Exhibit 2 is information regarding programs that are offered for each contract bed facility, as requested by the committee. The projected number of beds needed through fiscal year (FY) 2009 is provided in Exhibit 3.

[EXHIBIT \(jch24a01\)](#)

[EXHIBIT \(jch24a02\)](#)

[EXHIBIT \(jch24a03\)](#)

Bill Slaughter, Director of the Department of Corrections, commented that the committee needs to take into consideration that a facility cannot be built without people to staff the expansion. Any expansion would mean a cooperative effort between the DOC and the community involved.

CHAIRMAN CALLAHAN added that the committee is also deciding the best philosophy to support the goals of the committee and the DOC.

Joe Williams, Department of Corrections, stated that the current goal of the DOC is to increase the amount of offenders in Community Corrections from 73% to 80%. The 20% offender population in prisons would be comprised of violent offenders and habitually repeat nonviolent offenders. He commented that the challenge to Community Corrections is that currently 58% of incarcerated males has at least one violent offense. Twenty-two percent of this population are sex offenders, which are hard to pass through screening committees. Eighty percent of incarcerated females are nonviolent offenders but many are wrapped up in drugs, specifically methamphetamine. The goal of the DOC and Governor Schweitzer is to utilize Community Corrections and to expand prisons only when necessary.

SEN. SCHMIDT inquired what the actual bed count is for the 20% that are violent and habitual repeat offenders. **Mr. Williams** replied that there are about 2,000 offenders currently in prisons. Approximately 42% of those offenders are nonviolent.

SEN. GALLUS asked if sexual offenders are considered violent offenders. **Mr. Williams** responded that they are classified as violent inmates.

Mr. Williams stated that the committee should also keep in mind that there are currently 4,000 outstanding warrants, some of which would need secure care.

Through discussion between **SEN. BALES** and **Mr. Williams**, the committee was informed that there is an accumulated growth rate of 5.76% for males and a 13.76% growth rate for females (Exhibit 1, Page 2). He also noted that numbers in the base year are skewed due to the conditional release program in 2003. He added that between FY04 and FY07 there is a projected increase of 53% in Community Corrections beds, which would be filled by FY09. At this time secure care beds when again be needed.

*{Tape: 1; Side: A; Approx. Time Counter: 22 - 25; Comments:
CHAIRMAN CALLAHAN and Mr. Williams discussion}*

CHAIRMAN CALLAHAN reiterated that expansion will continue to be a philosophical decision, because to keep with the goal of 80% Community Corrections, these facilities would have to continue to grow. **Mr. Williams** replied that by FY09 Community Corrections will probably have to expand to new communities, such as Kalispell and Bozeman.

CHAIRMAN CALLAHAN asked if the DOC had taken into account the better recidivism rate that occurs with Community Corrections. **Mr. Williams** replied that the recidivism rate has been taken into account. He added that offenders in Community Corrections serve lower time so twice as many people can be assisted. Also, he informed the committee that movement between prisons is continuous. He cautioned the committee to keep in mind the outstanding felony warrants.

CHAIRMAN CALLAHAN commented that numbers provided to the committee are momentary snapshots because numbers fluctuate with inmate movement. He added that he assumes the DOC has a goal of lowering the recidivism rates. However, to have the goal of lowering recidivism rates, probation and parole officers are put in the position of not reporting repeat offenses in order to hit

that goal. He asked how the DOC deals with the issue of keeping offenders accountable while still striving towards the goal.

Mr. Williams responded that the DOC wants to create measurable performance criteria for programs to get accurate rates of success and re-offense. He added that currently Montana has a 41% recidivism rate compared to the national rate of 50%.

Director Slaughter replied that probation and parole officers are told to err on the side of public safety. He commented that programs need to be created to give probation and parole officers options for offenders instead of sending them back to prison for a technical violation.

Mr. Williams recognized that previously the DOC built more beds but did not consider a solution to the growing prison population. He stated that treatment programs will work if effective programs are in place. He commended the Warm Springs Addiction Treatment and Change (WATCh) Program for their continued success rate of 68% graduates without recidivism.

Mr. Freebourn asked the DOC to inform the committee during the expansion explanations of what is already out there in terms of offenders and how the option will serve those populations. **Mr. Williams** replied that he will address this matter in his presentation. He also pointed to Exhibit 1, Page 4, which shows the projected adult corrections population along with the community options. He is concerned that even with the expansion of Community Corrections that there will still be little leeway in adult secure care. He added that Lewistown and Glasgow are also possibilities for the siting of pre-release centers.

CHAIRMAN CALLAHAN inquired why intensive care is separated out from other programs. **Mr. Williams** responded that these inmates are at a much higher supervision level. There are a lower number of offenders per officer and officers work in pairs.

Mr. Williams said that it is also possible to cancel the U.S. Marshall contract of 88 beds at Crossroads Correctional Facility in Shelby. He then proceeded with an explanation of expansion options.

Contract Beds Expansion: Option 1

{Tape: 1; Side: B; Approx. Time Counter: 11.7 - 29.5}{Tape: 2; Side: A; Approx. Time Counter: 0 - 15.2; Comments: Option 1}

Option 1 includes canceling the U.S. Marshall contract, a pre-release bed expansion of 335 beds, the addition of a revocation

January 31, 2005

PAGE 5 of 20

center for Probation violators at the old Reception Center at Montana State Prison (MSP), and a 500-bed expansion at MSP. He added that the goal of the Revocation Center is a 30-day program for probation violators.

CHAIRMAN CALLAHAN asked about the similarity of the proposed Revocation Center Program to Missoula Assessment and Sanction Center (MASC) and Billings Assessment and Sanction Center (BASC). **Mr. Williams** stated that the program would be very similar.

Mr. Williams then explained the chart on Exhibit 1, Page 9, which shows the inmate cost per day and the expansion costs. The total capital costs of this Option is \$57,217,548. He added that MSP is currently short approximately 42 positions; before expansion MSP needs to deal with their current employee shortage. Also, the MSP construction cost would be \$37 million, including the interest of nearly \$20 million for bonding at 4.4% over 20 years.

REP. HAWK stated that the DOC has not included any capital cost in the current DP for beds at CCA. **Mr. Williams** replied that this is included in the daily rate.

Mr. Williams then outlined the advantages and disadvantages stated in Exhibit 1, Pages 10 and 11.

REP. WITT asked for further explanation on the actual cost of the additional infrastructure needed at MSP. **Mike Mahoney, Warden at Montana State Prison**, responded that the current infrastructure was built to support 1,500 prisoners; the facility currently has 1,446 inmates. He said if the prison were expanded there would be expansion to the food service, sewer system and power, plus the additional staff.

REP. WITT asked if the DOC has a figure of this infrastructure cost. **Mr. Mahoney** replied that construction cost would be \$32,642,312 and the infrastructure costs would be \$3,250,920. He can provide these numbers to the committee.

CHAIRMAN CALLAHAN asked, "How much of the food preparation is for MSP and how much is for other facilities?" **Mr. Mahoney** responded that MSP food service also provides for Montana State Hospital, Boot Camp, the WATCH Program, the Riverside Facility, and the pre-release center in Helena.

SEN. GALLUS commented that the advantage of the cook-chill facility when it was first created was that it could be expanded easily. He inquired if this is no longer the case. **Mr. Mahoney** replied that since the cook-chill facility was built there has

been the addition of WATCH, Riverside and the pre-release center in Helena. He stated that the facility is maxed out.

SEN. GALLUS inquired if the current food facility is in a good location for expansion. **Mr. Mahoney** responded that this facility could be expanded but additional freezer capacity would be needed.

Mr. Freebourn asked about what would be included in the DP for this Option. Through discussion, **Mr. Williams** informed the committee that this Option requests \$9,447,720 from the general fund and 78.36 FTE in FY06, and \$19,824,310 from the general fund and 198.65 FTE in FY07. The DOC would also go in front of long range planning to ask for \$37,375,869 plus interest costs. **Mr. Freebourn** asked the DOC to also inform the committee of capital costs imbedded into the figures for each Option.

REP. WITT asked if the DOC would be asking for a bond of \$37 million from long range planning or if they would be asking for the full \$57 million. **Mr. Williams** replied that they would be asking for the \$57 million. This is \$37 million for construction costs and \$20 million for interest.

SEN. BALES said that the pre-release numbers are rising faster than are stated on Exhibit 1, Page 4. **Mr. Williams** clarified that other projections lump together male and female pre-release inmates.

CHAIRMAN CALLAHAN inquired if the DOC has a plan to address the concerns of screening committees, which will have to allow higher-risk offender into pre-release centers. **Director Slaughter** agreed that in order to expand Community Corrections, the DOC will need confidence from the community. Currently sex offenders are not often admitted and offenders are often pushed around to various committees before admittance to a program. He said that if the pre-release waiting list was dropped that perhaps the committee would take a larger variety of offenders.

SEN. GALLUS posed a scenario to the committee. Multiple screening committees as well as Parole Boards turned down an offender that had been charged with double murder. He asked about the result of this case and if there are any similar cases. **Mr. Mahoney** replied that in this case the offender was eventually admitted to a pre-release program, and will enter intensive supervision contingent on success during pre-release.

SEN. GALLUS commented that because of the scenario presented earlier, in which an inmate is turned down by several screening

committees, high-risk offenders are released into a community without any programming.

Mr. Freebourn asked if the \$9.14 per diem to Corrections Corporation of America (CCA) is based on a 20 year or 30 year contract, and if it is based on a population model. **Mr. Williams** replied it is based on 20 years and 500 inmates.

Mr. Freebourn commented that through his questions he has been trying to understand the capital that is being paid for state-owned versus privately-owned facilities.

Mr. Williams returned to the issue of screening committees, stating that they were laid out 30 years ago and have not been reevaluated.

Contract Beds Expansion: Option 2

{Tape: 2; Side: A; Approx. Time Counter: 15.4 - 22.5; Comments: Option 2}

Mr. Williams presented Option 2, which cancels the U.S. Marshal contract at Shelby, expands pre-release beds by 335 and creates an addition of 500 beds in Shelby. He added that this expansion would change the \$9.14 per diem to \$9.23, with a recovery cost of 15 years rather than 20 years. This Option would have a capital cost of \$33,689,500 and would need zero FTE. Advantages and Disadvantages of this Option are found on Exhibit 1, Pages 14 and 15.

SEN. BALES asked if the contract would be similar under the renegotiation. **Mr. Williams** replied that the contract would be roughly similar, with the possibility of lower rates if there is no purchase plan included. The legislature would be asked for direction on this matter.

CHAIRMAN CALLAHAN stated that when the contract was first drafted the State did not want to purchase the facility. He asked, "Why was the \$9.14 included in the agreement?" **Mr. Williams** said that the State wanted to have some control if anything happened, such as a riot.

Contract Beds Expansion: Option 3

{Tape: 2; Side: A; Approx. Time Counter: 22.5 - 26.4}

Mr. Williams explained Option 3, which includes the cancellation of the U.S. Marshal contract at Shelby, a 335 bed pre-release

expansion, and an addition of 152 beds in a regional prison location (Exhibit 1, Page 16). He noted that the regional prison expansion would relieve the stressed county jail male population. The capital cost of Option 3 is \$10,716,081 and no FTE would be needed. If this were approved the DOC would approach the long range planning committee for a \$7 million bond. Advantages and disadvantages are on Exhibit 1, Pages 18 and 19.

Mr. Freebourn confirmed that the DP for this Option would request \$5,732,492 in FY06 and \$11,226,202 in FY07 with no FTE. He asked Mr. Williams for a breakdown of the interest and principal within the \$10,716,081. **Mr. Williams** replied that \$7 million will go toward the principal and the rest is for interest with the rate of 4.4% to be paid over 20 years.

Contract Bed Expansion: Option 4

{Tape: 2; Side: A; Approx. Time Counter: 26.4 - 27.8}

Mr. Williams explained that Option 4 is the DP as originally presented to the committee (Exhibit 1, Page 20). This includes a 152 bed pre-release increase and a 500 bed addition at the Corrections Corporation of America (CCA) facility. The CCA per diem would go up to \$62.92 due to an increase to \$9.23 in debt service and a \$3.69 increase in the per diem for operating costs. The total capital cost would be \$33,689,500. The DP request would be for \$6,523,567 in FY06 and \$13,936,535 in FY07 with no FTE request.

Contract Bed Expansion: Option 5

{Tape: 2; Side: A; Approx. Time Counter: 28 - 29.5}{Tape: 2; Side: B; Approx. Time Counter: 0 - 4; Comments: Option 5}

Mr. Williams distributed Exhibit 4 to explain Option 5, the most favored by DOC administration. Option 5 cancels the U.S. Marshal contract with CCA, expands pre-release beds by 287, creates an addition of 152 beds in a regional prison location, and creates a revocation center for Probation violators at the old Reception Center at MSP. The total operating cost would be \$20,859,148. The DP would request \$8,906,355 in FY06 and \$11,952,793 in FY07. The FTE request would be 56.64 FTE for each year of the biennium. The total capital cost would be \$10,716,081. That includes the principle of \$7 million and the rest is interest at 4.45% over 20 years.

EXHIBIT (jch24a04)

He emphasized that this Option provides the DOC with secure custody beds without major expansion, Community Corrections options, and gives the legislature, Governor and DOC time to make long-range plans suitable to DOC goals. Advantages and disadvantages are on Exhibit 4, Pages 3 and 4.

Discussion:

{Tape: 2; Side: B; Approx. Time Counter: 4 - 22.7}

Mr. Williams explained that the Reconciliation of Options 1 through 5 to Governor Schweitzer's Budget are on Exhibit 5. This shows that the favored Option, Option 5, is \$5 million over the Schweitzer budget. Mr. Williams proceeded to inform the committee that there was an error made in the original DP in the pre-release cost estimate of \$2,011,432. Therefore, this Option would only be \$3.5 million over the proposed budget.

EXHIBIT (jch24a05)

Director Slaughter stated that it will take 10 to 14 months to complete pre-release bed construction. There were three beds open in the entire system last week. He expressed concern about what should be done with the population in the long run. If there were an incident the only space available is in CCA. The DOC will have to err into other state's beds if construction takes a long time.

CHAIRMAN CALLAHAN asked the DOC, "How comfortable is the DOC with their population projections?" **Director Slaughter** replied that with the direction the system is headed, the problem is not in an offender's criminal thinking, but in their addictions. He stated that he is comfortable with the projections because of the existence of Community Corrections options because he is not satisfied with just enhancing penalties. He added that the loss of federal funding with the Byrne Grant may lead to less arrests.

CHAIRMAN CALLAHAN inquired if the DOC had anticipated any space for movement within the system or if they had anticipated going into this biennium with full prisons. **Director Slaughter** replied that the DOC thought the opening of an 180 bed reception center would relieve the prison population; however, they did not predict that county jail levels would be at their current level. He added that typically inmates are placed into private prisons if the system is overfull, but Shelby is nearly pushed to maximum capacity with the U.S. Marshal beds.

SEN. BALES expressed concern that the preferred option will just delay the inevitable of overcrowding and that the DOC will be right back into emergency zones next biennium. He stated that the committee needs to take an action that will no longer delay the expansion decision.

Director Slaughter commented that this is a historic decision for the DOC. He explained that Option 5 is preferred because it will relieve the pressure enough to get by; however, if there is no further decisions by FY07 then the DOC will be back in the same situation.

SEN. BALES speculated that the lead time in construction is two years. He inquired, "How does the DOC envision that they will not be in a severe hole in two years if Option 5 is decided?" **Director Slaughter** replied that Option 5 is not just holding off on expansion. Pre-release centers and a Regional Prison will be expanded. The U.S. Marshal beds and MSP expansion will help to relieve some pressure. He also postulated, "What if the numbers drop because Meth Treatment Facilities?"

REP. WITT asked if a person would be allowed to speak for U.S. Marshal beds because their contract at CCA is threatened.

Public Comment

{Tape: 2; Side: B; Approx. Time Counter: 24.3 - 29.5}{Tape: 3; Side: A; Approx. Time Counter: 0 - 7.3; Comments: Dwight McKay}

Dwight McKay, U.S Marshal, explained that the contract under threat is an inter-governmental agreement that creates beds for federal prisoners to reside in Montana. He emphasized that the U.S. Marshal is partners with the State of Montana; these inmates are Montanans that are charged with federal crimes. Currently there are 260 such prisoners in the state.

There are four major court cities in which prisoners must appear; Billings, Great Falls, Missoula, and Helena. The U.S. Marshal needs to keep 25 to 30 inmates in these cities in order to make court appointments. They currently have contracts with 17 districts, including CCA in Shelby. He added that the U.S. Marshal is also paying the \$9.14 per diem; U.S. Marshals have paid \$326,000 to date towards the purchase of the Shelby facility. He explained that all federal prisoners are pre-trial prisoners; therefore, if prisoners are placed out-of-state their attorney and federal probation officer would have to be paid for their travel to visit with the inmate.

Mr. McKay presented the committee with Option 6. He suggested that the U.S. Marshal stay at Shelby for the reasons stated. The DOC should work a separate contract with CCA for the construction of a 250 bed facility. The U.S. Marshal beds could help offset the cost of this construction for the chance at some stability in these beds. However, this is another quick fix.

He also urged the committee to consider another set of constituents that have too large of a representation in prisons; Native Americans and Indian Reservation offenders under the U.S. Marshal. He emphasized that the state, county, and U.S. Marshal service need to work together to they do not continue pushing each other around.

{Tape: 3; Side: A; Approx. Time Counter: 7.3 - 15.8}

Alan Underdahl, Toole County Commissioner, explained that when the legislature committed to a contract with CCA, they also made a commitment to the communities that support the facility. He state that in 1998 when the contract was signed that the State created a long-term partnership with the private system. CCA has created an excellent relationship with the community. They have paid \$2.4 million in property taxes to date to benefit the State. They have made themselves open to the community through outreach and employment opportunities. In return, CCA has been shorted because there is no guaranteed prison population; despite overcrowded prisons space still remain open at Shelby.

In relation to the Options in front of the committee, he stated that the committee should consider the U.S. Marshals, the construction costs and time as well as available staff. CCA could build a 500 bed expansion in 14 months for a relatively low cost to the State. Also, the Blackfoot Reservation could be another source for staff with a per diem increase.

{Tape: 3; Side: A; Approx. Time Counter: 15.8 - 21.9}

SEN. JIM SHOCKLEY, SD 405, explained that he has been closely watching the contract matters between CCA and the State of Montana. He declared that before the committee considers further expansion onto the Shelby facility, they must consider the safety of the State's investment in this contract. He stated that the State cannot unilaterally buy the Crossroads Correctional Facility in Shelby. If they were to buy the facility, it would come with a \$7.1 million mortgage.

He explained there are three ways in which the State may terminate their contract with CCA and exercise their right to

purchase. This may happen if they violate operating procedures, such as a riot, if the company goes bankrupt, or if the legislature does not appropriate the money to continue funding CCA. This last case may be argued "poor faith and bad dealing" in court. He suggests the committee keep the instability of the contract of CCA in mind when making a decision on expansion.

{Tape: 3; Side: A; Approx. Time Counter: 21.9 - 25.2}

Valerie Wilson, DOC Staff Attorney, disagreed with SEN. SHOCKLEY's analysis of the contract in which the State cannot unilaterally purchase the Shelby facility. She negated both statements made by SEN. SHOCKLEY that "good faith and fair dealing" would be raised and that the State would inherit a \$7.1 million mortgage. She explained that if the State purchases the facility then CCA will pay off any outstanding debt. She emphasized that the contract is secure if the State exercises the right to purchase or if CCA goes bankrupt. CCA is willing to add language to the contract to make the State more comfortable.

{Tape: 3; Side: A; Approx. Time Counter: 25.2 - 28}

Lucibeth Mayberry, CCA and Crossroads Correctional Facility, commented that the State of Montana is secure in the contract with CCA and CCA is willing to add language to make it more secure. She added that CCA does business in 21 states and this contract is not unique. CCA is more concerned about the lack of per diem increase at Shelby. She provided the committee with Exhibits 6 and 7, the Crossroads occupancy and the planned compensation per inmate versus actual compensation. CCA has given a salary increase to their employees to stay competitive in the market but they have not received a per diem increase. She asked the committee for the increase in order to stay financially solvent.

[EXHIBIT \(jch24a06\)](#)

[EXHIBIT \(jch24a07\)](#)

{Tape: 3; Side: A; Approx. Time Counter: 28 - 30}{Tape: 3; Side: B; Approx. Time Counter: 0 - 0.9}

Dan O'Fallon, Cascade County Regional Facility, commented on Option 5, which includes a 152 bed expansion at a Regional facility. He stated that he believes Cascade County could maintain a bed increase, but this cannot be a patch. A per diem increase needs to be funded to maintain a full service facility.

{Tape: 3; Side: B; Approx. Time Counter: 0.9 - 6.9}

Kurt Sampos, People's Bank of Deer Lodge, spoke to the committee in regards to expansion in the Deer Lodge valley at MSP. He stressed that the committee must not warehouse prisoners; they need an opportunity to change their lifestyle. MSP is an excellent choice for expansion because there is land available and it is a full service prison with an established industries program. They also are able to take multiple levels of offenders.

The community of Deer Lodge is proud to have MSP in their community, which is why he is here to provide assistance to MSP in their expansion. The current housing situation in Deer Lodge is that houses are more than an income at MSP can handle; People's Bank can assist by lending employees of MSP loans with reasonable rates. He favored Option 5 because it will give the State and DOC the time to explore plans.

{Tape: 3; Side: B; Approx. Time Counter: 7.3 - 8.9}

Jim McGowan, Mayor of Deer Lodge, gave his full support for any expansion in the Deer Lodge Valley. He stated that the Town of Deer Lodge has a good working relationship with the prison. He is currently in the planning process for more infrastructure and affordable housing in Deer Lodge, including a transportation program between town and the prison.

Dan O'Fallon provided the committee with written testimony on behalf of Major Jeff Walter, Facility Administrator at Dawson County Detention Center. **Major Walter** stated within the testimony that he strongly feels that the DOC needs to look at long range planning. Dawson County is very interested in being included in this planning. However, "the only realistic short-range solution to population growth is the expansion of services at Crossroads Correctional Center in Shelby." He strongly urges the committee to approve this Option.

EXHIBIT(jch24a08)

{Tape: 3; Side: B; Approx. Time Counter: 8.9 - 11}

Mike Ruppert, CEO of Boyd Andrews Community Services, owner and operator of Helena Pre-Release Center, informed the committee that the plans are ready for expansion of the Helena Pre-Release Center. They are requesting the purchase of the land next to the center. They could have 40 to 60 beds ready within the year if appropriate permission is granted.

{Tape: 3; Side: B; Approx. Time Counter: 11 - 12.9}

Bob Toole, President of Powell County Chamber of Commerce, owns a business in Deer Lodge and supports the expansion of MSP. He stated that he would be interested in helping to coordinate transportation to and from the prison in order to make the expansion work.

{Tape: 3; Side: B; Approx. Time Counter: 12.9 - 20.3}

Scott Cryden, American Civil Liberties Union in Montana, advocated for prison reform. The United States has 2.2 million prisoners, which is 25% of the world prison population. The incarceration time is also longer in the United States. At some point the State needs to recognize the cause and effect in law enforcement. The State should be smart in law enforcement. He inquired, "What does it cost to engage and incarcerate a young 20-year-old for a \$50 marijuana deal?" If the DOC builds beds they will be filled. The State needs to consider programming and sentence reform when they decide on expansion. He thinks that 88 jobs in Chemical Abuse and reentry programs should be funded rather than 88 jobs in a new facility. Energy needs to be put into lowering recidivism rates. He distributed Exhibit 9, which gives examples of sentencing options used in jurisdictions across the country.

EXHIBIT (jch24a09)

{Tape: 3; Side: B; Approx. Time Counter: 20.4 - 27.8}

Mike Thatcher, Administrator of Community Counseling and Correctional Services, Inc., explained the long relationship his company has had with the DOC, including beds at WATCH and support at Deer Lodge and Shelby. He also explained that there currently is a secure detention center that is running in Galen, Montana. This facility is used by many counties and the U.S. Marshal. It has a good infrastructure in place as well as a medical, dental and transportation system. He proposed that the committee consider the construction of a special needs, geriatrics facility across from the Galen facility. This would include both soft beds and secure beds of all security levels. Community Counseling and Correctional Services has the ability to privately finance and build the facility in a timely manner. Two hundred to two hundred fifty beds are possible on a 20 acre plot of land that already has infrastructure in place. This facility would enable the DOC to deal with a population that needs attention.

{Tape: 3; Side: B; Approx. Time Counter: 27.8 - 29.5}

SEN. SHOCKLEY responded to testimony given by Ms. Wilson and Ms. Mayberry. He stated that their arguments that have been given are not based on evidence, so of course they will say it is secure. The DOC did not even know about the mortgage and details of the contract until they were informed by **SEN. SHOCKLEY**. He reiterated that this contract does not grant the State unilateral right to purchase the facility except if the contract is terminated.

REP. WITT asked Lucibeth Mayberry of CCA, "Where does the \$9.14 per diem end up?" **Ms. Mayberry** replied that this money goes to debt service.

REP. WITT said that in the DOC executive action, a 4% increase was given in the pre-release per diem, but CCA is not included. He asked if CCA should be included in this per diem increase. **Ms. Mayberry** asked the committee to consider a 3% increase to keep CCA in line with where the per diem should be.

REP. WITT inquired how CCA feels about the option of expanding at the Shelby facility. **Ms. Mayberry** replied that CCA is here to serve the wishes of the State; it is not their place to say whether an expansion should happen at the facility.

REP. WITT asked about the last time CCA was given a per diem increase. **Ms. Mayberry** responded the last increase was FY03.

Pre-Release Center Expansion

SEN. SCHMIDT asked other pre-release centers if they could accommodate expansion.

{Tape: 4; Side: A; Approx. Time Counter: 5 - 6.1}

Paul Corey, Great Falls Pre-Release Director, replied that the request for expansion has not been considered seriously until recently, but the community is very open to this expansion. He believes the center can expand by 40 male beds.

{Tape: 4; Side: A; Approx. Time Counter: 6.1 - 9.7}

Sue Wilkins, Executive Director of Missoula Correctional Services, contracts with the State of Montana for a 112 bed pre-release center. She stated that rather than expanding at the current center in Missoula, it would be better to build a new facility. There is land close at hand that could be purchased. Another option is to expand into Kalispell. Many inmates from Kalispell are in Missoula because it is the closest pre-release

center to their home. She added that Missoula Correctional Services operates other programs in the city and county that help recidivism, such as pre-trial supervision. The State of Montana needs to consider such programs when long-range planning occurs.

{Tape: 4; Side: A; Approx. Time Counter: 9.7 - 11}

Dave Armstrong, Billings Community Corrections, stated that Billings is particularly interested in expanding a women's pre-release center. He proposed a 100-bed female facility; 19 women that are currently at the Billings Pre-Release Center can be moved to this facility, opening up more beds at the male facility.

U.S. Marshal Beds

{Tape: 4; Side: A; Approx. Time Counter: 11 - 24}

SEN. GALLUS posed a question to U.S. Marshal McKay in relation to the U.S. Marshal beds. He stated that they are contracted for 88 beds, 80 of which are currently filled. He stated that within the proposed 500-bed facility at Shelby, the DOC wants 250 beds. He asked, "Would the U.S. Marshal service request additional beds in the Shelby facility if the expansion were built?" **U.S.**

Marshal McKay stated that they are allowed 100 beds under the current contract with CCA. This means that if the contract with the U.S. Marshal is terminated, they would have to find space for up to 100 beds.

SEN. BALES inquired, "Since there are currently 80 U.S. Marshal inmates at CCA, are some inmates placed in county prisons?" **Mr. McKay** replied that U.S. Marshal prisoners are scattered throughout Montana, Idaho and Wyoming. They are at the mercy of the facilities in which they are housed. He noted that it is difficult enough for the sheriffs to handle their current population without worrying about the U.S. Marshal beds.

SEN. BALES asked, "How many U.S. Marshal beds are allowed statewide?" **Mr. McKay** said that statewide they currently have 250 prisoners, scattered among various prisons.

SEN. BALES inquired if Mr. McKay is happy to have the prisoners scattered throughout the state or if he would prefer they were housed in a single facility. **Mr. McKay** responded that the inmates need to be scattered so they can be near to the court where they are sentenced.

SEN. BALES asked about the location of the Native American population from reservations, since these inmates are under the jurisdiction of the U.S. Marshal. **Mr. McKay** replied that Native American populations are higher in Great Falls, which serves the high line population, and Billings, which is close to the Crow and Cheyenne Reservations. He added that CCA does a great job with the cultural and religious aspects of Native American culture.

REP. WITT voiced concern that U.S. Marshal beds are not being considered under options presented by the DOC. He stated that these inmates are federal prisoners but they are Montana citizens. He asked for further information on how the Option 5 came about. **Mr. Slaughter** said that all of the Options presented have been formulated through conversations with various facilities. He is willing to process the numbers of the private facility proposed by Mr. Thatcher to be used as an additional option.

REP. WITT asked the DOC to put together two more options; one option with the U.S. Marshal beds included, and one with the Thatcher facility.

Director Slaughter informed the committee that the CCA has to build out in 500 bed increments. If the DOC put in 250 beds, the U.S. Marshal would have more beds available. He told the committee that if they wish to see further options they just need to inform the DOC what facilities should be included.

SEN. SCHMIDT inquired if any other facilities also handle Native American issues well. **Mr. McKay** replied that the county jails do not handle these issues, which are the only other place where U.S. Marshal beds are placed.

Closing Questions

SEN. SCHMIDT posed a question to Dan O'Fallon. She asked how the Regional prisons were planning on expanding, whether it be through building an expansion or eliminating federal beds. **Mr. O'Fallon** replied that the people of Great Falls have verbally approved building an expansion. He added that the Great Falls Prison has a great dental service outside of the facility transportation of prisoners and staff is easy. Programming is the more important part of incarceration, and will need additional funding.

{Tape: 4; Side: A; Approx. Time Counter: 27 - 29.5}{Tape: 4; Side: B; Approx. Time Counter: 0 - 0.4}

SEN. SCHMIDT asked for comments on the CCA contract from Mr. Screnar. **James Screnar, Department of Justice Legal Services**, responded that the DOC can only buy the Shelby facility upon termination. He is unsure about the possibility of "good faith and fair dealing." However, there is a mortgage overriding the contract, which is not attached to the contract. There is a provision in the contract where CCA would be required to pay for the mortgage if the State would exercise their right to purchase. He also stated that the State is secure in their right to purchase in the case of bankruptcy and in the case that the legislature would not appropriate the funds.

SEN. BALES asked for a clarification on Option 5. Seven million is needed to build to pre-release center. He asked if this would take the form of a bond. **Mr. Williams** replied that the bonds in Option 5 are for the construction of additional housing units at Cascade County Regional Prison.

SEN. BALES commented that this is a different system of financing than how it has been done before. **Mr. Williams** stated that it is the same process of before; there was joint funding when Dawson County Facility was built. The facility was cheaper because more than one facility was being built at the same time. Missoula was different because it was paid for under federal violent offender incarceration money.

SEN. BALES asked if there would be any county money in the expansion or if it would be all State money. **Mr. Williams** replied that it would be all State funding unless the county wants to capitalize on the expansion.

Lacibeth Mayberry reiterated that CCA is a strong, financially solvent company. If there are concerns with the contract CCA would like to discuss these with the State.

CHAIRMAN CALLAHAN reminded the committee that executive action for contract beds will be taken on Friday. Exhibit 10 was distributed in relation to expansion at the Shelby facility.

EXHIBIT (jch24a10)

SEN. SCHMIDT asked the DOC to respond to the unstable situation of the U.S. Marshal beds. **Director Slaughter** responded that the committee must remember that there are U.S. Marshal beds are not only in the Shelby facility. However, if beds were built in the county facilities to allow more room for the U.S. Marshal it would just increase the bottom line, and the DOC would be in the same position with the U.S. Marshal service. If the Cascade

January 31, 2005

PAGE 19 of 20

County Facility were to expand the U.S. Marshal service can be involved.

ADJOURNMENT

Adjournment: 12:10 A.M.

REP. TIM CALLAHAN, Chairman

SHANNON SCOW, Secretary

TC/ss

Additional Exhibits:

EXHIBIT ([jch24aad0.PDF](#))