

MINUTES OF THE MEETING OF THE JOINT COMMITTEE ON STATE
ADMINISTRATION
June 21, 1982

The meeting of the Joint Committee on State Administration was called to order at 7:10 p.m., in the House Chambers, by presiding Chairman Story.

House Bill 7 (Attached)

REPRESENTATIVE MENAHAN, one of the sponsors of HB 7, said the administrative staff of the Department of Institutions would be handling the presentation on HB 7.

CARROLL SOUTH, Director of the Department of Institutions, told the committee the administration's proposal, of long-term housing in the prison, is to expand the prison at a cost of \$9.6 million. Mr. South went over the proposed expansion of the prison as covered on the diagram (which follows page 39) contained in the 1982 Special Session - Briefing Paper. (See EXHIBIT 1.)

Mr. South told committee members the proposal would include squaring off the fence surrounding the prison, making four corners each with a guard tower. He also said there would be a new fence erected in the middle of the compound. Everything to the left of the new fence would be maximum-close security and everything to the right of the new fence would be medium-minimum security. Mr. South informed the committee members that in most states the inmates are separated by classification for programming reasons.

Mr. South said the existing kitchen and dining room would be expanded if the new proposal is accepted. He also said that once the prison has been remodeled, the gym would remain on the close security side of the fence. The new buildings would be built on the outside of the existing fence and after the buildings have been completed, the fence would be moved to the outside of the buildings.

Mr. South told the committee members that the new proposal also lays the groundwork for future expansion, if needed, with a capability of housing up to 1,000 inmates, with a single cell housing capability of 635. He said there would be enough room to build two more medium-minimum security housing units, should the need arise.

Mr. South said if the new proposal is adopted, the Department of Institutions would propose that three wings be segregated for three different kinds of treatment:

1. Alcohol and Drug Abuse treatment wing for inmates who cannot receive the treatment, they would require, at Galen.
2. Emotionally Disturbed treatment wing for inmates who are seriously emotionally disturbed.
3. Sex Offender treatment wing for inmates convicted of being sex offenders.

Each of the above treatment wings would contain twelve cells.

Mr. South covered the comparison of the operational budgets, pages 44 and 45 of EXHIBIT 1, of the other proposed sites for prison facilities.

CHAIRMAN STORY asked for further proponents of HB 7.

GLENN DRAKE, an attorney in Helena who represents the Montana Public Employees Association, told the committee members he would like to go on record in support of the proposal given in HB 7. Mr. Drake then introduced two prison guards who asked to testify in support of HB 7.

ELMER FUNK, a prison guard, said there is not enough room in the maximum security housing now. Because of the lack of proper housing, there are constant disciplinary problems.

WARREN WAGNER, a prison guard, told committee members that by squaring off the fence, the guards would be able to see all areas of the compound which they cannot see now.

SENATOR MANLEY, District 14, spoke in support of HB 7, and introduced members of the Deer Lodge community who spoke in support of HB 7.

TED MIZNER, County Attorney, supported a total prison concept. He blamed the overcrowding for a lot of the crimes that happen within the prison. He said he has been told that a lot of the prisoners arm themselves in order to defend themselves against other prisoners. Mr. Mizner said the State of Montana has recognized the prison problem and to ignore that problem now, would be wrong.

DAVID COLLINGS, Sheriff of Powell County, read his testimony to the committee. (See EXHIBIT 2.)

BUD CAMPBELL, Director of the Citizens Protection Association, also read testimony to the committee. (See EXHIBIT 2.)

CHUCK WALDRON, representing the Deer Lodge Chamber of Commerce, read a letter from the Powell County Development Corporation. (See EXHIBIT 3.)

KERMIT DANIELS, Deer Lodge City Attorney, said the most important item is keeping the prisoners busy. He said it is important to have a program that will instill some sense of discipline in the prisoners. He also said it is important to instill professionalism in the guards and prison staff by paying them more. Mr. Daniels told the committee the morale is very low among prison staff. Mr. Daniels also said he endorses the principle of the pre-release houses but that won't be the solution to the problems at hand.

JOHN CAMPKE, a rancher, spoke in support of HB 7 and also asked the committee to keep a more watchful eye on the money spent on the prison.

RON KELLY, a Deer Lodge resident, spoke in support of squaring off the fence surrounding the prison.

REPRESENTATIVE JOE BRAND, District 28, told committee members he supports HB 7 and that the Deer Lodge residents want to keep the prison in Deer Lodge but want the prison security "beefed up".

SENATOR MANLEY closed his testimony by saying the proposal will finish the building of the prison in Deer Lodge. He has never felt the new prison was totally finished when it was built but he feels this piece of legislation will do just that.

PHIL HAUCK, State Architect, told the committee his office did the estimates on the proposed prison expansion. Mr. Hauck said the average cost per prison bed in the western states' prisons is \$50,000. The average cost per bed in this proposal would be \$44,000.

CHAIRMAN STORY asked if there were any proponents to HB 7 that wanted to testify. There were not. He then asked if there were any opponents to HB 7 that would like to testify. There were not.

REPRESENTATIVE MENAHAN closed the presentation by saying HB 7 is a necessary piece of legislation. He said the facilities should be separated to protect the people of Deer Lodge valley and to help the youthful offenders who are in the prison.

The meeting was then opened to questions from committee members.

SENATOR TOWE asked Mr. South how the proposal for two compounds came about and what research went into the proposal. Mr. South said the proposal evolved from a conversation between Mr. South, Mr. Dan Russell, Administrator of the Corrections Division, Warden Hank Risley, and Mr. Don Hutto, a consultant for the Department of Institutions. Those people were trying to come up with a cost effective proposal for expansion of the prison and Mr. Hutto agreed the proposal was a good correctional policy.

SENATOR TOWE asked, if security is the major concern, why not build the maximum-close security building a half mile away from the existing prison. Mr. South said the proposal would divide the maximum and minimum security beds, making the best out of the circumstances. He said geological separation would be better but that is impossible without building another complete prison.

SENATOR RYAN asked Mr. South if the ACA (American Correctional Association) standards are just used as an advisory tool or are the standards enforced. He also asked who was responsible for setting the standards. Mr. South said the federal courts turn to the ACA standards as guidelines on operating prisons. Mr. Hutto told the committee that the standards represent the best available compilation of prison practices and the standards also represent legal guidelines. Mr. Hutto said the standards are formulated by the ACA.

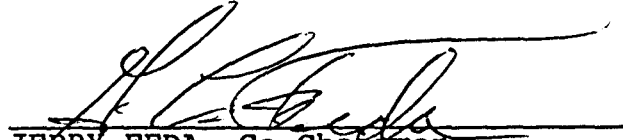
REPRESENTATIVE MARKS asked why more prisoners are not put in Units A, B and C. Mr. South told him the units were built for eight prisoners per unit. There is only one sink, toilet and shower per unit. The units are overcrowded now by having eleven prisoners per unit. Warden Risley said if the number of prisoners per unit is increased, you end up putting prisoners together that should not be together and it is hard to control the behavior of the prisoners if they become disruptive.

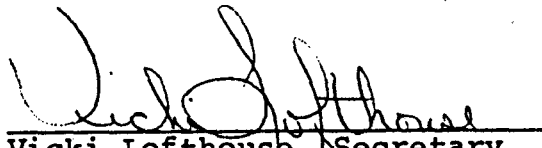
REPRESENTATIVE MARKS referred to page 52 of the Legislative Fiscal Analyst's Prison Analysis (EXHIBIT 4) and asked for a response from Mr. Hutto concerning the legal opinion regarding double bunking. Mr. Hutto said double bunking is not unconstitutional, the issue is the remainder of the conditions caused by double bunking. He said when there is overcrowding in a prison, it is hard to ensure protection for all prisoners.

REPRESENTATIVE MARKS said the one most obvious need of the prison was something for the prisoners to do. He said, in looking at the prison, there seemed to be a lot of things that could be done that are not being done, i.e. an expanded garden space.

Representative Marks asked what it would take to get that type of program going so that the prisoners can be put to work. Warden Risley said the new ranch manager did not start work until March and he was trying to acquaint himself with the dairy and ranch operations. He said the garden will be expanded next year. Representative Marks asked why a garden supervisor wasn't hired so that the garden project could be started this year. Warden Risley said he would feel comfortable defending himself for a request for hiring additional security people but wouldn't feel comfortable requesting a position for a garden supervisor when security people are needed. Mr. South explained that security has to come first. He said if the legislature wants a garden supervisor hired and will appropriate the money for that position, the Department of Institutions would hire the supervisor.

The meeting was adjourned at 9:40 p.m.


JERRY FEDA, Co-Chairman


Vicki Lofthouse, Secretary

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HB BILL NO. 7
INTRODUCED BY *Montgomery*
Andrew
REQUEST OF THE GOVERNOR *Granger*
Happy Monday

1 A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE MONEY
2 FOR PRISON EXPANSION CAPITAL IMPROVEMENT PROJECTS FOR THE
3 BIENNIUM ENDING JUNE 30, 1983; AND PROVIDING AN IMMEDIATE
4 EFFECTIVE DATE."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Definitions. For the purposes of this act,
2 unless otherwise stated, the following definitions apply:

1 (1) "Capital project" means acquisition of land or
2 improvements, planning, capital construction, renovation,
3 furnishing, or major repair projects authorized in this act.
4 (2) "BPICA" means account number 06142 in the bond
5 proceeds and insurance clearance fund; "FPRA" means federal
6 and private revenue account; "ERA" means earmarked revenue
7 account; and "other appropriated funds" means money other
8 than general fund or BPICA money that accrues under
9 provisions of law to an agency indicated herein.

1 (3) "Approved budget amendment" means approval by the
2 budget director of a request submitted through the
3 architecture and engineering division of the department of
4 administration to transfer excess funds appropriated to a

1 capital project within that agency or to obtain financing to
2 expand a project with funds that were not available for
3 consideration by the legislature.

4 Section 2. Expansion required to be authorized. No
5 existing capital project may be expanded beyond the scope of
6 the project as approved by the 47th legislature unless the
7 capital project expansion is authorized by an approved
8 budget amendment.

9 Section 3. Severability. If a part of this act is
10 invalid, all valid parts that are severable from the invalid
11 part remain in effect. If a part of this act is invalid in
12 one or more of its applications, the part remains in effect
13 in all valid applications that are severable from the
14 invalid applications.

15 Section 4. Totals not appropriations. The totals shown
16 in this act are for informational purposes only and are not
17 appropriations.

18 Section 5. General fund appropriation. There is
19 appropriated from the general fund to account number 06142
20 in the bond proceeds and insurance clearance fund \$9,605,780
21 to be used to support the project provided for below.

22 Section 6. Prison construction appropriation. The
23 following money is appropriated from the bond proceeds and
24 insurance clearance fund to the director of the department
25 of administration:

1	MONTANA STATE PRISON		
2	One 120-Man Close Security Housing	\$4,281,510	
3	Unit		
4	New Dining Hall	325,960	
5	New Gymnasium and Music Building	809,100	
6	New Administration, Library,	2,698,830	
7	Education, and Visitors'		
8	Building		
9	Sitework and Utilities		
10	1. Fence	\$445,225	
11	2. Underground Utilities	25,000	
12	3. Paving	233,200	
13	4. Sally Ports	44,200	
14	5. Guard Towers	256,000	
15	6. Profit, Architect Fee,	486,155	
16	Contingency		
17	Total Sitework and Utilities	<u>1,490,380</u>	
18	TOTAL MONTANA STATE PRISON	\$9,605,780	
19	Section 7. Effective date. This act is effective on		
20	passage and approval.		

-End-

1982 SPECIAL SESSION

Briefing Paper

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1982 SPECIAL SESSION

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Special Session
Briefing Paper

INTRODUCTION

The Special Session of the Legislature has been called to address problems and conditions at Montana State Prison (MSP) and the state's adult correctional programs. (A copy of the Special Session Call is attached as Attachment A.) Action is necessary in order to reduce overcrowding and to authorize additional staff and physical security improvements. Discussion of short-term solutions must include consideration of long-term needs. The Executive branch has, therefore, proposed for legislative consideration a long-term solution to the overcrowding at MSP. Outlined in this briefing paper are short and long-term problems, and an outline of the Governor's proposal.

Short-Term Problems

Staffing

The March 24, 1982, inmate disturbance at MSP illustrated inadequacies in staffing levels. Since March 24, the staffing of Close Units I and II and Maximum Security has been bolstered to provide additional security, and staff has been hired to man the new guard tower. Additional correctional officers are needed to improve control over the main control sally port and to better monitor the visiting room.

Additional funding is also requested to establish four disturbance control teams. A summary of short-term staffing needs and detail on calculation of staffing levels are shown in Attachment B.

Equipment and Facilities

The number of escapes from MSP over the past few months, coupled with the March 24 disturbance, have dramatized the inadequacies of equipment and facilities at the Prison. Several modifications and improvements are required in Close Units I and II, such as: installing metal bars over glassed areas, providing an additional exit for staff, and strengthening day room doors. The administration building needs to be modified to improve accessibility to the armory and to improve observation and control of the sally port and visiting areas. Additional metal detectors are also needed to control the flow of contraband into and within the Prison. The existing electronic sensing system and the perimeter lighting are inadequate, and an additional pursuit vehicle is needed to improve security at the prison.

Crowded Facilities

Overpopulation at the prison will be discussed in the context of the long-term problem. Several problems resulting from overcrowding, however, require immediate attention. The prison's present water supply is barely adequate, and no back-up supply exists. Funding is requested to develop an additional water supply. The kitchen at the Prison is operating well beyond its design capacity and requires immediate expansion. Transfer of 32 inmates to the dairy barn dormitory would ease population pressure inside the compound.

The staff required to use the dairy barn is indicated in Attachment B. Cost estimates for all short-term equipment and facility needs are shown in Attachment C.

Treatment and Community Facilities

Several inmates at MSP could be housed in community programs and more effectively treated there. Community pre-release programs are designed to aid inmates who expect to be paroled within a few months. Community programs aid their transition by allowing them to work and live in the community, under strict supervision before their release.

The Alpha House program has demonstrated that inmates can be housed and treated successfully in a community program. Authorization of two new community programs, as well as expansion of the existing programs, would remove an additional 55-65 inmates from the Prison. The proposed community corrections programs would add eight beds to the Missoula Life Skills Center and convert that center to a pre-release program. Funds are requested for five additional beds at Alpha House, and two new 20 to 25-bed community programs. The cost details of the expanded community programs are shown in Attachment D.

Overcrowding at MSP has severely hampered the ability of the institution to treat inmates. An assessment of inmate needs indicated that 83 percent of the population have alcohol and drug related problems. In addition, 63 percent of MSP inmates have emotional problems. Inmate needs and risk assessments are described in Attachments E and E-2. To meet those needs, the Administration proposes that: eight beds be set aside at Galen to treat inmates with substance abuse problems, an additional psychologist be hired, and additional psychiatric services be purchased. A vacant social worker position has recently been converted to a psychologist position.

Inmate Work

Too many prison inmates have too little to do. The 1981 Legislature authorized a prison industries program, and it is being expanded as quickly as markets and facilities will allow. The expansion envisioned as a part of the long-term prison recommendation would allow more inmates to work within the prison compound.

Budget changes and costs required to deal with the short-term problems at the Prison are detailed in Attachments F-1, 2 and 3.

Long-Term Problem

Montana does not have adequate facilities in size, or type of security, to accommodate the current or projected populations of the correctional system. Montana, as of June 7, 1982, had 838 adult males committed to the correctional system -- excluding those on parole. The adult male corrections system is designed to accommodate 620 inmates. Montana State Prison was constructed to accommodate 515 inmates and as of June 7, housed 718. With strong public sentiment to incarcerate more felons for longer periods of time, pressures on the system will likely increase.

Population Projections

There have been many projections of Montana prison populations dating back to 1958. Different sources have used different methods and arrived at different results, however, all conclude that Montana's prison population will remain higher than the design capacity of the current prison. A summary of population projections is provided in Attachment G.

Population projections are only forecasts and carry no guarantees. The legislature, the parole board and the courts can and do significantly affect prison populations. A law to increase the average sentence by 30 days, for example, could have the effect of adding 70 inmates to our current prison population. Longer sentences affect the prison population just as dramatically as the number of people actually convicted and sent to prison.

Need for Close Security

The problem is not simply one of providing a bed for each inmate. Any new facility must possess an appropriate security level to meet the current and projected inmate populations, and must meet standards established by federal litigation.

The most critical need is to ease overcrowding in the close security areas. As of June 7, 1982, there were 285 inmates housed in the two Close Units originally designed to house 192. Overcrowding in the close security units can only be significantly relieved by the construction of additional high security facilities. While additional medium security beds would reduce the population of Close I and II by allowing transfer of medium security inmates housed there to other housing units, double bunking would still be required in the Close Security Units.

Sound correctional planning encourages building higher levels of security as opposed to lower levels simply because lower security inmates can be housed in high security facilities, but high security inmates cannot be housed safely in low security facilities.

Federal Standards

The federal courts have increasingly dictated the standards of prisons in terms of size, availability of support facilities, and level of out-of-cell activity. Montana's prison is not currently the subject of a federal court order. The possibility of federal intervention, however, must be a major consideration in developing short and long-term solutions to the overcrowding at Deer Lodge. A summary of federal court actions in other states is presented in Attachment H.

Criteria for Selecting a Long-Term Solution

Any long-term solution to overcrowding at Montana State Prison must meet the following criteria:

1. New facilities should provide an adequate number of beds to handle existing population, and a cost-effective means of dealing with population increases.
2. New facilities should provide an appropriate level of security for the type of inmate housed there.
3. New facilities should be cost-effective not only in terms of initial investments in construction, but also in terms of ongoing operational costs.
4. New programs or facilities should meet standards established by federal courts for facilities and treatment.

Proposed Long-Term Solution

Correctional practices discourage mixing inmates of medium/minimum classifications with inmates of close or maximum classifications.

The administration proposes that the current prison at Deer Lodge be expanded to provide a new 120-cell high security unit and to divide the current facility into two separate and distinct compounds. The proposal would initially cost \$9,638,775 to implement and add an estimated \$1 million to prison operational costs. The new facility would expand the prison's capacity to 635 inmates and would increase the system's capacity to 798, if proposed community correction facility recommendations are approved.

Separation of the existing prison into two compounds would avoid the problems associated with large prisons. Separation, combined with the use of existing support facilities, would require that additional facilities also be constructed for inmate visitation, education, exercise, administration, and enhanced security. The prison compound would be reshaped and space provided for future housing expansion. A diagram and description of the proposed compound are provided in Attachment I and a construction cost estimate in Attachment J. A cost comparison of the proposed facility with other alternatives considered is included in Attachment K.

STATE OF MONTANA

Office of the Governor

PROCLAMATION

CALL TO THE 47th LEGISLATURE
FOR A SPECIAL SESSION

WHEREAS, Article V, Section 6, of the Constitution of the State of Montana provides that the legislature may be convened in special sessions by the Governor; and

WHEREAS, Article VI, Section 11, of the Constitution of the State of Montana also provides that whenever the Governor considers it in the public interest, he may convene the legislature; and

WHEREAS, inmate population at Montana State Prison is in excess of levels determined to be commensurate with sound prison policy; and

WHEREAS, overcrowding was a factor in the March 24, 1982, disturbance at Montana State Prison; and

WHEREAS, several proposals have been developed by the Executive Branch to reduce inmate population at Montana State Prison and enhance security at that institution; and

WHEREAS, it is necessary that a decision be made by the legislature as to the most appropriate proposal; and

WHEREAS, these proposals require the expenditure of general fund monies in excess of appropriated levels; and

WHEREAS, a special session to consider these matters is in the public interest of all Montanans.


NOW THEREFORE, I, TED SCHWINDEN, Governor of the State of Montana, pursuant to the authority vested in me by the Constitution of the State of Montana, do hereby convene the 47th Legislature in special session in the Capitol, in Helena, at the hour of 10:00 a.m., the 21st day of June, 1982, and hereby direct the special session of the 47th Legislature to consider the following subjects:

1. Conditions and problems existing at Montana State Prison and within the state's adult corrections programs, and the resolution thereof;
2. Amendments, repealers, new sections to existing statutes or new acts, so that the problems existing in Montana State Prison and within the state's adult corrections programs may be resolved; and
3. Appropriations to state agencies and programs necessary to alleviate and adequately address the problems and conditions existing in Montana State Prison and within the state's adult corrections programs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the GREAT SEAL OF THE STATE OF MONTANA to be affixed. DONE at the City of Helena, the Capital, this 24th day of May, in the year of our LORD, one thousand nine hundred and eighty-two.


TED SCHWINDEN, Governor

ATTEST:


JIM WALTERMIRE, Secretary of State

Modified Staff

Based on the J.J. Clark study, we requested and the 1981 legislature authorized, a relief factor of 1.55 for each seven-day correctional post at Montana State Prison. Our experience during the past year has shown that 1.62 is a more realistic relief factor. We are therefore requesting a relief factor of 1.62 for FY 1983 which results in the addition of 5.38 FTE C.O. 1s and a .77 FTE Sergeant.

The March 24 disturbance demonstrated the need for properly trained and equipped disturbance control teams. We are requesting funding to establish four such teams.

Since the March 24 disturbance, the staffing of Close Units I and II and Maximum Security has been bolstered to provide additional security. We believe these higher staffing levels are critical to the safe operation of these units. Therefore, we are requesting funding for these positions through FY 1983. Funding for sufficient staff to provide 24 hour coverage at the new guard tower is being requested. We are requesting two seven day posts for the expanded sally port to provide better traffic control in and out of the prison as well as additional monitoring of the visiting room.

The far right hand vertical column represents the posts which we are requesting in excess of those budgeted by the 1981 legislature. As the total of the "difference column" indicates, we are requesting 19 more correctional officer posts and one Sergeant. These are seven day posts, so in order to calculate the number of FTE required for these seven day posts the relief factor of 1.62 should be multiplied times 19. ($19 \times 1.62 = 30.78$ FTE Correctional Officers and $1 \times 1.62 = 1.62$ FTE Sergeant).

We are proposing that the Dairy Barn dormitory be used to house 32 inmates who are currently employed at the prison ranch. The number of seven-day posts required to house 32 inmates is as follows: 6:00 A.M. to 2:00 P.M., (1) - 2:00 P.M. to 10:00 P.M., (2) - 10:00 P.M. to 6:00 A.M., (2). A total of five posts times the 1.62 relief factor results in a required FTE of 8.1 to properly staff the dairy barn. Housing 32 inmates in the dairy barn is a temporary measure only until such time as permanent housing is constructed.

Treatment

Immediate efforts to increase our treatment capability include the use of eight beds at Galen State Hospital for the treatment of inmates with serious substance abuse problems. Due to the security environment at Galen, this program must be limited to minimum security inmates.

We have recently converted a Social Worker position to a Psychologist position to better treat inmates with mental health problems. Our revised FY 1983 budget for Montana State Prison includes a request for one additional psychologist position and the purchase of additional hours of service from the prison's contracted psychiatrist. Our ability to treat inmates with mental health problems will be greatly enhanced if the above request is granted.

We are also proposing that additional job opportunities be made available to the inmate population during FY 1983.

STAFFING BREAKOUT BY POST ASSIGNMENT

<u>HOUSING UNIT</u>	<u>SHIFT</u>	<u>OLD STAFFING</u>	<u>NEW STAFFING</u>	<u>DIFFERENCE</u>
Close Unit I	6-2	3	6	3
	2-10	3	6	3
	10-6	2	3	1
Close Unit II	6-2	3	4	1
	2-10	3	4	1
	10-6	2	3	1
Maximum Security	6-2	2	4	2
	2-10	2	4	2*
	10-6	2	3	1
	8-4	1	0	-1
Tower II	6-2	0	1	1
	2-10	0	1	1
	10-6	0	1	1
Visiting Room	12:30-8:00 PM	3	3	0
	8-4	0	1	1
Sally-Port Officer	6-2	0	1	1
	2-10	0	1	1
SUB TOTAL NEW 7-DAY POSTS				19 COs
*1 post = Sgt.				+ 1 Sgt
				20x1.62=32.4
Dairy Barn Staffing				8.1 COs
Relief Factor Change 1.55-1.62				5.38 COs
				.77 Sgt
				46.65
I Psychologist III				1
				47.65

SHORT-TERM PROPOSAL

Physical Security Improvements, Existing Prison

Physical security improvements in Close Unit I and II should include the relocation of the Sergeant's office adjacent to the main entry of the building. This relocation would allow for better monitoring of the entrance and provide an egress for the staff should a disturbance occur. Steel bars should be installed over all glassed areas in Close Unit II and day room doors should be strengthened in both Close Units I and II. Windows should be installed in existing Sergeant's offices for ventilation. Pass-throughs should be modified in the Control Centers of Close Units I and II to accommodate the passing of tear gas canisters.

Physical improvements in the Administrative building should include the remodeling of Main Control to accommodate the armory, thereby allowing quicker and easier access to weapons, should the need arise. The Board of Pardons hearing room should be improved by strengthening walls, which are currently of frame construction, and increasing security of the entrance and exit doors. We are proposing that the sally-port at main control be enlarged by reducing the size of the bathrooms adjacent to the sally-port and extending a portion of the sally-port to the visiting room. The expansion described above would allow for a common wall with an observation window between the sally-port and the visiting room resulting in additional observation of the visiting room.

We are proposing a dual system of electronic security at the first of the two perimeter fences. One system would detect vibration on the fence itself, while the second system would detect movement through an electronic field which would be established just inside the first fence.

A five-foot-high chain link fence is being requested to provide a buffer zone just inside the perimeter fence in the recreation yard. Inmates should be kept away from the perimeter security fence and the simplest way to accomplish that is to provide a physical barrier.

Lighting

We are requesting that perimeter lighting be upgraded to provide adequate lighting levels. A system of six 60 foot light towers with additional lighting installed on each of the two guard towers is being considered.

Metal Detectors

Three additional airport terminal type metal detectors are being requested to enhance our capability to detect metal contraband entering

ATTACHMENT C

One-Time Facility Renovation
and Equipment Expenditures

1.	Security Improvements	\$ 397,100
2.	Addition to Kitchen	\$ 205,000
3.	Upgrade Water System	\$ <u>400,000</u>
		\$1,002,100

the prison compound and to detect the movement of contraband within the compound.

One detector would be installed in the sally-port guard station at the industry compound entrance to provide complete metal detection capability at that entrance to the prison. This capability should reduce the number of tools, weapons, and breaching devices entering the prison compound from the industry area.

The second metal detector would be installed at the dining room entrance to reduce the number of kitchen utensils carried into housing units and ultimately fashioned into weapons.

The third metal detector would be installed in the remodeled sally-port at main control. Everyone entering the compound through main control would be required to pass through this detector. The addition of this detector would prevent a person who has passed through the first detector at the guard station from obtaining metal contraband in the yard outside the administration building or in the administration building itself and transporting that contraband through the sally-port into the compound.

The proposed sally-port/main control remodeling would require that all visitors pass through two metal detectors prior to entering the visiting room.

Approximately \$60,000 of the guard tower appropriation remains available for other projects. We suggest that it be reappropriated for these security improvements.

Pursuit Vehicle

We are also requesting another four-wheel drive pursuit vehicle to increase the effectiveness of our response if an escape should occur.

Kitchen

The kitchen at Montana State Prison is totally inadequate to prepare the required number of meals. We suggest that expansion of the food service area begin immediately to: Eliminate potential health hazards; reduce meal serving time; prevent additional citations by the Department of Health; allow for the installation of badly needed kitchen equipment. Kitchen expansion is necessary even if prison population is reduced.

Water Supply

The prison's total water supply consists of one well and a storage tank. There is currently no back-up water supply available to the prison should the existing well's production diminish below the demand placed on it by the prison compound. We are requesting funding for a back-up water supply system.

ATTACHMENT D

COMMUNITY CORRECTIONS
PRE-RELEASE CENTER

Annualized

\$35 per day
25 Inmates

1,472

16,680

319,375

1,428

5,700

344,655

35,000

379,655

\$293,491

\$207,328
\$500,819

FY83 Estimated Costs

Contracted Services

Consultant Professional

Medical

Board & Room

Dentistry

Supplies & Materials

Clothing & Personal

Total Operating

Capital Outlay

Renovation

Operational at 9/1/82 = 75% of Year.

Operational at 1/1/83 = 50% of Year.

COMMUNITY CORRECTIONS
FY '83

Missoula Life Skills Summary

	Current Level	Additional Request	Total
FTE	6.00	5.50	11.50
Personal Services	120,188	93,014	213,202
Contracted Services	27,942	(14,882)	13,060
Supplies and Materials	22,777	11,514	34,291
Communications	3,659	936	4,595
Travel	1,610	-0-	1,610
Rent	30,000	-0-	30,000
Utilities	6,866	676	7,542
Repairs	2,044	-0-	2,044
Other	<u>500</u>	<u>6,180</u>	<u>6,680</u>
Total Operating Costs	95,398	4,424	99,822
Equipment	-	5,027	5,027
Total Program Costs	215,586	102,465	318,051

COMMUNITY CORRECTIONS

FY ' 83

Alpha House - Billings \$ 2975

Increasing Population from 20 to 25

FY ' 83

Additional

5 Inmates @ \$32.15

per day

FY ' 83

Additional

Needed

TOTAL

Contracted Services

FY '83

Budget

Consultant & Professional \$ 1,177

Medical

4,680

Room & Board

217,029

Dentistry

1,143

TOTAL CONTRACTED SERVICES 224,029

Supplies & Materials

Clothing & Personal

10,858

Total Current

234,887

- 20 x 25 = 1471 294 1,471

Increasing projection costs

@ 1020 mo. in FY '82

1020x9=1112x12=13,341

13,341-20x25 = 16,676

11,996 16,676

5x32.15x365= 58,674 275,703

-20x25 = 1,429 286 1,429

71,250 295,279

Reduced projection for

FY '83. Anticipated '82 costs

@70 per inmate average stay

4 months

70x9% inflation = \$76x75= 5,700

(5,158) 5,700

Total Additional

66,092 300,979

INMATE PROFILE

NEEDS ASSESSMENT

PROFILE

The following profiles were compiled in order to establish an accurate, current picture of the Montana State Prison system's population. An analysis of the characteristics of the population should assist in future program and facility development. The tables also provide a method to determine the number of inmates in the current population who may be appropriate for community placement, and who need mental health - substance abuse treatment.

The profiles are based on a random sampling of the entire prison population (833) as of May 10, 1982, a sample of 250 cases. The needs upon which the profiles are based are those which have been found to be highly associated with criminality.

Table 1 represents the general population of incarcerated offenders in Montana; Table 2, those offenders convicted of crimes against persons and parole eligible within twelve months; Table 3, those convicted of property and victimless crimes and parole eligible within twelve months; Table 4, a combination of numbers of inmates from Tables 2 and 3. The numbers in Table 1 are applied to a total prison population of 833. In Tables 2 and 3, it is applied to the general population less those inmates already paroled to an approved plan but still in the system.

Table 1

Table 1 provides an overview of the needs of the inmate population. Alcohol abuse remains the most significant problem on the scale. Poor employment record, which includes skills and work habits, impedes a successful return to the community. Marital/family relations also play a significant role in an inmates successful assimilation into society.

Table 2

Table 2 examines the needs of those inmates convicted of crimes against persons and who are parole eligible within one year. Since research indicates that a portion of this population may pose a low risk of recidivism and violence, they have been studied here as a group.

As with the general population, alcohol abuse is the greatest problem. Compared to the general population, their need for help in the area of sexuality and related behavior is more marked.

Table 3

Table 3 profiles those inmates who are property offenders, generally considered most appropriate for community-based programs. While the current offenses of this group are not demonstrative of violent behavior, their need levels remain high in most areas.

Table 4

Table 4 represents the number of inmates potentially available, within one year, for community programs.

In summary, Tables 1,2 and 3 show a high level of need for all inmates, especially those involving alcohol abuse, employment, and marital/family relationships. Tables 2 and 3 are indicative of the differences in needs of two distinct groups.

Table 4, indicates an estimated 215 property offenders who could be considered for community-based programs. There are up to 72 inmates, convicted of crimes against persons who are eligible for parole within six months. This population could also be considered for community placements.

For the purpose of these profiles, crimes against persons include: homicide, negligent homicide, assaults, rapes, robbery, intimidation, kidnap, and sexual assault.

Property crimes include: burglary, receiving stolen property, theft, criminal mischief, forgery, bad checks, fraud, deceptive practices. Other crimes combined in this category are: bribery, perjury, obstructing justice, drug offenses, contempt, escapes, bigamy, obscenity, etc.

Table 1

INMATE NEEDS PROFILE
MONTANA STATE PRISON SYSTEM
TOTAL POPULATION 833
May, 1982

	Academic/ Vocational Skills	Employment Record	Financial Management	Marital/ Family Relations	Emotional Stability	Alcohol Use/Abuse	Drug Use/Abuse	Mental Ability	Health	Sexual Behavior	Raters' impressions of Needs	Approximate Number of Inmates
1. Severe Problems High Need Level	125	241	158	308	183	458	241	67	5	100	375	
2. Problems require attention before satisfactory functioning can be obtained	15% 241	29% 400	19% 417	37% 308	22% 341	55% 233	29% 225	8% 216	.6% 83	12% 41	45% 283	Percentage of Inmate Population Approximate Number of Inmates
3. Total of 1 and 2 above.	29% 366	48% 641	50% 575	37% 616	41% 524	28% 691	27% 466	26% 283	10% 88	5% 141	34% 658	Percentage of Inmate Population Cumulative Number of Inmates.
	44% ²	77%	69%	74%	63%	83%	56%	34%	10.6%	17%	79%	Cumulative Percentage of Inmates

Table 2

PROFILE OF INMATE NEEDS
Crimes Against Persons - Twelve Months or Less Until Parole Eligibility Date (Estimated 142 Inmates)
MONTANA STATE PRISON
May, 1982

	Academic/ Vocational Skills	Employment Record	Financial Management	Marital/ Family Relations	Emotional Stability	Alcohol Use/Abuse	Drug Use/Abuse	Mental Ability	Health	Sexual Behavior	Raters' impressions of Needs	Approximate Number of Inmates
1. Severe Problems High Need Level	28	40	18	71	24	80	40	18	3	31	77	
	20%	28%	13%	50%	17%	56%	28%	13%	2%	22%	54%	*Percentage of Inmate Population
2. Problems require attention before satisfactory functioning can be obtained	34	68	74	37	74	42	31	43	21	13	40	Approximate Number of Inmates
	24%	48%	52%	26%	52%	30%	22%	30%	15%	9%	28%	*Percentage of Inmate Population
3. Total of 1 and 2 above.	62	108	92	108	98	122	71	61	24	44	117	Cumulative Number of Inmates.
	44%*	76%	65%	76%	69%	86%	50%	43%	17%	31%	82%	*Cumulative Percentage of Inmate Population

*Percentage of the 142 inmates in this category

Table 3

PROFILE OF INMATE NEEDS
Property Offenders having Twelve Months or Less Until Parole Eligibility Date (Estimated 215 Inmates)
MONTANA STATE PRISON
May, 1982

	Academic/ Vocational Skills	Employment Record	Financial Management	Marital/ Family Relations	Emotional Stability	Alcohol Use/Abuse	Drug Use/Abuse	Mental Ability	Health	Sexual Behavior	Raters' impressions of Needs	Approximate Number of Inmates
1. Severe Problems High Need Level	36	56	49	52	19	116	54	9	2	6	60	
2. Problems require attention before satisfactory functioning can be obtained	17% 77	26% 118	23% 123	24% 103	9% 77	54% 58	25% 56	4% 43	1% 15	3% 0	28% 84	*Percentage of Inmate Population Approximate Number of Inmates
3. Total of 1 and 2 above.	36% 113	55% 174	57% 172	48% 155	36% 96	27% 174	26% 110	20% 52	7% 17	0% 6	39% 144	*Percentage of Inmate Population Cumulative Number of Inmates
	53% ²	81%	80%	72%	45%	81%	51%	24%	8%	3%	67%	*Cumulative Percentage of Inmates

*Percentage of the 215 inmates in this category

RISK ASSESSMENT

The following tables present information collected from a random sample of the May inmate population described in the preceding table assessment.

The concept of risk is generally stated in one of two ways: "the risk of continued criminal activity (recidivism) or the risk of future assaultive behavior." Measures of both were taken from the sampling. The first is called Risk Scale Score and is designed to measure continued criminal activity"; the second is called Risk of Violence and is designed to assess that specific risk.

Risk assessment is not necessarily accurate when applied to an individual, given the many factors related to recidivism. Risk assessments are, however, generally accurate for aggregate populations. Predictions about which individuals in a group may commit a new offense is impossible, but predictions about which group is more likely to recidivate than another is possible.

The tables we have included here describe only the risk of violence for our current inmate population who are within 12 months of their parole eligibility date. Assessing the possibility of violence by those who may be candidates for "pre-release" placements is an important consideration that must be addressed by this Department as well as the communities involved.

Table 1

Table 1 indicates the risk of violence by type of offense for those inmates who will be parole eligible within 12 months in each group. As expected, there are more inmates convicted of offenses against persons who are very high risks of violence than those convicted of property offenses. It is important to note, however, that in addition to the estimated 130 low risk of violence property offenders (within 1 year of parole eligibility) there are an estimated 71 medium to low risk of violence offenders against persons; a total of 201 inmates. Approximately 56% of the inmates who are expected to be parole eligible within 1 year present medium-low risks of violence.

Table 2

Those inmates within 1 year of parole eligibility are further analyzed in Table 2 which breaks the group down into six month intervals. There are an estimated 115 medium-low risk of violence offenders within 6 months of parole eligibility, many more than are high risk or very high risk. In other words, of the estimated 194 parole eligible inmates within the next 6 months, 59% are considered medium to low risk of violence.

Table 1

Risk of Violence
Inmates Within 12 Months of Parole Eligibility
By Type of Offense

Type Offense	Very High Risk Percent of Eligible Inmates	Number	High Risk ¹ Percent of Eligible Inmates	Number	Medium-Low Risk Percent of ¹ Eligible Inmates	Number
AGAINST PERSONS	14.7%	52	5.2%	19	19.8%	71
AGAINST PROPERTY	10.3%	36	13.8%	49	36.2%	130
TOTAL	25%	88	19%	68	56%	201

¹ Based on Population Less PAP

Table 2

Risk of Violence
by
Time to Parole Eligibility

Risk of Violence	Parole Eligible 1 - 6 months		Parole Eligible 7 - 12 months	
	Percent	Number	Percent	Number .
Very High	4.5%	35	6.7%	52
High	5.7%	44	3.2%	25
Medium-Low	14.9%	115	11.3%	88
TOTAL	25.1%	194	21.2%	165

¹ Percent of total population less PAP

ATTACHMENT F - 1

Short-Term Proposal

Prison Budget

Operations *	\$842,854
Dairy Dorm	136,533
Disturbance Control Training	<u>43,066</u>

* The operations budget for the prison was reduced by \$123,568 to reflect the movement of inmates to the community corrections facilities

\$ 1,022,453

Prison Capital Expenditures

Security Improvements	397,100
Kitchen Addition	205,000
Upgrade Water System	<u>400,000</u>

\$ 1,002,100

Community Corrections Budget

Increase population at Alpha House	66,092
Missoula Life Skills	102,465
2 - New Pre Release Centers	<u>500,819</u>

\$ 669,376

Total Short-Term Proposal

\$ 2,693,929

ATTACHMENT F - 2
SUMMARY SHEET

Montana State Prison					Community Corrections				Total Addl. Request	
	Population	F.T.E.	Authorized	Requested	Total	Population	F.T.E.	Authorized	Requested	Total
Prison (inside compound)	718	296.34	8,196,082	966,422	9,162,504					
Dairy Dorm (outside compound)	32	8.10	-	136,533	136,533					
Disturbance Control	-	-	-	43,066	43,066					
Sub Total Prison Budget	750	304.44	8,196,082	1,146,021	9,342,103					
Galen	(8)	-	-	(17,240)	(17,240)	8	-	-	-	-
Alpha House	(5)	-	-	(10,774)	(10,774)	1 5	-	234,887	66,092	300,979
Missoula Life Skills	(24)	-	-	(46,790)	(46,790)	24	11.50	215,586	102,465	318,051
Pre-Release Center (9-1-82) ²	(20)	-	-	(29,258)	(29,258)	1 20	-	-	293,491	293,491
Pre-Release Center (1-1-83) ²	(20)	-	-	(19,506)	(19,506)	1 20	-	-	207,328	207,328
Sub Totals	673	304.44	8,196,082	1,022,453	9,218,535	77	11.50	450,473	669,376	1,119,849
Total Additional Operational Budgets				1,022,453					669,376	1,691,829
<u>One Time Requests</u>										
Security Improvements				397,100						
Addition to Kitchen				205,000						
Upgrade Prison Water System				<u>400,000</u>						
Total Additional One Time Requests				1,002,100						
1 Budgets are based on 25 inmates										
2 641 inside compound										
32 outside compound										
673										
Total Additional Request										1,002,100
										2,693,929

MONTANA STATE PRISON
 Program 12 - Care & Custody Operational Budget
 Including Dairy Barn
 FY 1983

	Current Level 1983 FY	Request For Special Session	Budget at 750 Pop.
FTE	256.79	47.65	304.44
Personal Services	5,660,206	858,303	6,518,509
Contracted Services	713,583	174,902	(1) 888,485
Supplies & Materials	1,225,123	-	1,225,123
Communications	40,269	-	40,269
Travel	20,228	-	20,228
Rent	9,790		9,790
Utilities	267,766	11,880	279,646
Repairs & Maintenance	86,309		86,309
Other Expenditures	125,517	41,870	167,387
Equipment	47,291	16,000	63,291
SUB TOTAL PROGRAM	8,196,082	1,102,955	9,299,037
Disturbance Control Teams			<u>43,066</u>
TOTAL REQUEST			9,342,103
Funding			
General Fund (HB #2)	7,035,842		
Other Funds (HB #2)	73,980		
Pay Plan (HB #840)	<u>1,086,260</u>		
Total Funding	8,196,082		

- (1) Medical Services: This amount includes 527,280 for medical expenses. Due to the unpredictability of our medical costs, we are requesting that this amount be line itemed as were utility appropriations in HB #500.

ATTACHMENT G

POPULATION PROJECTIONS

A report by the National Institute of Law Enforcement and Criminal Justice states that no precise methods of predicting population exist, and that "the task is complex and pioneering"¹. "There is no single methodology which has been adopted by a majority of the states, nor has any one technique consistently supplied the most reliable predictions"². Across the states the methods range from a "best guess" to sophisticated computer-based multiple regression and simulation models. (See appendix 1) The information used to predict varies greatly from state to state, however, the most frequently used factors are listed in appendix 2.

A 1980 "Survey of Projection Techniques" done by the Commonwealth of Kentucky concludes "perhaps the bottom line concerning population projection is that no one methodology has yet been developed which will consistently produce valid, reliable predictions for all systems. It appears that any given method is capable of producing fairly accurate results on short-range projections if they are revised to compensate for changes in population trends and errors in past predictions. But even this data manipulation cannot, in most instances, predict when policy on population trends will change. Thus, two very important factors necessary for accurate predictions about future inmate population are not subject to control".

Don Hutto, a consultant for the National Institute of Corrections in the Bureau of Prisons noted that making inmate population projections is "like shooting at a moving target". In his report on Montana he writes, "Projections of the population can very accurately predict future numbers based on current practices.... The projections do not predict shifts in public attitudes which affect laws regarding sentencing and parole which have a profound effect".

In summary, prediction methods vary; all must be subject to some error and seldom are they 100% accurate. The predictions cannot well account for policy and attitude changes. They are only one tool to obtain a generalized view of the future.

To examine the generalized future for Montana we can begin with an examination of the past. In 1958 the Montana Legislative Council projected the inmate population through 1990 using a ratio method based on the size of the state population. The predictions are fairly accurate for this moment, but they failed to predict the policy shifts in the mid 1960's which plummeted prison populations to about 250 in 1970. Their prediction was, however, for a steady increase in population. In 1977 the National Clearinghouse for Criminal Justice Planning and Architecture at the University of Illinois made predictions for Montana using a ratio based on males aged 18-34 in Montana. Their predictions peak at 803 in 1985 and decline to 684 in 1990. Subsequently the Master Plan project of 1979 made projections which peak at 1,065 in FY 1983.

In late 1979 the Department of Institutions re-examined the Master Plan projections and made new ones through the end of 1985 using a simulated admission and release model (SARM). These projections show an increase in population throughout the period (1985) to a level of about 884 inmates. The

SARM predictions were examined and re-analyzed in December 1979 by Western Analysis. Western Analysis' predictions follow a similar pattern, although at a lower level, as SARM, peaking in 1990 at 813. In early 1982 the Department replicated the Colorado Cohort model (also used in Texas) for shorter term projections through the end of 1982 which predict from 874 to 926 inmates. With much reluctance, due to the qualifications previously noted, general predictions based on the population at risk age 18-34 were made for 1983 through 1990. These predictions peak in 1985 at about 931 inmates with a gradual decline to 865 in 1990. Table 1 compares the predictions specific to Montana.

Even if we ignore the specific predictions for Montana, there are numerous other indicators of swelling prison population.

- 1) A nationwide increase in incarceration. "Between 1978 and 1981 the number of state prisoners increased 22.7%, or from 268,189 to 329,122. The nation's governors were told that they would have to absorb another 40,000 to 50,000 new inmates in state prison systems in 1982 if the recession holds".³ From 1972 to 1977 there was a 39% increase and the general trend has been increasing since 1930. (See appendix #3). The average annual change in prison population since 1930 is + 7.4%⁴.
- 2) A five volume report prepared for a congressional survey by ABT Associates for the National Institute of Justice states that the states were largely unprepared for the unprecedented explosion in prison population that occurred. Looking at regional changes they noted a 31% increase in the west (compared to 84% in the south).
- 3) The U.S. Department of Justice reports the 1981 increase in prison population to be the largest since records were started in 1925 (12.1%). Federal prisons increased 16%.
- 4) ABT made forecasts by three means for various regions of the country through 1983. In the west, two models project increases, one a stabilized population.⁵
- 5) A research study by the National Council on Crime and Delinquency (The Unmet Promise of Alternatives to Incarceration) reflects a 30% growth in institutional populations from 1965-1979.
- 6) The incarceration rate is high in the U.S. overall. (154/100,000) Montana's is low in comparison and in comparison to other western states (Idaho, Nevada, Utah, New Mexico, Colorado, Washington). It will probably increase to reflect the increasing fear of crime.
- 7) The causes of the increase are generally cited as "the baby-boom reaching crime prone years, increases in crime, a retributive public mood resulting in mandatory and longer sentences, conservative parole policies and an increase in the number of persons per capita committed to prison".⁶

Year	82	83	84	85	86	87	88	89	90	91
82	469 ¹	469 ²								.
83		460 ¹	460 ²							.
84			466 ¹	466 ²						.
85				465 ¹	465 ²					.
86					460 ¹	460 ²				.
87						453 ¹	453 ²			.
88							445 ¹	445 ²		.
89								437 ¹	437 ²	.
90									428 ¹	428 ²

Total										
Estimate										
(Med. Range)	900	929	926	931	925	913	898	882	865	.
(High Range)	926	967	966	971	965	953	938	922	905	.
(Low Range)	874	889	886	891	885	873	858	842	825	

¹
²

Prison admission for that year.
Previous year admissions still at the prison based on the 24 month average stay.

ATTACHMENT H

SUMMARY OF MAJOR PRISON LITIGATION

SEPTEMBER, 1981 - MAY, 1982

I. Petitions Filed with the Supreme Court

A. Leeke v. Timmerman (80-2077)

The Supreme Court reversed the lower court's decision, which had held that:

1. the prison inmates' right of access to courts was denied when the corrections director and his legal advisor tried to prevent inmates from seeking a warrant against guards who allegedly beat inmates;
2. that the director and advisor did not satisfy the conditions for qualified immunity from prosecution, and were liable under 42 USC 1983; and
3. that the defendants were liable for punitive damages, having conspired to deprive inmates of their rights of access to courts, in violation of 42 USC 1985(3).

B. Rowe v. Chavis (80-2082)

The Supreme Court refused to hear the appeal of a lower court's decision that the prison administration's failure to provide evidence that would have exonerated an inmate in a disciplinary hearing violated due process.

C. Ward v. Powell (80-2104)

The Supreme Court refused to hear New York state's appeal of a case which found a prison superintendent in contempt for violating a 1975 order. The order:

1. required prison officials to provide written notice explaining why an inmate was denied a request to present witnesses at a disciplinary hearing;
2. required the prison administration to give notice of disciplinary action in Spanish to those inmates who know only Spanish;
3. generally forbade officials to confine inmates in special units for more than seven days pending investigation of charges; and
4. disqualified anyone who witnessed or participated in an offense from serving on the disciplinary hearing panel.

D. Reed v. Grissom (81-121)

The Supreme Court refused to hear North Carolina's appeal of a lower court's decision not to grant summary judgment. In this case, an inmate

Table 1

Comparison of Projections

YEAR	1955	1960	1965	1970	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1995	2000
Actual ¹	590	585	575	250	380	485	550	680	710	715	775	833 ⁵	-	-	-	-	-	-	-	-	-	-
1958 Council	-	613	656	704	754	-	-	-	-	807	-	-	-	-	865	-	-	-	-	926	-	-
Clearinghouse	-	-	-	-	-	-	-	-	-	597	646	685	726	765	803	-	-	-	-	684	-	429
Master Plan ²	-	-	-	-	-	458	590	643	757	838	930	1014	1065	1064	1010	936	845	741	704	636	-	-
S.A.R.M. ³	-	-	-	-	-	-	-	-	-	796	826	850	867	880	884	-	-	-	-	-	-	-
Western Analysis ²	-	-	-	-	-	-	-	-	-	693	707	721	733	746	760	773	789	795	804	813	-	-
Cohort ⁴	-	-	-	-	-	-	-	-	-	-	-	900	-	-	-	-	-	-	-	-	-	-
1982 Age Ratio ⁴	-	-	-	-	-	-	-	-	-	-	-	-	929	926	931	925	913	898	882	865	-	-

1 YR End
2 FY

3 End CY
4 Mid range

5 May 1982

alleged that he received a physical examination by a person who was not a licensed physician, contrary to state law. The examiner's recommendation resulted in a work assignment that the inmate was unable to carry out. The assignment caused him injury and pain, he claimed.

E. In re Rich (81-296)

The Supreme Court refused to hear an inmate's appeal of a lower court ruling which held that the prison system's rule of allowing inmates to receive written materials only from publishers is a reasonable response to security needs and does not violate inmates' First Amendment rights.

F. Hewitt v. Helms (81-638)

The Supreme Court will hear Pennsylvania's appeal of a lower court decision regarding administrative and disciplinary segregation in the prison. That decision held that criteria by which inmates are segregated create a constitutionally protected right to procedural safeguards in connection with segregation. The process and safeguards include notice to the inmate, hearings, availability of counsel, qualified right to present evidence and witnesses, and a written record of the decision and its basis.

G. Rushen v. Taylor (81-789)

The Supreme Court has not yet acted on California's appeal of a lower court decision dealing with classification procedures for maximum security inmates. The lower court held that if the state chooses to keep an inmate in secured housing after the term established on disciplinary grounds, then the inmate is entitled to due process safeguards before further detention may be imposed.

II. Cases Before the Courts of Appeal

A. Welsh vs. Mizell, (80-1862) (7th Cir. January 12, 1982)

The Seventh Circuit ruled in favor of an inmate who challenged the constitutionality of a state statute changing parole eligibility requirements. The court ruled that legislation enacted nine years after his crime was retrospective, disadvantaged the plaintiff, and effectively enhanced his punishment.

B. Williams v. Treen, (5th Circuit, March 31, 1982)

The Fifth Circuit ruled that state prison officials who violated state law in maintaining prison conditions later found to be unconstitutional were not entitled to good faith immunity defense in prisoners' 42 USC 1983 damage suit.

Officials who may claim this defense, if they are acting within the scope of their authority, lose that defense if their actions contravene established state law, even if acting in the belief of the rightness of their actions.

Source: Criminal Justice Report, National Association of Attorneys General

STATUS REPORT - THE COURTS AND PRISONS

States in which there are existing court decrees, or pending litigation, involving the entire state prison system or the major institutions in the state and which deal with overcrowding and/or the total conditions of confinement (does not include jails except for D.C.):

1. Alabama: The entire state prison system is under court order dealing with total conditions and overcrowding. Pugh v. Locke, 406 F.Supp. 318 (M.D.Ala. 1976), cert. denied, 98 S.Ct. 3057 (1978); Receiver appointed, 466 F.Supp. 628 (M.D.Ala. 1979). To relieve overcrowding and backup of state prisoners in county jails, 400 state prisoners (number later modified) were ordered released. Newman, supra, Slip Op. (M.D.Ala., July 15, 1981), application for stay denied, No. 81-7606 (5th Cir., July 23, 1981), stay denied, Graddick v. Newman, 50 U.S.L.W. 3021 (July 25, 1981), reapplication denied, 102 S.Ct. 4 (1981). A second prisoner release order was issued, Newman, supra, Slip Op. (M.D.Ala., December 14, 1981), application for stay granted pending expedited appeal, Graddick v. Newman, No. 81-8003 (11th Cir., Dec. 21, 1981). The expedited appeal was argued on February 8, 1982.
2. Arizona: The state penitentiary is being operated under a series of court orders and consent decrees dealing with overcrowding, classification and other conditions. Orders, August 1977-1979, Harris v. Cardwell, C.A. No. 75-185 PHX-CAM (D. Ariz.).
3. Arkansas: The entire state prison system is under court order dealing with total conditions. Finney v. Arkansas Board of Corrections, 505 F.2d 194 (8th Cir. 1974). Special Master appointed, Finney v. Mabry, 458 F.Supp. 720 (E.D.Ark. 1978).
4. California: The state penitentiary at San Quentin is being challenged on overcrowding and conditions. Huff v. Commissioner C80 3931 (N.D.Cal.); Wilson v. Brown, Superior Court, Marin County.
5. Colorado: The state maximum security penitentiary is under court order on total conditions and overcrowding. The prison was declared unconstitutional and ordered to be ultimately closed. Ramos v. Lamm, 485 F.Supp. 122 (D.Col.1979); aff'd in part and remanded, 639 F.2d 559 (10th Cir. 9/25/80) cert. den. 101 S. Ct. 1259 (1981), on remand, 520 F.Supp. 1059 (D.Col. 1981).
6. Connecticut: The Hartford Correctional Center operated by the state is under court order dealing with overcrowding and some conditions. Lareau v. Manson, 507 F.Supp. 1177 (D.Conn.1980) aff'd 651 F.2d 96 (2nd Cir. 1981).

3. Michigan: The women's prison is under court order, Glover v. Johnson, 478 F.Supp. 1075 (E.D.Mich. 1979). The entire men's prison system is under court order on overcrowding, and the state prison at Jackson is being challenged on other conditions. Everett v. Milliken, C.A.80-73581 (E.D.Mich.).
19. Mississippi: The entire state prison system is under court order dealing with overcrowding and total conditions. Gates v. Collier, 501 F.2d 1291 (5th Cir.1974).
20. Missouri: The state penitentiary is under court order on overcrowding and some conditions. Burks v. Teasdale 603 F.2d 59 (8th Cir.1979), on remand, 27 Cr.L.2335 (W.D. Mo.5/23/80).
21. Nevada: The state penitentiary is under court order on overcrowding and total conditions. Craig v. Hocker, C.A. No. R-2662 BRT (D.Nev.) (consent decree entered 7/18/80). New addition to state penitentiary is being challenged on total conditions. Maginnis v. Wolff, CVR-77-221-ECR (D.C.Nev.).
2. New Hampshire: The state penitentiary is under court order dealing with total conditions and overcrowding. Laaman v. Helgemce, 437 F.Supp. 269 (D.N.H.1977).
23. New Mexico: The state penitentiary is under a court order on overcrowding and total conditions. Duran v. Apodaca, C.A.No. 77-721-C(D.M.Mex.) (consent decree entered 8/1/80).
24. North Carolina: A lawsuit was filed in 1978 at Central Prison in Raleigh on overcrowding and conditions and a similar lawsuit is pending involving the women's prison. Batton v. No.Carolina, 80-0143-CRT (E.D.N.C.), see also 501 F.Supp. 1173 (E.D.N.C.1980) (denying motion for summary judgment).
25. Ohio: The state prison at Lucasville was under court order on overcrowding. Chapman v. Rhodes, 434 F.Supp. 1007 (S.D.Oh.1977), aff'd 6/6/80 (6th Cir.), rev'd, 101 S.Ct. 2392 (1981). The state prison at Columbus is under court order resulting from a consent decree on total conditions and overcrowding and is required to be closed in 1983. Stewart v. Rhodes, C.A.No. C-2-78-220 (S.D.Ohio) (12/79). The state prison at Mansfield is being challenged on total conditions. Boyd v. Denton, C.A.78-1054A (N.D.Oh.).
26. Oklahoma: The state penitentiary is under court order on total conditions and the entire state prison system is under court order on overcrowding, Battle v. Anderson, 564 F.2d388 (10th Cir. 1977).
27. Oregon: The state penitentiary is under a court order on overcrowding, Capps vs Atiyeh, 495 F.Supp. 802 (D.Or.1980), appeal pending (9th Cir.) stay granted, 101 S.Ct.829 (1981), stay vacated by decision in Rhodes v. Chapman (see Ohio above).
28. Rhode Island: The entire state system is under court order on overcrowding and total conditions. Palmigiano v. Garrahy, 443 F.Supp. 956 (D.R.L. 1977). A Special Master was appointed in September 1977.
29. South Carolina: The state penitentiary is being challenged on overcrowding and conditions. Mattison v. So.Car.Bd.of Corr., C.A.No. 76-318.

30. Tennessee: The entire state prison system declared unconstitutional on total conditions. Decision in August 1978 with preliminary order closing one unit by state court Judge. Trigg v. Blanton, C.A. No. A6047-Chancery Court, Nashville, vacated in part and remanded, Tenn. Ct. of Appeals, decision to abstain in favor of federal court by Tenn. Supreme Court which dismissed state court suit, Feb. 1982. Trial held fall 1981 in Federal Court, Grubbs v. Bradley, 80-34-4 (M.D.Tenn.).
31. Texas: The entire state prison system has been declared unconstitutional on overcrowding and conditions. Ruiz v. Estelle, 503 F.Supp. 1265 (S.D.Tex.12/10/80), stay granted and denied, 650 F.2d 555 (5th Cir. 1981), stay granted and denied (5th Cir.1/14/81). A Special Master has been appointed.
32. Utah: The state penitentiary is being operated under a consent decree on overcrowding and some conditions. Nielson v. Matheson, C-76-253 (D:Ut.1979).
33. Vermont: State prison closed.
34. Virginia: The state prison at Powhatan is under a consent decree dealing with overcrowding and conditions. The maximum security prison at Mecklenburg is being challenged on the totality of conditions. Brown v. Hutto, 81-0853-R(E.D.Va.).
35. Washington: The state reformatory is being challenged on overcrowding and conditions. Collins v. Rhay, C.A. No. C-7813-V (W.D.Wash.). The state penitentiary at Walla Walla has been declared unconstitutional on overcrowding and conditions and a special master has been appointed. Hoptowit v. Ray, C-79-359 (E.D.Wash. 6/23/80), aff'd in part, rev'd in part, vacated in part and remanded, F.2d__ (9th Cir.2/16/82).
36. West Virginia: The state penitentiary at Moundsville is being challenged on overcrowding and conditions.
37. Wisconsin: The state prison at Waupun is being challenged on overcrowding. Delgado v. Cady, 79-C-1018 (E.D.Wisc.). Trial concluded December 1981.
38. Wyoming: The state penitentiary is being operated under terms of a stipulation and consent decree. Bustos v. Herschler, C.A.
39. District of Columbia: The District jails are under court order on overcrowding and conditions. Inmates, D.C.Jail v. Jackson, 416 F.Supp.119 (D.D.C.1976), Campbell v. McGruder, 416 F.Supp. 100 and 111 (D.D.C.1976), aff'd and remanded, 580 F.2d 521 (D.C.Cir. 1978).
40. Puerto Rico: The Commonwealth Penitentiary is under court order on overcrowding and conditions. Martinez-Rodriques v. Jiminez, 409 F.Supp. 582 (D:P.R.1976). The entire commonwealth prison system is under court order dealing with overcrowding and conditions, Morales Feliciano v. Jiminez (D.P.R.).
41. Virgin Islands: Territorial prison is under court order dealing with conditions and overcrowding. Barnes v. Gov't of the Virgin Islands, 415 F.Supp.1218 (D.V.I.1976).

Source: The National Prison Project, ACLU, March 8, 1982

ATTACHMENT I

LONG TERM PROPOSAL

Expansion at Montana State Prison

We consider this a long-term proposal because it adds 120 secure beds to our housing capacity and provides support service capability levels for 900 to 1,000 inmates. Should additional beds be required in the future, the construction of additional housing units will not require further relocation of the perimeter fence or seriously disrupt the operation of the prison.

We do not believe that additional housing units should be constructed at Montana State Prison without a division of the compound and an expansion of support service capability.

The suggested division enhances security by isolating the more dangerous assaultive inmate from those inmates who present fewer behavioral problems and by confining that high risk inmate in a more secure environment. A division of this type also provides for better tailoring of programs to the needs of two distinct inmate populations. The division of the compound by classification also reduces the chance of a major disturbance in one portion of the compound spreading to the other.

Disruption of operations and potential security deficiencies are of major concern when construction and expansion of an existing prison are being considered. To assure that construction does not detrimentally affect the operation and security of Montana State Prison, all new buildings will be constructed outside the perimeter security fence as shown on the sketch. Upon completion of the three new buildings and the two guard towers the perimeter fence would be relocated to enclose them. The relocated fence would be complemented by razor barb tape and a dual electronic sensing system.

The compound should be separated by a double security fence, equivalent to the existing perimeter fence, thereby providing complete separation of the existing facility into a Close security compound and a Medium security compound. The kitchen would be enlarged to accommodate the equipment necessary to provide adequate food preparation service for an increased population. All food would be prepared in this kitchen.

The enlarged kitchen and existing dining room would be segregated into the Close security compound. The existing dining facility would be used exclusively for the feeding of inmates housed in that compound. Food would be transported to a new dining facility constructed in the Medium compound and all inmates housed in that compound would be fed in the separate dining facility.

The existing gymnasium would also be segregated into the Close security compound and would be used exclusively by inmates housed in that compound. A new gymnasium would be constructed in the Medium security portion to be used exclusively by inmates housed in that compound. Our plans call for the new gymnasium and the dining room to be constructed as one building.

The new prison chapel would be totally isolated from both compounds by a double security fence complemented by a dual electronic sensing system. The chapel would be accessible from each compound only by sally-port gates operated from the guard towers, to prevent unauthorized access from one compound to the other.

The existing administration building would remain in the Medium security compound and the education, library, and visiting function of the building would be available only to inmates housed in that compound. Board of Pardon's hearings would continue to be conducted in the administration building. Most of the administrative staff would remain in the existing administration building.

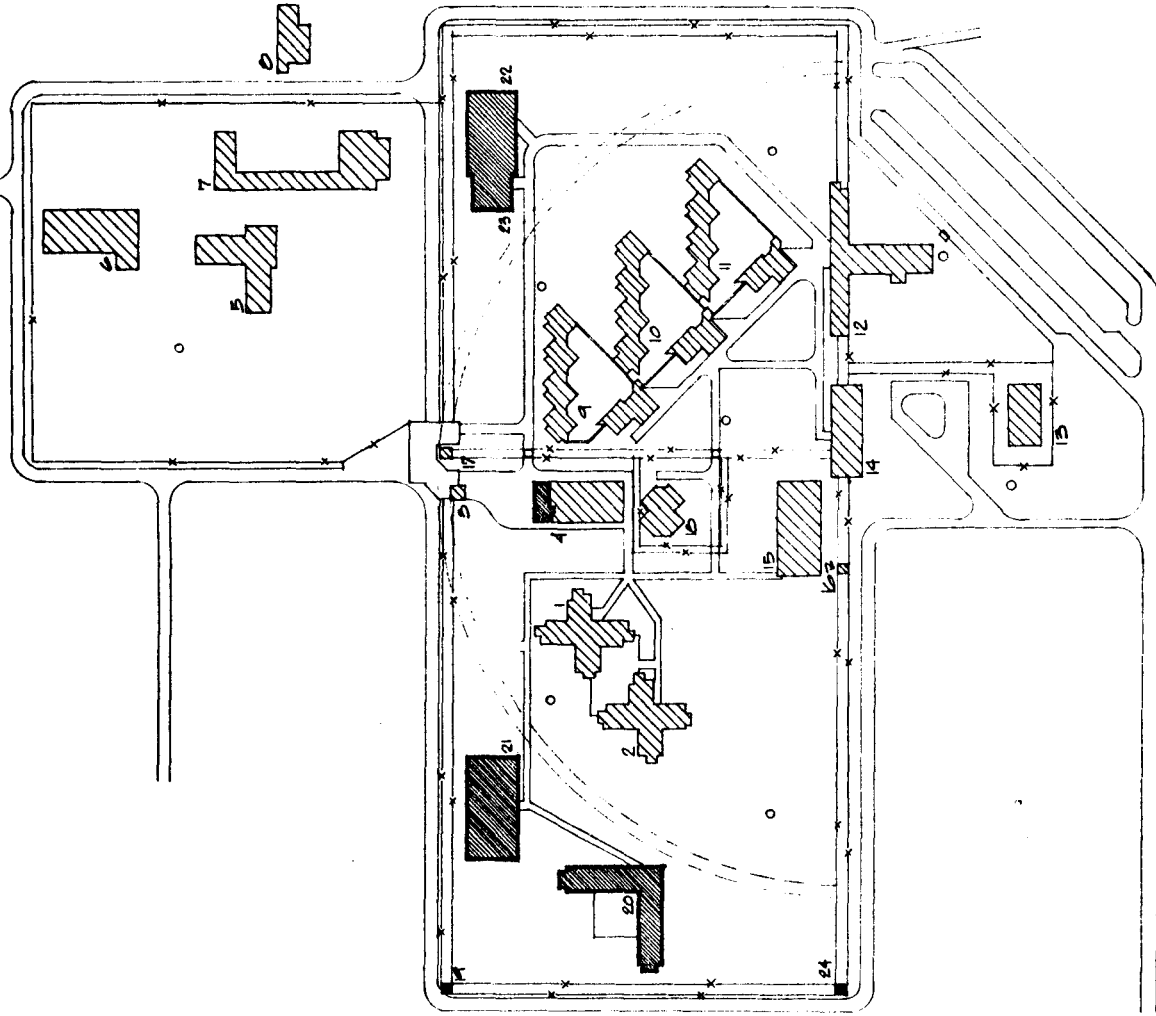
A building would be constructed in the Close security compound to house education-library services, a sick-call area, and visiting room for inmates housed in that compound.

Additional housing capacity in the Medium security compound could be accomplished simply by adding one or two additional housing units inside the relocated perimeter fence.

Treatment Programs for an Expanded Montana State Prison

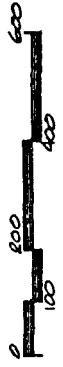
As a part of our substance abuse treatment program at the expanded prison, we would suggest that a wing of upper Close Unit II (12 cells) become a substance abuse treatment unit for inmates with serious substance abuse problems, but who cannot be treated at Galen because they must be treated in a secure environment.

If our recommendation to expand Montana State Prison is approved we would suggest that one or two wings of Upper Close Unit II (12 to 24 cells) become a treatment unit for sex offenders and other inmates with mental health problems who must be treated in a secure environment. Our recommended staffing level for the expanded facility includes a Psychologist III and a Social Worker II who will also be a certified alcohol and drug abuse counselor.



MONTANA STATE PRISON CLOSE SECURITY EXPANSION

DEER LODGE MONTANA



LEGEND

1. CLOSE SECURITY HOUSING #1
2. CLOSE SECURITY HOUSING #2
3. RECEPTION GUARD HOUSE
4. FOOD SERVICE - KITCHEN
5. IN SUBSIDIARIES
6. INDUSTRIES AND MANUFACTURING
7. VOCATIONAL EDUCATION AND AUTOMOTIVE REPAIR FACILITY
8. ROOM MAINTENANCE
9. MINIMUM SECURITY HOUSING
10. MINIMUM SECURITY HOUSING
11. MEDIUM SECURITY HOUSING
12. ADMINISTRATION / VISITING
13. INFIRMARY / UNIVERSITY OF MONTANA DRUG RESEARCH FACILITY
14. MAXIMUM SECURITY HOUSING
15. GYMNASIUM
16. GUARD TOWER
17. GUARD TOWER
18. CHAPEL
19. FUTURE CLOSE SECURITY HOUSING
20. FUTURE MEDIUM VISITING EDUCATION & ADMINISTRATION
21. FUTURE GYMNASIUM & MUSIC
22. FUTURE GUARD TOWER
23. FUTURE GUARD TOWER
24. NEW LIGHT POLES

ATTACHMENT J

M.S.P. CLOSE SECURITY EXPANSION

STATE PRISON RANCH EXPANSION

DEER LODGE, MONTANA

MONT A/E 82-43-01

June 1, 1982

1. One 120-Man Close Security Housing Unit:

29,568 s.f. @ \$97.51	\$ 2,883,175	
Contractor's Overhead & Profit @ 25%	<u>720,795</u>	
	\$ 3,603,970	
Architect's Fee @ 8.0%	<u>288,315</u>	
	\$ 3,892,285	
Contingency @ 10%	<u>389,225</u>	
Total Cost		\$ 4,281,510

2. New Dining Hall (Excluding Kitchen):

5,000 s.f. @ \$43.90	\$ 219,500	
Contractor's Overhead & Profit @ 25%	<u>54,875</u>	
	\$ 274,375	
Architect's Fee @ 8.0%	<u>21,950</u>	
	\$ 296,325	
Contingency @ 10%	<u>29,635</u>	
Total Cost		\$ 325,960

3. New Gymnasium & Music Building:

15,500 s.f. @ \$35.15	\$ 544,850	
Contractor's Overhead & Profit @ 25%	<u>136,215</u>	
	\$ 681,065	
Architect's Fee @ 8.0%	<u>54,485</u>	
	\$ 735,550	
Contingency @ 10%	<u>73,550</u>	
Total Cost		\$ 809,100

4. New Administration, Library, Education
and Visitor's Building:

33,408 s.f. @ 54.40	\$ 1,817,395	
Contractor's Overhead & Profit @ 25%	<u>454,350</u>	
	\$ 2,271,745	
Architect's Fee @ 8%	<u>181,740</u>	
	\$ 2,453,485	
Contingency @ 10%	<u>245,345</u>	
Total Cost		\$ 2,698,830

5. Sitework & Utilities:

Fence: Lump Sum from M.S.P. Expansion	445,225	
Underground Utilities: Lump Sum	25,000	
Paving: 116,600 s.f. @ \$2	233,200	
Sally Ports: Lump Sum from MSP Expansion	44,200	
Guard Tower: Lump Sum from MSP Expansion		
2 ea. @ \$128,000 =	<u>256,000</u>	
	\$ 1,003,625	
Contractor's Overhead & Profit @ 25%	<u>250,905</u>	
	\$ 1,254,530	
Architect's Fee @ 8%	<u>100,360</u>	
	\$ 1,354,890	
Contingency @ 10%	<u>135,490</u>	
TOTAL COST		\$ 1,490,380

COST ESTIMATE SUMMARY
M.S.P. CLOSE SECURITY EXPANSION
DEER LODGE, MONTANA
MONT A/E 82-43-01
June 1, 1982

1.	ONE 120-MAN CLOSE SECURITY HOUSING UNIT	\$ 4,282,000
2.	NEW DINING HALL	326,000
3.	NEW GYMNASIUM & MUSIC BUILDING	809,000
4.	NEW ADMINISTRATION, LIBRARY, EDUCATION AND VISITORS BUILDING	2,699,000
5.	SITework & UTILITIES	\$ <u>1,490,000</u>
	SUB TOTAL	\$ 9,606,000
		<u>32,775</u>
		\$ 9,638,775

NOTE: This estimate does not include the cost of furnishings.

* Salaries and benefits for 4,176 hours of security staffing during the period in which the fence is being relocated.

ATTACHMENT K

Comparison
Glasgow - Governor's Proposal
750 Inmates

1983 Fiscal Year

	Prison Budget	Glasgow Budget	Total	Total
	Pop. 610	Pop. 140	Pop. 750	Governor's Proposal
FTE	288.24	75.30	363.54	350.12
Personal Services	6,235,452	1,476,568	7,712,020	7,385,068
Contracted Services	789,862	258,799	1,048,661	888,485
Supplies and Materials	1,055,471	402,717	1,458,188	1,225,123
Communications	40,269	25,534	65,803	46,869
Travel	20,228	10,439	30,667	20,228
Rent	9,790	14,994	24,784	9,790
Utilities	279,646	138,000	417,646	318,246
Repairs	86,309	30,856	117,165	109,709
Other	133,972	62,822	196,794	167,791
Equipment	63,291	306,225	369,516-	67,791
TOTALS	8,714,290	2,726,954	11,441,224	10,238,696

Cost per day (excluding equipment of 306,225 at Glasgow and 16,000 at Prison) \$40.62

Construction Governor's proposal	<u>9,638,775</u>
Renovation Glasgow	<u>2,598,000</u>
Difference	7,040,775

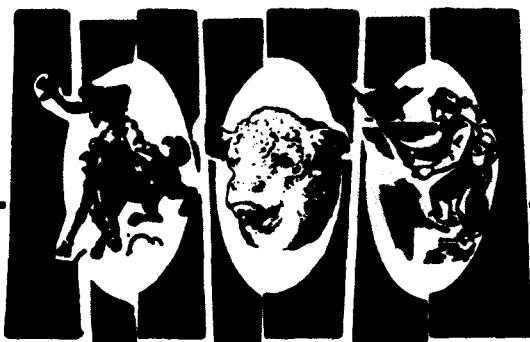
Comparison
Old Prison - Governor's Proposal
750 Inmates

1983 Fiscal Year

	Prison at 550	Old Prison at 200	Total 750	Total Governor's Proposal
FTE	273.66	112.02	385.68	350.12
Personal Services	5,979,486	2,251,449	8,230,935	7,385,068
Contracted Services	702,651	196,987	899,638	888,485
Supplies and Materials	1,047,255	394,179	1,441,434	1,225,123
Communications	36,097	20,786	56,883	46,869
Travel	13,924	8,590	22,514	20,228
Rent	9,790	16,760	26,550	9,790
Utilities	279,646	296,862	576,508	318,246
Repairs	86,309	30,856	117,165	109,709
Other	134,937	37,080	172,017	167,387
Equipment	63,291	294,346	357,637	67,791
TOTALS	8,353,386	3,547,895	11,901,281	10,238,696

Cost per day (excluding equipment of 294,346 at Old Prison and 16,000 at Prison) \$42.34

Construction Governor's proposal	<u>9,638,775</u>
Renovation Old Prison	<u>6,185,000</u>
Difference	3,453,775



DEER LODGE

Chamber of Commerce

CITY HALL

DEER LODGE, MONTANA

59722

June 21, 1982

Montana State Legislators
State Capitol
Helena, Montana

The people of Deer Lodge would like to thank you for coming to Helena this week to solve a problem that is very near to us--the lack of adequate facilities at the State Prison west of Deer Lodge.

As Montana State taxpayers we share the deep concern of all the state's taxpayers that this Legislature take actions that allow the Montana State Prison to achieve its purpose 1) to provide a measure of security for the citizens of Montana by keeping inmates inside the prison for the duration of their sentences; 2) to provide a humane environment and meaningful rehabilitation opportunities until an inmate is released; 3) to accomplish the above with the least expense to the State of Montana.

As residents of the city of Deer Lodge, we have a special vulnerability to the problems created by inadequate facilities, and we have a unique perspective due to our proximity over the years for understanding the problems and solutions. That is why we fully support the Governor's proposal to correct the deficiencies at the Prison, and in the State's adult correctional program.

It is a multi-pronged attack on a multi-faceted problem. The Governor's proposal provides for correcting the deficiencies of the present prison; it provides for reducing the present population and easing the re-entry to society through the use of additional pre-release centers; and most important, in fact of vital importance, it provides for the security and segregation of the hard-core predatory inmates from the youthful and non-violent offenders. The physical and psychological torment that these "con bosses" inflicts on the lesser offenders is counter productive to every aspect of managing the prison and of rehabilitation.

The pages that follow contain excerpts of the expert testimony of several witnesses who have testified before the committees of the special session. They are people who have spent most of their professional lives working in or with the State Prison. Please consider their words carefully. When you do, we are sure that you will agree with us that the Governor's proposal is the best, the most integrated solution to the problems of Montana's penal system.

Thank you.

The Deer Lodge Chamber of Commerce

WHAT THE EXPERTS SAY ABOUT SECURITY, REHABILITATION & ECONOMY

"They did a brilliant job working with what money the legislature gave them, and it is one of the cheapest prisons built in recent years --- but as a result of that, what they ended up with is a very good MEDIUM security prison. It's one of the best for medium security, but it just can't hold the hard-core, predatory, violent offender. There are areas in that prison where a big man can literally run through the walls, from one end of the horseshoe to the other! It is critical to the management of the prison and to the safety of the staff and other inmates to have a strong maximum security unit where you can segregate and hold these guys."

Jim Blodgett, Former Acting Warden

"With the current situation of overcrowding and blurring of security classifications you have a condition where a "con boss" can put a contract on another inmate's life -- we had a kid from Butte that tried to escape because he thought he would be killed, and a few days later he was stabbed. There are some areas of the prison the guards can't go."

Ted Mizner, Powell County Attorney

"One group hid for three days in or near town and then stole a car from a quiet neighborhood, another time convicts hid in a trailer house on a ranch just a few miles from town, another time convicts took hostages and threatened their lives."

Bud Campbell,
Citizens Protective Association

"I would estimate that at the present time, you have in the Montana State Prison over two hundred (200) hard core inmates. Many, if not all of them are extremely dangerous. These individuals run the inmate population in the prison. There is no question in my mind that the younger and less physical inmates are controlled by the hard core group. They are the gophers and the drug runners. No matter what you do with the minimum security inmates, you still have to face the problem of the hard core group. They need to be separated from the minimum security inmate population!"

Dave Collings, Powell County Sheriff

"As you know 65% or 70% of the current prison population comes from within 150 miles of Deer Lodge. This is important from the standpoint of rehabilitation, because it means that the inmates can have members of their families visit them, and this can be very supportive of any rehabilitation effort."

Kermit Daniels, Deer Lodge City Attorney

"If they do not have adequate supervision, you are going to create con-bosses and in addition, further drug rings, gambling rings and prostitution rings. Another fact deserves consideration, and that is youthful offenders who are exposed to the hard core type of individual are obviously not going to have near the chance of rehabilitation as ones who are not so exposed."

Dave Collings, Powell County Sheriff

"The theory was that, through good behavior and work record an inmate could progress to units with more privileges. From Unit A to Unit B to Unit C and then hopefully to parole. But since many of the units are holding inmates for whom they were not designed, the whole idea has crumbled."

Ted Mizner, Powell County Attorney

"If you were to try to build a new prison elsewhere, you would have to duplicate the entire upper and middle levels of management, and that cost goes on year after year after year. Additionally, there are a great many elements of the physical plant that would have to be re-created from scratch, not just expanded as you can do in Deer Lodge. And there is plenty of room to expand out there, you have a core of highly trained security officers -- it just doesn't make sense, given our population, to build anywhere else."

Jim Blodgett, Former Acting Warden

"If not now, then when? If not us, then who?"

Ronald Reagan, President of the
United States of America

Montana State Prison Chapter
MONTANA PUBLIC EMPLOYEES ASSOCIATION

Deer Lodge, Montana
June 16, 1982

Be it known that the Montana State Prison Chapter of the Montana Public Employees Association, representing its member employees, is in total support of the proposal of the Governor of the State of Montana to retain the state prison facility at its present site in Deer Lodge and to expand it there in accordance with the plan published by the Department of Institutions.

Be it further known that the Montana State Prison Chapter opposes the establishment of a prison at any location other than Deer Lodge.


JACK T. JONES
Vice President

JOHN D. WILSON, Mayor
KERMIT DANIELS
City Attorney

BARBARA P. McOMBER, Clerk
SUSAN J. WHITTINGTON, Treasurer

CITY OF DEER LODGE

MONTANA
59722

COUNCILMEN:
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LOY E. MIZNER
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KENNETH E. FENNER
N. PAUL MILLER
JOSEPH L. SAGER

June 19, 1982

FACTUAL DATA RE MONTANA STATE PRISON DEER LODGE, MONTANA

INMATE COUNT - Total Jurisdiction Count (831) - Prison Only (713)
" " - Life Skill Training in Missoula (10)
" " - Alpha House in Billings (23)

AVERAGE AGE OF INMATE - 24 yrs.

AVERAGE TERM OF INMATE - 23 Months

CRIME COUNT OF INMATES:

Arson - 2	Assault - 72
Burglary - 168	Homicide - 108
Carrying Concealed Weapons - 7	Kidnapping - 18
Criminal Mischief - 14	Sex - 82
Escape - 13	Robbery - 96
Extortion - 1	
Forgery - 47	
Larceny - 151	
Narcotics - 36	
Misc. - 8	

54% crimes against property

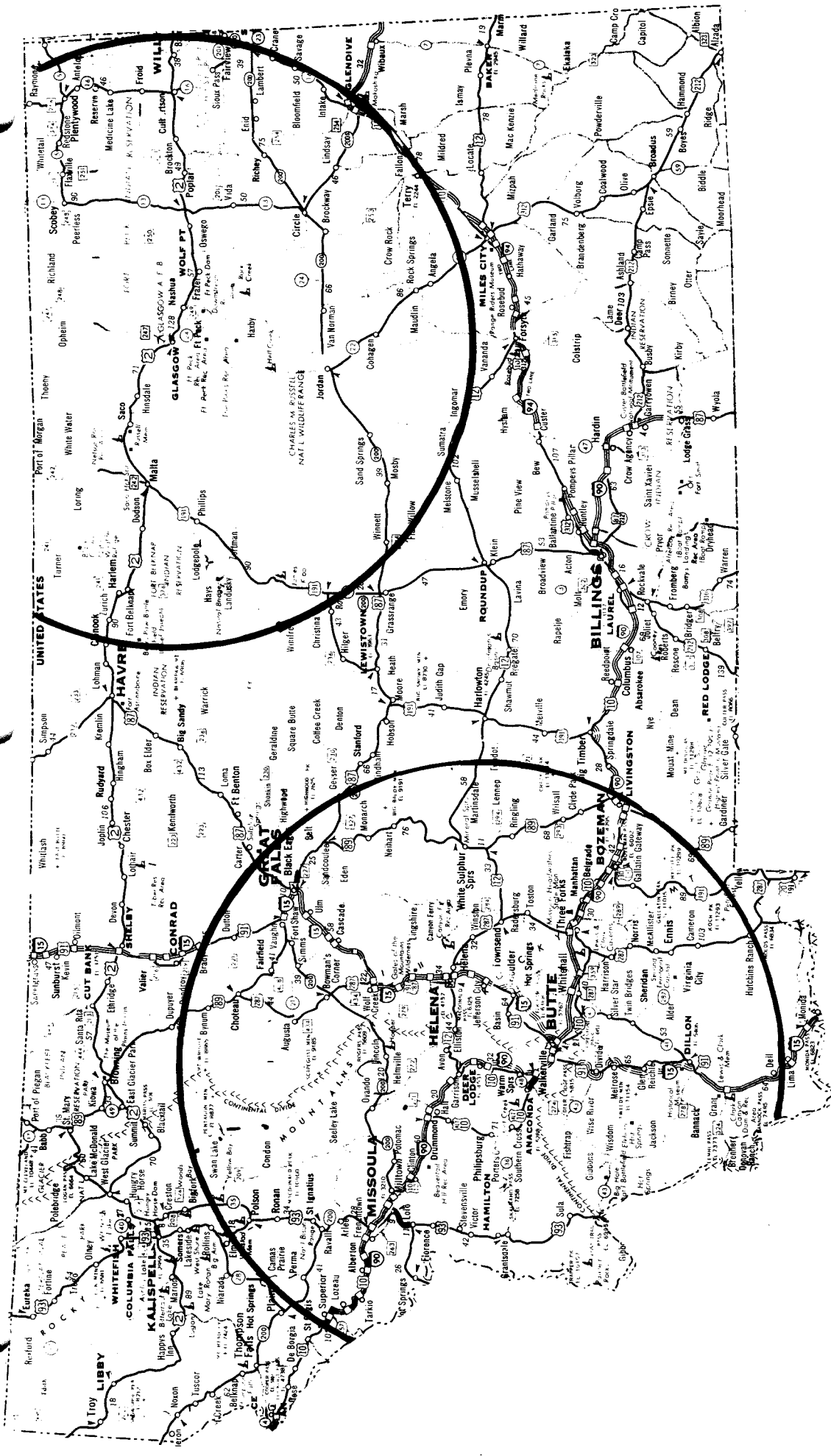
46% crimes against persons

POPULATION COUNT:

65% of inmate population is within a 150 mile radius of Deer Lodge whereas
15% of inmate population is within a 150 mile radius of Glasgow

NUMBER OF ESCAPES SINCE 1979:

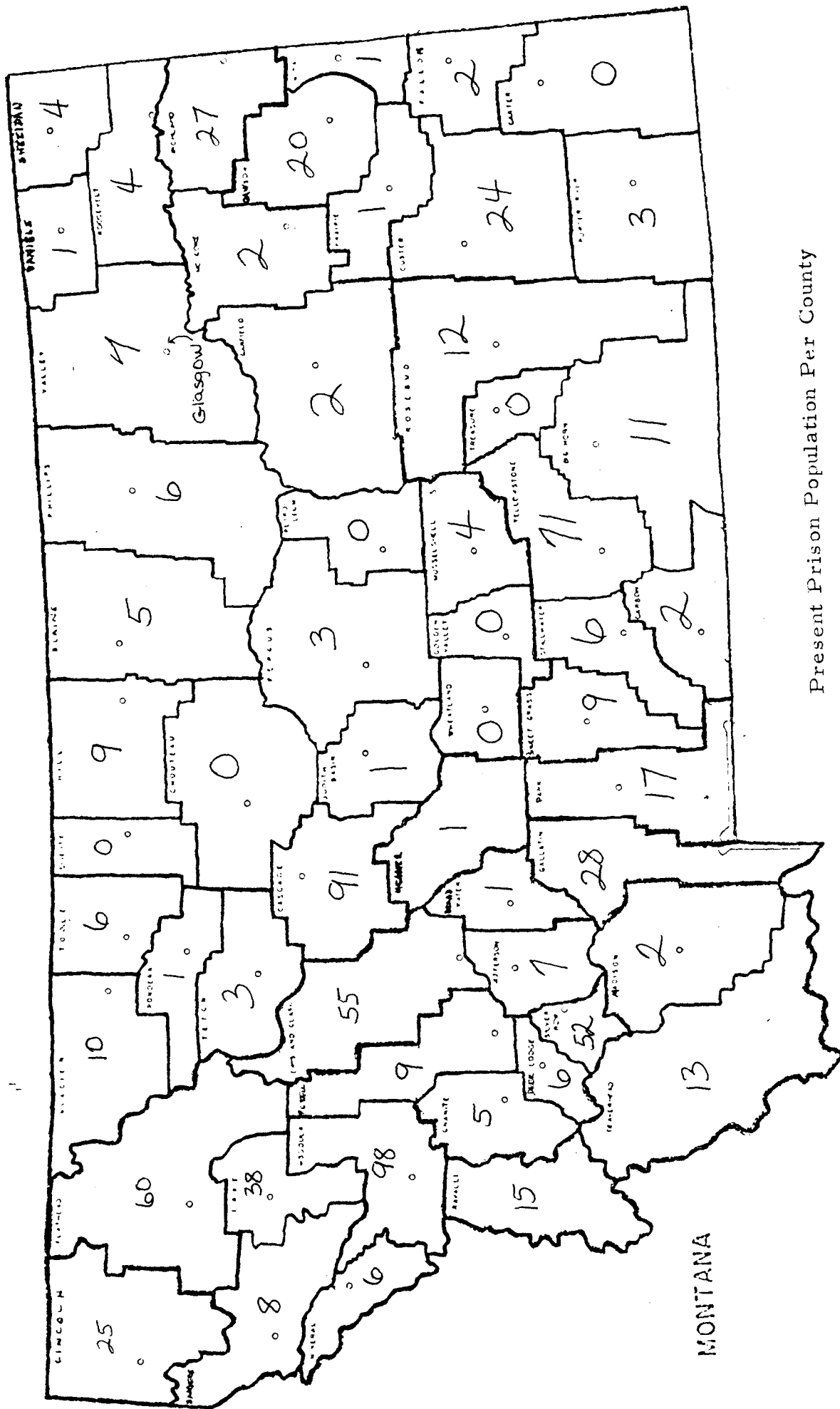
Ten (10) escapes - Minimum Security
Thirty-five (35) escapes - Close Units



70% OF THE INMATE POPULATION COMES FROM WITHIN
A 150 MILE RADIUS OF DEER LODGE

15% OF THE INMATE POPULATION COMES FROM WITHIN
A 150 MILE RADIUS OF GLASGOW

THIS MEANS GREAT SAVINGS IN TRANSPORTATION COSTS AND EASIER ACCESS TO PRE-RELEASE CENTERS AND FAMILIES!!



Present Prison Population Per County

MONTANA

Mr. Chairman, Members of the Committee:

My name is David Collings and I am the sheriff of Powell County. I have served as the sheriff in Powell County for the last twelve (12) years. Prior to that time, for eight years I was the Deputy and under sheriff for Powell County. As a result of my experience in law enforcement in Powell County, I am well acquainted with the operation of the former prison and of the operation of the new prison.

Because of certain problems with fences and the separation of inmates at the new prison and because of the over crowding, the potential is present for very serious uprising. There could be numerous deaths involved. Also, if the escapes continue, and I am convinced they surely will unless corrective action is taken, we run the risk of death and injury to the citizens of the State of Montana. The problems which I have been confronted with since the opening of the new prison are basically similar to those which existed in the old prison facility with one exception. That exception is the number of crimes committed both inside the walls and in escape attempts.

The old prison was operated in conjunction with Rothe Hall. Rothe Hall handled about Two Hundred (200) inmates and as most of you are aware was located out at the prison ranch. It was for minimum security inmates. The remainder of the inmates were lodged within the old prison. That institution for all of its faults nevertheless had the capacity to closely supervise inmate conduct because of the numerous towers and other catwalks. Secondly, the staff was able to lock up the inmates so they were not free to inflict physical injury on the guards and each other. To place the matter in prospective, I have attached to my testimony a list of names encompassing some five pages. I would like to take a few minutes to explain these lists to you.

To summarize the list. Since the new prison opened we have had

- Eighteen (18) felony assaults
- Fourteen (14) misdemeanor assaults
- One (1) hostage
- One (1) murder
- Forty-five escapes (45)

The escapes consist of Thirty-five (35) escapes from Close supervision and ten (10) escapes from Minimum Security. In addition we have had some ten (10) additional charges for such things as purchasing dangerous drugs, possession of weapons and related matters.

As stated previously, the number of felonies within the new prison compound are overwhelming compared to the problems with the old prison. I am sure this committee is fully aware that a number of the inmates at Montana State Prison are very dangerous individuals. They require close supervision and confinement in an area which will hold them. If they do not have adequate supervision you are going to create con-bosses and in addition further drug rings, gambling rings and prostitution rings. Another fact deserves consideration, and that is youthful offenders who are exposed to the hard core type of individual are obviously not going to have near the chance of rehabilitation as ones who are not so exposed.

STATEMENT OF BUD CAMPBELL, DEER LODGE
CITIZEN'S PROTECTIVE ASSOCIATION

MY NAME IS BUD CAMPBELL AND I AM A DIRECTOR OF THE CITIZEN'S PROTECTIVE ASSOCTAION IN THE DEER LODGE VALLEY. I APPRECIATE THE OPPORTUNITY TO BE HERE TODAY TO EXPLAIN THE POSITION OF OUR ASSOCIATION.

THE CITIZEN'S PROTECTIVE ASSOCIATION WAS FORMED MANY YEARS AGO WHEN ESCAPES, OVERCROWDING, AND OTHER PROBLEMS AT THE PRISON WERE THREATENING THE SAFETY OF PEOPLE IN OUR VALLEY AND COMMUNITIES. WHEN THE PROBLEMS WE FACED AT THAT TIME WERE CORRECTED, THE GROUP RETIRED.

HOWEVER, LAST YEAR THE CITIZEN'S PROTECTIVE ASSOCIATION FELT IT WAS NECESSARY TO RE-ORGANIZE. THIS WAS BECAUSE OF THE LARGE NUMBER OF ESCAPES FROM THE PRISON. IN APPROXIMATELY ONE YEAR THERE WERE MORE THAN 30 INMATES WHO ESCAPED INTO THE DEER LODGE COMMUNITY. SEVERAL OF THESE MEN WERE EXTREMELY DANGEROUS AND PROBABLY WOULD HAVE BEEN IN MAXIMUM SECURITY EXCEPT THAT THERE WAS NO ROOM FOR THEM THERE.

ONE GROUP HID FOR THREE DAYS IN OR NEAR TOWN AND THEN STOLE A CAR FROM A QUIET NEIGHBORHOOD. ANOTHER TIME CONVICTS HID IN A TRAILER HOUSE ON A RANCH JUST A FEW MILES FROM TOWN. ANOTHER TIME CONVICTS TOOK HOSTAGES AND THREATENED THEIR LIVES.

PRIOR TO OUR REORGANIZATION THE PRISON WAS EXTREMELY LAX ABOUT NOTIFYING CITIZENS WHEN AN ESCAPE HAD OCCURED. IT WAS NOT UNCOMMON FOR CITIZENS TO BE AWAKENED IN THE MIDDLE OF THE NIGHT BY THE AUTHORITIES SEARCHING FOR AN ESCAPED CON.

I would estimate that at the present time you have in the Montana State Prison over two hundred (200) hard core inmates. Many, if not all of them are extremely dangerous. These individuals run the inmate population in the prison. There is no question in my mind that the younger and less physical inmates are controlled by the hard core group. They are the gophers and the drug runners. No matter what you do with the minimum security inmates you still have to face the problem of the Hard Core group. They need to be separated from the minimum security inmate population!

As the sheriff of Powell County, I can sincerely endorse the governors proposal as a step in the right direction. In his interim funding proposal, the Governor is suggesting additional staffing for Close Unit One and Close Unit Two. The additional staff should cut down the amount of mischief the individuals that are confined in Close Unit One and Close Unit Two can engage in. However, this will not solve the total problem. I fully support the addition of an additional Close Unit security building at the prison. If this is accomplished and under the Governor's proposal two additional guard towers are constructed and the fence realigned you have these benefits flowing from the construction program. You have eliminated the over crowding in the area occupied by the dangerous inmates and therefore the potential for trouble is substantially diminished. Through the addition of the guard towers you are going to be able to maintain much closer supervision of the inmate population. The realigning of the fence will allow each guard tower to observe the security boundary and detect any potential escapes. Any point on the security boundary would be visible from not less than two guard towers. The straightening of the fence will allow the guards to look down the fence line which is impossible now due to the curved nature of the security fence. The fencing between the Close security and the minimum security with each having separate facilities will eliminate the intimidation of the minimum security inmates. You have to get rid of the hard core inmate influence if you expect to rehabilitate the young offender.

As noted, the guard towers and new fencing will increase security. With the present facilities I estimate that it would take about fifteen (15) minutes for the inmate population to be through the fence if they timed things right and were able to get to their stashes. By my comments that the old prison had better physical integrity I am not suggesting its use. I believe the same result can be accomplished at the new facility under the proposals of the Governor.

In conclusion, it is my firm belief that two things are required at the State Prison.

1. We must eliminate the over crowding and;
2. We must have sufficient supervision and physical barriers so as to eliminate intimidation of other inmates, the knifings, the other assaults and the escapes. I also believe these items are necessary now. I cannot say when we will have a major problem but I am convinced that unless we act promptly and make corrections we will have a major problem.

Do the members of the committee have any questions?

PAGE 2

THE ESCAPE MAY HAVE BEEN AS LONG AS FIVE HOURS EARLIER AND THE PRISON'S POLICY OF NOTIFYING RESIDENTS WAS NOT FOLLOWED.

ONE OF THE FIRST ACTIONS WE TOOK WAS TO ORGANIZE A TELEPHONE ALERT SYSTEM WHICH WOULD MAKE IT POSSIBLE FOR THE PRISON TO NOTIFY US WITHIN 20 MINUTES OF AN ESCAPE. THIS WAS AT OUR EXPENSE -- NOT AT THE EXPENSE OF THE STATE OF MONTANA.

AS WE MET AND WORKED WITH THE OFFICIALS AND EMPLOYEES OF THE PRISON WE BECAME MORE AWARE OF THE PROBLEMS OF OVERCROWDING, AND WHY WE MUST HAVE A BETTER MAXIMUM SECURITY FACILITY HERE IN DEER LODGE.

WE, AND THE PRISON EMPLOYEES, WANT A SAFER ENVIRONMENT TO LIVE IN AND WORK IN.

WHAT WE HAVE NOW IN DEER LODGE IS A MINIMUM-TO-MEDIUM SECURITY PRISON.

THE BEST LONG-TERM SOLUTION IS TO BUILD A MAXIMUM SECURITY UNIT AT THE NEW PRISON IN DEER LODGE, USING EXISTING ADMINISTRATION AND MEDICAL SERVICES, AND SAVING MONTANANS' TAX DOLLARS. THIS UNIT SHOULD ACCOMODATE THE 200-PLUS HARD-CORE CRIMINALS.

IF THIS IS DONE THE MINIMUM AND MEDIUM SECURITY UNITS WILL BETTER FUNCTION AS REHABILITATIVE FACILITIES.

ADDITIONALLY, THERE WOULD BE IMPROVED SECURITY FOR THE CITIZENS OF OUR VALLEY, FOR THE PRISON STAFF, AND ALSO FOR THE INMATES THEMSELVES.

PAGE 3

YOU HAVE HEARD MUCH EXPERT TESTIMONY AND STATISTICS ABOUT THE ASSULTS, THE ESCAPES, AND THE VIOLENCE AT THE PRISON. WITH AN IMPROVED MAXIMUM SECURITY UNIT AT DEER LODGE WE CAN REDUCE THE ASSULTS, ESCAPES, AND OTHER PRISON PROBLEMS.

IT IS MY PURPOSE HERE TODAY, ON BEHALF OF MYSELF AND THE CITIZEN'S PROTECTIVE ASSOCIATION, TO ENDORSE THE PROPOSAL TO BUILD A MAXIMUM SECURITY UNIT AT THE PRESENT, EXISTING PRISON IN DEER LODGE.

POWELL COUNTY DEVELOPMENT CORPORATION

300 MAIN - DEER LODGE, MONTANA 59722

PHONE 406 846-2094

June 18, 1982

The Honorable Chairmen and Members,
Montana State Legislature Committees
in Special Session
State Capitol
Helena, Montana

Gentlemen,

We respectfully invite your notice of a petition recently
circulated in Powell County and adjacent counties.

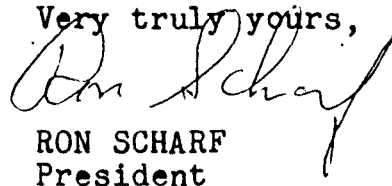
The petition, which garnered approximately 1,200 residents'
signatures in a brief circulation, reads as follows:

"To Ted Schwinden, Governor of the State of
Montana, and to the Montana State Legislature
in Special or Regular Session:

"We the undersigned residents of County,
State of Montana, do hereby express to you our
total support of the expansion of the present
Montana State Prison facilities at Deer Lodge
or for the construction of a new prison at
Deer Lodge."

The petition is available for your inspection during the
special session of the Legislature. It may be obtained
at any time from the Powell County Development Corpora-
tion/Deer Lodge Chamber of Commerce representative who
will be present during all sessions of the Legislature
convening on Monday, June 21st.

Very truly yours,



RON SCHARF
President

cc: Governor Ted Schwinden

RS/cw

PRISON ANALYSIS SPECIAL SESSION - II

**OFFICE OF THE
LEGISLATIVE
FISCAL ANALYST**

HELENA, MONTANA • 1983 BIENNIUM



PRISON ANALYSIS
SPECIAL SESSION II - 1983 BIENNium

Presented to the Forty-Seventh Legislature

Submitted by
The Office of the Legislative Fiscal Analyst
Helena, Montana

June 1982



STATE OF MONTANA
Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/449-2986

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

June, 1982

Members of the Forty-Seventh Legislature
Members of the Legislative Finance Committee

As required in 5-12-302, MCA, your fiscal analyst's staff has prepared an independent review of the executive budget. The purpose of this report is to explain the major policy implications of the executive budget. The Legislative Finance Committee, in directing the staff to conduct the analysis, felt an independent review of the executive's main fiscal proposal would offer a range of policy options not otherwise available.

I hope you find the prison analysis and background material useful in your deliberations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judy Rippingale".

Judy Rippingale
Legislative Fiscal Analyst

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Vonnie Evans, Administrative Secretary
Jane Thorsen, Secretary
Roberta Clinton, Secretary

We wish to acknowledge the legal assistance of Lee Heiman from the Legislative Council staff in writing the legal review on double-bunking.

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INTRODUCTION TO THE PRISON ANALYSIS

The purpose of our analysis is to present the issues in the executive budget in a clear and concise manner. This is to help legislators obtain a fiscal understanding of each issue before they must make a final decision. No attempt is made to prioritize proposed budget expansions.

In addition to financial analysis, background material for which we have received considerable legislative interest has been included. There are five informational sections: 1) Prison Population--Historical and Projected; 2) Good-Time Policies; 3) Inmate Classification; 4) Legal Review of Double-Bunking; and 5) Annual Operating Costs--Other Prison Options.

SUMMARY OF EXECUTIVE BUDGET

The executive is requesting a new prison facility to handle 120 maximum security inmates, expand community corrections for 79 minimum security inmates, and improve the present state prison to house 673 inmates. Increased annual operating costs before considering inflation are \$1,880,110. Building and major improvement will cost \$10,607,880.

The executive fiscal 1983 budget proposal is to spend \$12,413,607 general fund for the following items:

Prison Operations	\$ 1,022,453
Prison Industries	97,500
Community Corrections	669,376
Board of Pardons	<u>16,398</u>
Total Operational Costs	\$ 1,805,727 =====
Kitchen Expansion	\$ 205,000
Water and Sewer Upgrades	400,000
Security Improvements	397,100
Maximum Security Complex	<u>9,605,780</u>
Total Long-Range Requests	\$10,607,880 =====

PRISON POPULATION PROJECTIONS

The executive has projected prison populations for years 1983 to 1990. The projections include a most likely population with an error allowance of plus or minus 40. These estimates are shown in Table 1.

Table 1
Department of Institutions
Population Projections 1983 - 1990

<u>Calendar Year</u>	<u>Projected Population</u>	<u>±-Error Allowance¹--</u>	
		<u>Minus 40</u>	<u>Plus 40</u>
1982	900	874	926
1983	929	889	969
1984	926	886	966
1985	931	891	971
1986	925	885	965
1987	913	873	953
1988	898	858	938
1989	882	842	922
1990	865	825	905

¹1982 allows a 26 error rate rather than 40.

The prison population was 819 on June 10, 1982. Through May, the average daily prison population for fiscal 1982 has been 819. Table 2 shows the June 10, 1982 prison population in relation to the projected populations for 1983, 1984 and 1985.

Table 2
Prison Population as of June 10, 1982
Versus Projected Populations for 1982 - 1985

<u>Period</u>	-----Population-----	
	<u>Actual</u>	<u>Low Range</u>
June 10, 1982 - Calendar Year 1982	819 ¹	874
Calendar Year 1983		889
Calendar Year 1984		886
Calendar Year 1985		891

¹Includes 27 not physically present; 792 were physically present.

Prison population projections are based on the following formula:

1. New prisoners will be added at the rate of 37.51 for every 10,000 males in Montana whose ages are 18 to 34.
2. The aggregate length of stay for each prisoner will be 24 months.

Male Population

New prisoners will be added at the rate of 37.51 for every 10,000 males in Montana whose ages are 18 to 34. The Department of Administration's population projections for males aged 18 to 34 are shown in Table 3. As the population peaks in 1984, the prison population project will begin to show a decline in subsequent years.

Table 3
 Department of Administration's
 Population Projections for Males Aged 18-34
 1982 - 1990

<u>Calendar Year</u>	<u>Males Aged 18-34</u>
1982	122,352
1983	123,461
1984	123,994
1985	123,761
1986	122,589
1987	120,713
1988	118,641
1989	116,711
1990	114,644

Aggregate Length of Stay (ALS)

The aggregate length of stay has been increasing. The rate of increase has slowed considerably since 1978. Table 4 shows that the average length of stay was 23.1 months in 1978 and is presently 22.4 months. The rate of change was a negative 9 percent in 1979, 7 percent in 1980, and zero percent in 1981 and this far in 1982. Increasing the average length of stay to 24 months for projection purposes is a 7 percent increase over the present average length of stay.

Table 4
Average Length of Prison Stay Per Inmate
1974 - 1983

<u>Calendar Year</u>	<u>ALS</u>	<u>Months Change</u>	<u>Percent Change</u>
1974	13.1	---	---
1975	14.2	1.1	8.4
1976	15.9	1.7	12.0
1977	19.1	3.2	20.1
1978	23.1	4.0	20.9
1979	21.0	(2.1)	(9.1)
1980	22.4	1.4	6.7
1981	22.4	0.0	0.0
1982	22.4	0.0	0.0
-----PROJECTED IN FORMULA ¹ -----			
1983	24.0	1.6	7.1

¹By Department of Institutions.

If the aggregate length of stay were not increased, prison population estimate would be 78 inmates lower in 1983, 71 lower in 1984, and 62 lower in 1985 as shown in Table 5.

Table 5
A Comparison of the Effect on Prison Population
of a 24 and a 22.4 Months Average Length of Stay
1983 - 1985

<u>Calendar Year</u>	<u>24 Months ALS</u>	<u>22.4 Months ALS</u>	<u>Difference</u>
1983	929	851	78
1984	926	855	71
1985	931	869	62

Physically Present

The Department of Institutions told the Legislative Finance Committee in February 1980 that approximately 5 percent of the prison population was never physically present at the prison. On June 10, 3.3 percent was not physically present.

In fiscal 1983, if 3 to 5 percent were not being housed, this would reduce the additional housing need by 27 to 44 beds.

The June 10, 1982 population was 819. This is 81 less than the 900 population projection for calendar year 1982. Twenty-five prisoners at Montana State Prison were not physically present so housing needed to be provided for 106 less than the calendar year prison population projection.

If the June 1982 prison population projection of 890 were used and the aggregate length of stay were calculated at 22.4 rather than 24 months, the prison population estimate for June 1982 would be 830. If housing were provided for 3 percent less than the projection, 805 housing slots would be funded in comparison to the 794 actual inmates.

Fiscal Year

As the prison population is rising, housing must be provided to accommodate the maximum number of prisoners each year. However, the Legislature has normally based operational costs at institutions on the average yearly population. Therefore, two prison population numbers are needed. Maximum prisoners per year for housing purposes and the average daily population for operating expenses.

Prison Population Issue

What is the average daily prison population physically present for each fiscal year?

Prison population estimates have the following critical points:

1. Is the projection formula valid or does it over project?
2. What average length of stay should be utilized in the projection formula?
3. How many prisoners will be physically present?
4. What is the projected average daily population?
5. What is the population projection for housing needs for each fiscal year?

PRISON HOUSING NEEDS

The executive has made prison population projections as shown in the previous section. Under the executive population projections and following its example of beds needed in fiscal 1985, the Legislature would need to provide beds for 929 inmates in 1983, 926 in 1984, and 931 in 1985.

As shown in Table 6, the executive request for fiscal 1983 includes housing for 820 to 830 inmates which is 99 to 109 less than their 929 prison population projection.

Table 6
Comparison of Executive Housing Request versus
Executive Prison Population Projections

<u>Housing Facility</u>	<u>June 10, 1982</u>	<u>Fiscal 1983 Housing Request</u>
Montana State Prison	718	673
Galen		8
Alpha House	23	25
Missoula Life Skills Center	--	24
Pre-Release Centers	--	40-50
Swan River	<u>51</u>	<u>50</u>
Total	792	820-830
Population Projection		<u>929</u>
Difference		109-99

If the population estimate of 929 is adjusted down to the department's low range, which allows for an error factor of 40 inmates, and is further reduced for 5 percent not being physically present, there would be 843 housing slots needed in fiscal 1983. This is only slightly more than the executive requested.

Housing Capacity--July 1, 1982

On July 1, 1982 the Montana prison system will have the capacity to house 656 inmates without double-bunking and 956 inmates with double-bunking. The Department of Institutions feels a manageable level of double-bunking would be 96 in the Close II Unit. Table 7 shows the housing location and classification if there is no double-bunking, the double-bunking level acceptable to the department, and maximum double-bunking.

Table 7
Prison Housing Available July 1, 1982
Without Double-Bunking

<u>Housing Unit- Custody Level</u>	<u>Without Double-Bunking</u>	<u>Acceptable Level¹ Of Double-Bunking</u>	<u>With Double-Bunking</u>
Montana State Prison			
Maximum	131	131	227
Medium	192	288	324
Minimum			
Inside Walls	192		264
Dairy Barn	32		32
Caretakers	6		6
Cow Camp	<u>4</u>		<u>4</u>
	<u>234</u>	<u>234</u>	<u>306</u>
Total Montana State Prison	557	653	857
Minimum--Swan River	50	50	50
Minimum--Alpha House	25	25	25
Minimum--Missoula Center	<u>24</u>	<u>24</u>	<u>24</u>
Total System	656 ===	752 ===	956 ===

¹The Department of Institutions' definition of acceptable. This is double-bunking 96 in Close II.

Table 8 shows the housing unit and the number of cells that the Department of Institutions says can be double-bunked.

Table 8
Housing Units Single-Bunking and Those
Housing Units the Department says can be Double-Bunked

<u>Housing Unit</u>	<u>Without Double-Bunking</u>	<u>Double-Bunking</u>	<u>Total</u>
Maximum Security	35	0	35
Close I	96	96	192
Close II	96	96	192
A Unit	96	36	132
B Unit	96	36	132
C Unit	96	36	132
Caretakers	6	0	6
Dairy Barn	32	0	32
Cow Camp	4	0	4
Alpha House	25	0	25
Missoula Life Skills Center	24	0	24
Swan River	<u>50</u>	<u>0</u>	<u>50</u>
Totals	656 ===	300 ===	956 ===

A comparison of the present housing facility to the June 10, 1982 prison population is shown in Table 9. Without double-bunking, the prison system lacks beds in all security levels. The biggest difference between available housing and the prisoner custody level is medium security housing. With the present population, 136 prisoners would be double-bunked.

The executive is requesting a budget to house 673 prisoners at Montana State Prison. As the maximum and medium prisoners will be housed at Montana State Prison, there will still be a lack of space for these custody levels. All short-term options for reducing the prison population are for minimum security inmates. The June 10, prison population had 24 more maximum security inmates than available slots and 92 more

medium custody inmates than slots. If the prison population mix remains constant or changes to higher custody orientated, even more higher security inmates will need to be double-bunked.

Table 9
Comparison of Prison Housing July 1983 to Present Prison Population
Without and With Double-Bunking

<u>Custody Level</u>	-----Without Double-Bunking-----		
	<u>Housing</u>	<u>Prisoners</u>	<u>Difference</u>
Maximum - Close I	131	155	(24)
Medium	192	284	(92)
Minimum	<u>333</u>	<u>353</u>	<u>(20)</u>
Total	656 ===	792 ===	(136) ===

<u>Custody Level</u>	-----With Double-Bunking-----		
	<u>Housing</u>	<u>Prisoners</u>	<u>Difference</u>
Maximum - Close I	227	155	72
Medium	324	284	40
Minimum	<u>405</u>	<u>353</u>	<u>52</u>
Total	956 ===	792 ===	164 ===

¹Twenty-seven (27) are not physically present.

When construction is done, the executive proposal will have the following housing capacity. It can accommodate 826 without double-bunking and 1,126 with double-bunking as shown in Table 10.

Housing Issue

How many and what type of housing units are needed in fiscal 1983 and in the future?

Table 10
Housing Capacity of the Executive Proposal
Single-Bunking versus Double-Bunking

<u>Housing Unit</u>	<u>Single Bunking</u>	<u>Double Bunking</u>	<u>Total</u>
Maximum Security	35	0	35
Close I	96	96	192
Close II	96	96	192
A Unit	96	36	132
B Unit	96	36	132
C Unit	96	36	132
Caretakers	6	0	6
Dairy Barn	32	0	32
Cow Camp	4	0	4
Alpha House	25	0	25
Missoula Life Skills Center	24	0	24
Swan River	50	0	50
120-Man Close Unit	120	0	120
2 New Pre-Release Centers	<u>50</u>	<u>0</u>	<u>50</u>
Totals	826 ===	300 ===	1,126 =====

Table 11 compares the executive's population projections with its expanded housing request. The executive housing request will not meet its projected prison population even if 5 percent or 46 inmates are not physically present.

Table 11
Expanded Housing Capacity
Versus Projected Prison Population

<u>Year</u>	<u>Population</u>	<u>Housing</u>	<u>Population Above Housing</u>
1985	931	826	105
1986	925	826	99
1987	913	826	87

MONTANA STATE PRISON OPERATING BUDGET

The department has requested a \$1,022,453 increase in Montana State Prison's operational budget for fiscal 1983 as shown in Table 12. The budget request is based on a physically present population of 673.

Table 12
Comparison of the Montana State Prison
Appropriation to the Proposed Operational Budget
for Fiscal 1983

	<u>Legislature Appropriated</u>	<u>Executive Proposal</u>	<u>Difference</u>	<u>Percent Increase</u>
Population	672	673	1.0	----
FTE	256.79	304.44	47.65	18.6
Personal Services				
Salaries	\$4,399,020	\$5,063,693	\$ 664,673	15.1
Regular Overtime	117,884	117,884	-0-	---
Holiday Overtime	124,914	159,627	34,713	27.8
Longevity	28,735	28,735	-0-	---
Differential	2,800	2,800	-0-	---
Benefits	1,044,027	1,202,944	158,917	15.2
Vacancy Savings	<u>(57,174)</u>	<u>(57,174)</u>	<u>-0-</u>	<u>---</u>
Total Personal Services	\$5,660,206	\$6,518,509	\$ 858,303	15.2
Contracted Services	\$ 713,583	\$ 854,846	\$ 141,263	19.8
Supplies & Materials	1,225,123	1,149,992	(75,131)	(6.1)
Communications	40,269	40,269	-0-	---
Travel	20,228	20,228	-0-	---
Rent	9,790	9,790	-0-	---
Utilities	267,766	279,646	11,880	4.4
Repair & Maintenance	86,309	86,309	-0-	0.0
Other Expenses	125,517	152,589	27,072	21.6
Disturbance Control	<u>-0-</u>	<u>43,066</u>	<u>43,066</u>	<u>---</u>
Total Operating Expenses	\$8,148,791	\$9,155,244	\$1,006,453	12.3
Equipment	<u>47,291</u>	<u>63,291</u>	<u>16,000</u>	<u>33.8</u>
Total Program Costs	<u>\$8,196,082</u> =====	<u>\$9,218,535</u> =====	<u>\$1,022,453</u> =====	<u>12.5</u> =====
Cost per Day	33.42	37.53	4.11	12.3

The Montana State Prison population has been between 608 and 675 since 1978. Table 13 shows the average daily population, the operating cost, and the average cost per day (AC/D) and year (AC/Y) for one inmate for fiscal 1978 through fiscal 1983.

Table 13
Historical and Projected Prison Statistics

<u>Year</u>	<u>ADP</u>	<u>Operating Costs</u>	<u>AC/D</u>	<u>AC/Y</u>
1978	608	\$5,948,334	\$26.80	\$9,783
1979	666	6,277,594	25.82	9,426
1980	679	6,349,877	25.62	9,352
1981	710	6,606,784	25.49	9,305
1982	716	7,416,977	28.38	10,359
1983-Appropriated	672	8,196,082	33.41	12,197
1983-Requested	673	9,218,535	37.53	13,698

*Projected by the Department of Institutions on May 31, 1982.

Security Staffing

The executive is requesting 47.65 additional FTE. All except one are for security. Table 14 shows the security staff appropriated for fiscal 1983 in comparison to the new executive request.

Table 14
Security Staff Appropriated Fiscal 1983
Compared to Requested Security Staff

<u>Position</u>	<u>Appropriated Staff</u>	<u>New Staffing Level</u>	<u>Difference</u>
Correctional Officer 1	145.25	189.51	44.26
Correctional Officer 2	2.00	2.00	---
Correctional Sergeant	13.00	15.39	2.39
Correctional Lieutenant	6.00	6.00	---
Correctional Captain	1.00	1.00	---
Armorer	1.00	1.00	---
Associate Warden	1.00	1.00	---
Total	169.25	215.90	46.65
	=====	=====	=====

The number of security staff authorized for fiscal 1983 was determined with the aid of J.J. Clark, a prison consultant. His study was completed in fiscal 1981. Adjustments were made by the new director of the department and funded accordingly during the 1981 session. The positions funded were to man all posts deemed essential by the department.

The department is requesting staffing for 19 security posts over the post staffing level that was recommended by the consultant. That request and the staffing level recommended by the consultant are shown in Table 15 for the posts affected.

Table 15
Staffing by Post
New Staff Requested Versus
Staffing Level Recommended by Consultant

<u>Housing Unit</u>	<u>Shift</u>	<u>Consultant's Recommendation</u>	<u>New Request</u>	<u>Difference</u>
Close Unit I	6-2	3	6	3
	2-10	2	6	4
	10-6	2	3	1
Close Unit II	6-2	3	4	1
	2-10	3	4	1
	10-6	2	3	1
Maximum Security	6-2	2	4	2
	2-10	2	4	2
	10-6	2	3	1
	8-4	1	0	-1
Tower II	6-2	0	1	1
	2-10	0	1	1
	10-6	0	1	1
Visiting Room	12:30-8:00 p.m.	2	3	1
	8-4	0	1	1
Sally-Post Officer	6-2	1	1	0
	2-10	1	1	0
	10-6	<u>1</u>	<u>0</u>	<u>-1</u>
Totals		27 ==	46 ==	19 ==

The department had one less staff than the consultant had recommended for the above posts. Therefore, the executive is requesting 20 additional posts be filled. Also, there is a request to fill five posts in the dairy barn for a total of 25 more security posts.

A post does not equal a FTE because a FTE only works 40 hours a week and has vacation, holidays, sick leave, etc. Therefore, it takes 1.6 FTE to man one post. The ratio of the number of FTE required to the number of posts is called the relief factor.

The department was budgeted on the basis of a 1.55 relief factor for fiscal 1983. The department has raised the relief factor used to calculate the number of FTE's needed to man a post 24 hours a day to 1.62.

The department used an annual vacation factor of 15.89 days and a sick leave factor of 9.05 days in calculating the relief factor. Included in the vacation factor was 3.27 days of termination leave. Included in the sick leave factor was .56 days of termination sick leave. The proper amounts that should be used are 12.62 days for annual vacation and 8.49 days for sick leave. The department also used 10 holiday days instead of the 11 that will occur in 1983.

With these changes inserted into the calculation, the actual relief factor being experienced in fiscal 1982 is 1.60. Table 16 shows that 2.87 additional FTE will be budgeted if the relief factor is 1.62 rather than 1.60.

Table 16
Effect of Relief Factor at 1.62 and 1.60 on
Department's FTE Request

<u>Posts</u>	-----FTE-----		<u>Difference</u>
	<u>1.62 Relief Factor</u>	<u>1.60 Relief Factor</u>	
19 Correctional Officers Posts	30.78	30.40	.38
1 Sergeants Post	1.62	1.60	.02
5 Dairy Barn Posts	8.10	8.00	.10
Existing Posts ¹	<u>6.15</u>	<u>3.78</u>	<u>2.37</u>
Totals	46.65	43.78	2.87

¹This is the increase in the existing staff with no increase in posts to staff if the relief factor is increased from 1.55.

Vacancy Savings

All new positions are requested at the fiscal 1983 salary level with no vacancy savings. Three percent was the vacancy savings rate applied statewide for the 1983 biennium. If 3 percent vacancy savings were applied, this would reduce the personal services request by \$25,750.

In fiscal 1980, the prison's vacancy savings rate was 3.4 percent; in fiscal 1981 it was 6.3 percent. During the first 11 months of 1982, turnover has been approximately 38 percent.

Other Staff

The executive is requesting one psychologist III to provide additional psychological evaluation of inmates. The additional cost for this position is \$26,642 in fiscal 1983.

Staff Issue

The main question is--How many security personnel are needed? J.J. Clark, the consultant who evaluated the prison staffing needs, stated:

"The mission of the Montana state prison, coupled with the design features of the facility and perimeter fence, will require an above average security staffing level." He notes that heavy staffing was needed because of the varied custody population, the idle prisoners, the guard tower not being complete, the inappropriate perimeter fence, and the union contract.

No specific justification for the new security staff other than the dairy barn and the relief factor has been received.

1. Should one security post be funded to reach the consultant's recommended level?
2. Should 19 security posts above the consultant's recommended staffing level be funded?
3. Should the dairy barn be utilized?
4. Should the relief factor be increased?
5. Should vacancy savings be applied to new staff?
6. Should one new staff psychologist be added?

Contracted Services

The department is requesting an increase in contracted services of \$141,263. Table 17 compares the department's requested increase to the fiscal 1983 appropriation.

Table 17
Contracted Services Request Compared to the
Contracted Services Appropriation for
Fiscal Year 1983

<u>Contract Service</u>	<u>Request</u>	<u>Appropriation</u>	<u>Increase</u>
Medical Costs	\$493,641	\$404,096	\$ 89,545
Data Processing	9,646	8,642	1,004
Printing	3,895	3,490	405
Legal Services	91,104	81,629	9,475
Inmates in Other Jails	<u>85,757</u>	<u>60,264</u>	<u>25,493</u>
Subtotal	\$684,043	\$558,121	\$125,922
Contract Psychiatrist	30,888	15,547	15,341
Total	<u>\$714,931</u> =====	<u>\$573,668</u> =====	<u>\$141,263</u> =====

All contract service cost increases other than the psychiatrist were justified by the department's saying it would cost a fixed amount per additional inmate to increase Montana State Prison's population to 750 from 672. However, its proposal is to move 77 to Galen or community corrections, so the Montana State Prison population would remain at 673.

The budget increase for contract services was \$159,561 if community corrections were not funded and the population went to 750. However, when they proposed the expanded community correction program which left the Montana State Prison population at 673, they only removed \$33,639 of the imaginary increase. This leaves \$125,922 in the contract service budget with no justification.

The psychiatrist contract is to increase the visits from one per week to two per week at a cost of \$297 for six hours.

Supplies

The request for supplies is a decrease of \$75,131. The prison said if the community correction centers are funded, the prison supply budget could be reduced. However, if the community correction centers are not funded, there is no request for increased supplies.

Utilities

The department is requesting \$11,880 additional funding for utilities to pay the cost of electricity and natural gas for the new religious center. The department did not include utilities for this center in their 1983 biennium request nor is there any testimony in long range building to indicate whether private sources or state sources were to fund the operation of the religious center.

Other Expenses

Other expenses include funds for 78 new inmate jobs at a cost of \$18,617. As the budget already had funding for 352 inmates, total inmates employed at Montana State Prison, but not in the industries program, will be 430. The inmate is reimbursed on the average approximately \$1 per day for an average of six hours of work.

Disturbance Control

The prison wants 31 current staff to work overtime to take training. They will have four teams for disturbance control. Overtime will cost \$23,515, operating supplies will cost \$11,272 and equipment will cost \$8,279. The total cost is \$43,066.

The following equipment is requested:

Two Bull Horns - 2 @ \$250.00	=	\$ 500.00
Air Pac with Case - 2 @ \$853.00	=	1,706.00
Video Team Equipment	=	3,273.00
Portable Radios - 2 @ \$800.00	=	1,600.00
Gas Guns - 2 @ \$200.00	=	400.00
.308 Rifle - 2 @ \$400.00	=	800.00

Equipment

The executive requests one 4-wheel drive vehicle for pursuing escaped prisoners. The cost is \$16,000. Presently, they have four 4-wheel drives located at the ranch, and one pursuit four-wheel drive at the prison complex.

They were appropriated funds for three vehicles in fiscal 1982: a 12-passenger van and two cars for \$22,809, and 3 cars in fiscal 1983 for \$20,781. They purchased two midsize autos and one four-wheel drive Blazer in 1982 and plan to purchase one van and one car in 1983.

Non-Staff Issues

Points to be determined for the MSP budget other than staff are as follows:

1. Contract Service
2. Supplies
3. Utilities
4. Prisoner Pay
5. Disturbance Control
6. Equipment

COMMUNITY CORRECTIONS

The department is proposing to place an additional 79 inmates into community pre-release centers in fiscal 1983. The location and total capacity of the centers are shown in Table 18.

Table 18
Community Pre-Release Centers and Their Capacity

<u>Center</u>	<u>Capacity</u>
Missoula Life Skills Center	24
Alpha House*	5
A - New Pre-Release Center	25
B - New Pre-Release Center	<u>25</u>
Total	79
	==

*Present budget is for 20.

Table 19 shows the major cost items for each center. The Missoula Life Skills Center is state operated. The other three centers contract with the state to provide room and board.

Table 19
Comparison of Costs Among Pre-Release Centers--Fiscal 1983

	<u>Missoula</u>	<u>Alpha</u>	<u>A-Center</u>	<u>B-Center</u>
Room & Board ¹	\$ 34	\$ 30	\$ 35	\$ 35
Psychiatrist	-0-	20	20	20
Medical	408	667	667	667
Dentistry	91	57	57	57
Clothing	-0-	76	76	76
Separation Allowance	85/inmate	-0-	-0-	-0-

¹Missoula's cost does not include one-time equipment to handle eight more prisoners and move to new centers.

Budgets for each contracted center are based on \$35 per day for each inmate's room and board, \$667 per year per inmate slot for average medical costs, \$19 for dentistry, and \$76 for clothing for each of the 75 inmates who utilize the center during the year.

Room and Board

Room and board at the two new pre-release centers is based on Alpha House costs without any prisoner contributions towards their keep. Alpha House costs were determined to be approximately \$32 per day by the Department of Institutions after deducting the \$3 per day inmate contribution.

Alpha House started in fiscal 1981. Their contract rate was \$22.50 per day. The 1981 Legislature budgeted \$24.50 per day in fiscal 1982 and \$26.49 in fiscal 1983. This is approximately a 9 percent increase for fiscal 1982 and an 8 percent increase for fiscal 1983. The request from the Department of Institutions was \$193,304 for fiscal 1983 which is \$26.49 per day.

Apparently in April of 1981, the department renegotiated the contract to \$27.50 retroactive to October 1980. The \$27.50 contract price continued into fiscal 1982. The executive request showed the fiscal 1983 budget at \$29.73 per day in contrast to the \$26.49 requested by the department and appropriated by the Legislature. However, Alpha House was not line-itemed in the appropriation bill; it was included in the Correction Division budget. It appears funds anticipated for other services were reduced to supplement Alpha House.

For the first ten months of fiscal 1982, Alpha House spent \$200,148. Funds were available from the sources shown in Table 20.

Table 20
Revenue Sources and Amounts for Alpha House
June 1981 - April 1982

<u>Source</u>	<u>Amount</u>
State	\$152,460
Federal Prisoners	11,045
Prison Payments	17,653
Grant Contributions	<u>10,660</u>
Total	\$191,818 =====

Revenues were \$191,818, which is \$8,329 less than expenditures. Based on those expenditures and having provided 5,870 days of care, the department calculated the actual cost after inmate contributions at \$31.10 per inmate day in fiscal 1981.

The department requested and the Legislature appropriated for an average daily state population of 20 state prisoners. This would have been 6,080 care days for the first ten months of fiscal 1982 rather than the 5,544 state care days provided. Alpha House provided 91 percent of the care days appropriated for by the Legislature.

If the state paid the excess expenditures without questioning their validity and daily population averaged 20, the state would pay \$26.45 per inmate day in fiscal 1982. This is higher than the anticipated cost of \$24.50 but certainly lower than \$31.10.

Table 21 shows the rate anticipated in the appropriation, the cost per day if the average daily population were 20, and the rates requested by the department of institutions. If \$26.45 is projected into fiscal 1983 at the rate of 8.1 percent as established by the 1981 Legislature, the cost per day in fiscal 1983 would be \$28.59.

Table 21
Cost Comparison of Possible Rates at
Alpha House for Fiscal 1983

	<u>Rate</u>	X	<u>Inmate</u>	=	<u>Cost</u>
1. Appropriation Bill	\$26.50		25		\$241,813
2. Actual with Inflation	28.59		25		260,884
3. Department Request	29.73 32.15		20 5 }		275,703

When these rates are applied to all three contracted pre-release centers, the cost difference is \$99,918 between the low and the high options. This is shown in the following table.

Table 22
Cost Comparison of Possible Contract Rates at
Pre-Release Centers for Fiscal 1983

	<u>Rate</u>	X	<u>Inmate</u>	=	<u>Cost</u>	<u>Difference</u>
Appropriation Bill	\$26.50		75		\$725,438	
Actual with Inflation ¹	28.59		75		782,651	\$57,213
Department Request	30.15		75		825,356	42,705
Total Difference						\$99,918 =====

¹ Combined Rate

Prisoner room and board contribution. Alpha House requires each inmate to contribute to his room and board. This contribution averages approximately \$3 per day per inmate. Budget requests for the Missoula Life Skills Center and the two new centers do not reduce the costs by inmate contributions. If the 74 inmates at Missoula and the other centers

are not working, what will their activities be? If they are working, why do we not show a room and board contribution?

For 74 inmates, the contribution at \$3 per day would total \$81,030 on an annual basis. For fiscal 1983, it would total \$26,280 at Missoula, \$22,800 at Center A, and \$13,500 at Center B.

Inmate Pay. The Missoula Life Skill Center budget includes \$85 gate pay for each of the 72 inmates per year. Budget requests for the other two new centers do not include any prisoner room and board contributions. This would indicate they are not working; however, their budgets do not include gate pay.

If the prisoners are going to be required to obtain employment, there does not appear to be any reason for the state to pay them \$85 each when inmates leave the pre-release centers. This cost is \$6,120.

The Missoula Life Skills Center is proposed to house 24 pre-release inmates rather than 16 probationers as budgeted. The department has requested an additional \$102,465 for the change in staffing, added operating expenses, and equipment.

Five additional security staff and a half-time secretary are requested. There will be one security person in the day and two each for the evening and night shifts. Administrative staff includes: a director, a social worker, a transportation officer, and the half-time secretary.

Operating expenses and equipment are based on keeping eight additional people and on the actual costs incurred in fiscal 1982.

Medical and Dental Cost. Inmates are to receive medical and dental care that is necessary to safeguard their health. The cost of all such medical and dental treatment requiring the assistance of a physician is the primary responsibility of the client to the extent of his ability to pay and

then of the division. The Department of Institutions was budgeted \$253 for dentistry and medical cost for each inmate slot at Alpha House.

During fiscal 1982, one inmate at Alpha House incurred extraordinary medical costs of approximately \$8,062. Based on this, the executive is requesting the medical budget to increase from \$234 per slot to \$667 per slot--a \$16,680 annual cost for 25 slots. Through May, the department incurred a total medical and dentist bill of \$154 or about \$8 each for the other inmates at Alpha House.

As all pre-release centers' budgets other than Missoula's are based on medical and dental charges on the same rate per inmate, it becomes rather costly to increase the budget 185 percent, as is shown in Table 23.

Table 23
Medical and Dental Costs Options for Pre-Release Centers
Per Inmate Slot

<u>Alpha House</u>	<u>Average Cost</u>	<u># of Inmate Slots</u>	<u>Total Cost</u>
Actual Costs w/o Exception	\$ 8	75	\$ 600
Actual Cost with Exception	411	75	30,825
Appropriated by Legislature	234	75	17,550
Requested Cost	667	75	50,025

The department is notified before medical costs are incurred unless there is an emergency. Under emergency circumstances, the department is promptly notified. If an inmate were having severe medical problems, he would probably not be able to work; perhaps the department should consider the option of moving severely ill inmates back under Montana State Prison's budget.

Partial Year Budget--Pre-Release Centers

The two new centers are scheduled to open during fiscal 1983--one on September 1, 1982 and one on January 1, 1983. Table 24 shows the fiscal 1983 budget request.

Table 24
Part Year Operating Costs--New Pre-Release Center
Fiscal 1983

<u>Opening Date</u>	<u>Department Request</u>
1. 9/1/82 75% of Year	\$258,491
2. 1/1/83 50% of Year	<u>172,328</u>
Total Operating Costs	\$430,819
Renovation Costs	<u>35,000</u>
Total Cost Fiscal 1983	<u>\$465,819</u> <u>=====</u>

The department's request of \$70,000 for renovation is for fiscal 1983 only. This is \$35,000 for each center.

The annual operating cost of establishing these two new centers under the executive cost figures is \$689,381.

Community Corrections Issues

The following are points to consider in the community correction centers budgets:

1. Cost Per Day
2. Inmates' Room and Board Contribution
3. Gate Money
4. Medical Expenses

BOARD OF PARDONS

The Board of Pardons is requesting additional funding of \$16,398. Table 25 shows the categories for that request.

Table 25
Board of Pardons Additional Funding Request
Fiscal 1983

FTE	.50
Personal Services	6,124
Operating Expenses	3,474
Equipment	<u>6,800</u>
Total Request	\$16,398 =====

Personal Services

The board is requesting an additional half-time secretary to handle increased work load. Table 26 shows the board's work load from 1976 to 1982.

Table 26
Parole Boards Total Cases and Percent Increases for
1976 - 1982

<u>Calendar Year</u>	<u>Total Cases</u>	<u>Increase (Decrease)</u>	<u>Percent</u>
1976	590	---	---
1977	743	153	26
1978	799	56	8
1979	730	(69)	(9)
1980	727	(3)	---
1981	866	139	19
1982*	866	-0-	0
1983	Not available. No estimate received from Board.		

*Prediction from Board of Pardons staff.

The Board also sought authorization for a half-time secretary from the 1981 Legislature. The request was denied because the Legislature did fund additional contracted services of \$1,725 for a court reporter to transcribe board meetings. The main reason for the request of a half-time secretary was the need for the present secretary to spend much of her time transcribing notes which took her away from her other duties. The funding for the court reporter was to free up the present secretary.

The Board is also requesting an additional \$500 in per diem for a board member to hold hearings with inmates at the new pre-release centers. This is based on an estimated 20 meetings at \$25 per meeting.

The Board is requesting \$6,800 for a car and \$1,283 for operating costs from September 1, 1982 to June 30, 1983. Table 27 shows the annual operating cost of the car based on 18,000 miles traveled per year over a five-year life.

Table 27
Annual Operating Costs and Cost Per Mile
Useful Life Five Years

<u>Item of Cost</u>	<u>Yearly Expenses</u>
Depreciation	\$1,360
Annual Operating Costs	<u>2,335</u>
Total Annual Cost	\$3,695
Miles Per Year	18,000
Cost per Mile	\$0.21

The current rate of reimbursement for state employees using their own car for state business is 20 cents per mile. If the car is purchased, the \$1,837 already appropriated for use of staff personal cars could be subtracted from the request for additional funding. The Board has requested \$1,659 in additional meals and lodging costs for travel to the two

new pre-release centers, Missoula Life Skills Center, and one extra day at Swan River Youth Forest Camp.

FISCAL 1982 PROJECTED DEFICIT

The department has projected that the fiscal 1982 general fund deficit at the prison will total approximately \$85,655, but will not request a supplemental to fund this deficit. Department officials have stated this deficit will be made up with pay plan funds.

Pay plan funds were appropriated in HB 840 for the purpose of funding the pay raise. These funds were not appropriated for staff augmentation or operating budget deficits.

Issue

How is the fiscal 1982 operating deficit to be funded?

LONG-RANGE BUILDING

Construction costs at Montana State Prison since 1973 have totaled \$10,145,504 to date. This includes \$175,675 in renovation costs for existing facilities that were present when new construction began. Table 25 shows each project and its cost to date.

Table 25
Long-Range Construction Expenditures
1971 - 1981

<u>Item of Construction</u>	<u>Expenditures</u>
Maintenance and Renovation	\$ 175,675
Original Prison Complex (1973 and 1975 Leg. Approp.)	5,206,646
Water Well	191,191
Sewage Lagoon	160,556
Tag Plant	60,515
Close I and Close II	3,414,485
Sewage System	290,697
Guard Tower I	159,808
Guard Tower II	194,046
Upgrade Perimeter Security	51,000
Religious Center	215,885
Chapel Design	<u>25,000</u>
Total	<u>\$10,145,504</u> <u>=====</u>

All of the appropriations equaled or exceeded the request for spending authority from the executive. Legislative appropriations of \$10,176,361 and the \$375,556 of budget amendments for construction costs are shown in Table 26. A balance of \$406,413 remains from all the authorized funds. Of that amount, \$234,115 is for finishing the religious center, and \$60,954 remains for Guard Tower II.

Table 26
Montana State Prison
Construction Appropriations and Budget Amendments
1971 - 1981

<u>Year</u>	<u>Authority</u>	<u>Purpose</u>	<u>Amount</u>
1971	Legislative	Maintenance & Renovation	\$ 200,000
1973	Legislative	New Prison Complex	4,400,000
1974	Budget Amendment	Water Well	120,000
1974	Budget Amendment	Add on to Infirmary	95,000
1975	Legislative	Complete Prison Complex	826,361
1976	Budget Amendment	Sewage Lagoon	160,556
1977	Legislative	Close Units I & II	3,800,000
1979	Legislative	Guard Tower I	161,000
1979	Legislative	Religious Center	450,000
1981	Legislative	Guard Tower II	255,000
1981	Legislative	Chapel Design	25,000
1981	Legislative	Perimeter Security	59,000
Total			\$10,551,917 =====

The original request to build a new prison in 1971 was for \$4.1 million. The appropriation of \$4.1 million was contingent upon receiving federal funds for the project. The appropriation allowed \$200,000 to be spent for maintenance and renovation if the federal funds did not materialize. The 1973 Legislature then appropriated \$4.4 million to build the new prison complex. The 1975 Legislature authorized \$826,361 to finish the minimum security units as construction costs were greater than what had been requested from the 1973 Legislature.

The 1977 Legislature authorized \$3.8 million to add two 96-man Close Units to the new prison complex. The executive had requested only \$1.3 million for one 96-man Close Unit.

Since 1979, the Legislature has authorized \$475,000 to fund security improvements at the prison.

PRISON INDUSTRIES, EDUCATION, AND WORK OPPORTUNITIES

The industries program at Montana State Prison includes:

- Upholstery
- Furniture Manufacturing and Refinishing
- Timber and Wood Products
- Printing
- Sign Manufacturing
- License Plates
- Prison Ranch and Dairy

These programs are anticipated to be self-supporting with the exception of the license plate manufacture which is funded by the Department of Justice.

The education programs at the prison include: vocational programs in meat cutting, culinary arts, electronics, welding and auto mechanics, and adult basic education.

Both the industries and education programs seek to accomplish objectives of 1) preventing prisoner idleness, and 2) giving work and job skills that can be used by inmates upon release. In addition, the industries programs produce products and services that can be sold to defray the costs of the program.

Legislative Background

The 1965 Legislature enacted an institutional industries law. The 1979 Legislature requested the Department of Institutions, in House Bill 483, to "...present a plan to provide work opportunities for prison inmates to the 1981 Legislature". This plan, when submitted, outlined four goals: 1) increase the number of jobs available for inmates; 2) develop profit-oriented industrial operations; 3) create a realistic work environment; and 4) develop a management structure that will allow industries to operate like a business. The plan also identified seven problems with existing industries: 1) market for products limited to state agencies; 2) limited need

within authorized market for products; 3) lack of a separate industries staff; 4) lack of a marketing program; 5) equipment has to be shared with prison maintenance program; 6) lack of product quality control; and 7) lack of inventory of basic raw materials or funds to purchase such an inventory.

The 1981 Legislature responded to this plan by 1) appropriating \$221,500 general fund start-up cost for the industries program; 2) authorizing 5.0 FTE for operation of the industries program; and 3) revising industries legislation to allow sales of products to any political subdivision of the state, other states, and their political subdivisions, nonprofit organizations, and on the open market.

Industries to be Self-Supporting

The industries programs were directed by the Legislature to become self-supporting. The 1981 Legislature appropriated \$56,500 to purchase equipment, and \$87,000 in fiscal 1982, and \$78,000 in fiscal 1983 to get the industries programs started. Money appropriated for start-up by the 47th Legislature is to be repaid in future years with \$17,500 to be returned in fiscal 1983. The department estimates income from industries of \$136,961 in fiscal 1982 and expenses at \$209,756. The resulting loss for fiscal 1982 of \$72,795 would be partially absorbed by federal funds (\$34,899) with the remaining \$37,896 to be picked up by general fund start-up appropriations for fiscal 1982.

Table 27
Estimated Industries Loss Fiscal 1982¹

Income from Sales	\$136,961
Expenses	<u>209,756</u>
Loss	\$(72,795)
Financed from	
Federal Funds	\$ 34,899
General Fund	<u>37,896</u>
Total Loss	\$ 72,795 =====

¹ Figures exclude the prison ranch and license plate factory.

As Table 28 indicates, losses in fiscal 1982 were less than anticipated and most equipment purchases were not made. The unused equipment funds primarily result from a decision to abandon the validation tag program.

Table 28
Use of Legislative Appropriations for
Prison Industries Start-Up

	Appropriated FY '82	Used ¹ FY '82	Unused FY '82	Appropriated FY '83
Operating Losses	\$ 87,000	\$36,096	\$ 50,904	\$78,000
Equipment ²	<u>56,500</u>	<u>1,800</u>	<u>54,700</u>	---
Total	\$143,500 =====	\$39,696 =====	\$103,804 =====	\$78,000 =====

¹ Department of Institutions estimate.

² Equipment Authorized by Legislature
 Industrial Sewing Machines \$ 6,000
 Print-Padding Press 500
 Validation Tag Equipment 50,000

Prisoner Employment in Industries Programs

The number of inmates that may participate in industries is limited by several factors:

1. Prisoners in custody levels Maximum I, Maximum II, and Close I, do not participate in industries programs because they cannot leave the double-fenced area. Their work opportunities are likewise limited.
2. Prisoners in custody level Medium I cannot leave single-fenced industries area; Medium II can leave the fenced industries area under supervision only.
3. Some prisoners are not available for work because of Administrative Segregation (Protection).
4. A few prisoners may not wish to participate in industries programs.
5. Many prisoners have prison jobs that prevent them from participation in industries programs (although some prison jobs may be overstaffed currently with the possibility that if opportunities in industries opened, they could be shifted to productive work).
6. The availability of industries positions.

The number of inmates potentially eligible for industries or ranch employment is calculated by including all inmates except those in Maximum and Close I housing. However, out of this number must come inmates who hold prison jobs or participate in education programs. The Department of Institutions represents that approximately 438 inmates are currently employed in various capacities at the prison or in education programs. Approximately, 70 of these are from populations in Maximum and Close I Units and therefore, do not reduce the numbers available for industries or ranch employment. Therefore, the remaining 368 would be drawn from the pool of inmates eligible for industries programs.

Table 29
Inmates Available for Industries Programs

	Eligible for Industries	Not Eligible for Industries ¹	Total
<u>Current</u>			
Prison Population	563	155	718
Currently in Prison Employment or Education	<u>368</u>	<u>70</u>	<u>438</u>
	195	85	280
<u>Executive Estimate</u>			
Prison Population	518	155	673
Currently in Prison Employment or Education	<u>368</u>	<u>70</u>	<u>438</u>
	150	85	235

¹Maximum and Close I

The prison ranch currently employs approximately 75, while industries employ 58 (which includes 22 employed at the license plate plant). This leaves over 60 of those available for industries unassigned. This would fall to 17 under the executive plan to move inmates to other locations.

	<u>Current</u>	<u>Executive Estimate</u>
Net Available for Industries	195	150
Employed in Industries	(58)	(58)
Employed on Ranch	<u>(75)</u>	<u>(75)</u>
Unassigned	62	17

The director of prison industries pointed out that approximately 25 additional inmates could be employed in current industries programs using current facilities if new equipment were purchased for upholstery, furniture, and printing programs and additional markets were found for print

shop services. Further expansion of industries programs would likely require additional facilities.

Executive Industries Proposals

The executive proposal for the special session requests \$52,500 of the \$56,500 general fund appropriated for equipment purchases in fiscal 1982 be reappropriated for use in fiscal 1983. The original appropriation for equipment contained \$50,000 for equipment to produce validation tags. This project, however, was abandoned. The prison would now like to use these funds to purchase new equipment for print shop (\$30,000), upholstery (\$7,000), and furniture (\$13,000) programs. The executive also proposes reappropriation of approximately \$45,000 of the \$87,000 appropriated for start-up costs of the industries programs in fiscal 1982. The savings here resulted from availability of federal funds and a less than anticipated deficit. The 47th Legislature appropriated \$78,000 for start-up in fiscal 1983.

Prison Employment and Education

In addition to prison industries and ranch operations, inmates have opportunities for employment in a wide variety of prison jobs and participation in educational programs. As pointed out previously, 438 inmates are currently participating in these programs. The executive proposal is to increase this participation so all inmates would be active in a program except those in maximum security and a portion of those in Administrative Segregation for protective purposes. Individuals in prison jobs and education programs are paid on a sliding scale that averages slightly less than one dollar per day. The prison is currently funded to provide pay for 352 inmates. The executive proposes adding funds to pay an additional 78 inmates at a total cost of \$18,617 as summarized below.

Table 30
Calculation of Inmate Employment Needs

	<u>Current</u>	Executive ¹ <u>Estimate</u>
Currently in Prison Employment or Education	438	438
Unassigned	<u>62</u>	<u>17</u>
Maximum Inmate Employment Potential	500	455
Currently Funded	(352)	(352)
Absorbed in Industries Expansion	<u>(25)</u>	<u>(25)</u>
Inmate Positions Needing Funds ¹	123	78

¹ Assumes no additional work or education assignments for inmates in Maximum and Close I.

Fiscal Issue

1. Should the unexpended fiscal 1982 general fund appropriation for industries operations and equipment be reappropriated?
2. Should funding be provided for 78 more jobs at the prison?

PRISON POPULATION--HISTORICAL AND PROJECTED

Prison population is a function of the number of commitments to prison and the aggregate length of stay (how long a group admitted to prison stays there) in prison. Actual prison population for the past 20 years and the projected population through the year 1990 are shown in the following Table 31.

Table 31
Prison Population
Actual 1961 - 1981
Projected 1982 - 1990

<u>Year</u>	<u>Population</u>	<u>Year</u>	<u>Population</u>	<u>Year</u>	<u>Population</u>
1961	670	1971	250	1981	776
1962	658	1972	282	----Projected---	
1963	709	1973	315	1982	900
1964	760	1974	345	1983	929
1965	585	1975	392	1984	926
1966	548	1976	510	1985	931
1967	522	1977	572	1986	925
1968	465	1978	681	1987	913
1969	376	1979	706	1988	898
1970	260	1980	720	1989	882
				1990	865

As the table shows, the population in the past was highest in 1964 at 760 inmates. Population dropped to a low of 250 in 1971 and has increased steadily up to 776 inmates in 1981. The 1982 to 1990 figures are projections based on two variables that the Department of Institutions has found to be correlated with the number of inmates: 1) an average of 37.51 per 10,000 males aged 18-34 that will be committed to prison each year; 2) a 24-month aggregate length of stay.

The prison population projections were made assuming that all other factors affecting prison population remain the same. Any changes in those

other factors may also affect prison population. The major factors that appeared to have a significant affect on prison population are determinate and minimum sentencing laws. Several states have passed laws requiring determinate sentencing, along with required minimum sentences for certain crimes, such as the sale of drugs. Some studies in those states indicate those laws have increased the number of inmates entering prison and kept them there longer with an overall increase in total population. The department has stated that other factors, such as public opinion and changes in good-time policies, have an effect on the population. However, data to support those statements is not available for measuring what effects, if any, those factors have.

An inmate, other than one serving a maximum time sentence or a life sentence (currently there are 87 in those two categories), may be eligible for parole when he has served at least one-half of his full term, less good time earned. In the case of a nondangerous offender, he may be paroled after serving at least one-fourth of his full term, less good time. The parole board grants parole to an inmate primarily based upon an interview with the inmate, and reports on the inmate prepared by its staff and by the prison's staff. The inmate also presents a parole plan to the board for its approval. The board reviews that plan to see that it will meet the needs the inmate has while on parole. In calendar year 1981 the parole board granted 336 paroles and revoked 95 parolees out of a total of 866 on parole--an 11 percent return rate. Twenty-four of the 95 were reparaoled within 3 to 12 months of the original revocation. The average time an inmate was incarcerated prior to being considered for parole in 1981 was 16.9 months.

GOOD-TIME POLICIES

Each inmate employed in any prison work or activity is granted "good-time" allowances which act as a credit on the inmate's sentence. Section 53-30-105, MCA, provides that the Department of Institutions may grant good-time allowances not to exceed the following:

- (a) Ten days per month for inmates assigned to Maximum, Close, and Medium I security classifications.
- (b) Thirteen days per month for those classified as Medium II and Minimum security classifications.
- (c) Fifteen days per month for inmates after having been assigned as Medium II or Minimum security for an uninterrupted period of one year.
- (d) Thirteen days per month for those inmates enrolled in school who successfully complete the course of study or who, while so enrolled, are released from prison by discharge or parole.
- (e) Three days per month for those inmates participating in self-improvement activities designated by the department.

In the event of an attempted escape by an inmate or a violation of the rules prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good-time allowances. The warden of the state prison shall advise the department of any attempted escape or violation of rules on the part of the inmate. Any punishment involving forfeiture of good-time allowance must be approved by the department.

Significant changes in the good-time laws should have an effect on prison population because good-time earned decreases the length of time an inmate spends in prison.

INMATE CLASSIFICATION

Inmate classification serves two purposes. The first is to safeguard both the well-being of the inmate and the effective operation of the institution. The second purpose is to maximize the likelihood of rehabilitation for the offender by assuring that inmates are assigned to a proper program and level of custody. Input for an inmate's classification is sought from all available resources, including the inmate. All factors in his background and environment having an influence upon his personal development are analyzed. An inmate is analyzed with respect to two sets of classification criteria, security criteria and program criteria. Security criteria is made up of the following:

1. Past Behavioral History:

- a. Current offense (assaultive, impulsive, situational or property crime).
- b. Criminal history (convictions, institutional adjustments, and probation and parole adjustments).
- c. Public opinion (sensationalism of crime, degree of community outrage).

2. Institutional Adjustment:

- a. Escapes (breakouts, sneakouts, and walkaways).
- b. Anti-authority attitudes (Class II rule infractions, poor work performance, rebelliousness, gang orientation).
- c. Substance abuse (alcohol or drug incidents).

3. Legal Constraints:

- a. Time remaining to parole or discharge.
- b. Additional charges and/or detainers.
- c. Court instructions and/or designation.

Program criteria is made up of the following:

1. Mental/Physical Well-Being:

- a. Structure/control needs.
- b. Medical/psychological treatment needs.
- c. Educational/vocational training needs.
- d. Protective/isolation/special-care needs.

2. Receptiveness to Programming:

- a. Attitudes (sincerity, legitimacy).
- b. Amenability (capacity or willingness to profit).
- c. Appropriateness (length of sentence, escape risk).
- d. Availability of resources.

After an inmate has been analyzed using the classification criteria, he is given a custody designation that determines his custody level and housing unit. There are seven inmate custody levels at MSP (plus two special custody status designations for those inmates who are segregated from the regular inmate population). Those custody levels are as follows:

<u>Custody Level</u>	<u>Housing Area</u>
Maximum Security Custody	Maximum Security Building
Maximum II Custody	Close Unit I Building (lower level)
Close I Custody	Close Unit I Building (upper level)
Medium I Custody	Close Unit II Building (lower level)
Medium II Custody	Unit A Building
Minimum I Custody	Unit B Building
Minimum II Custody	Unit C Building

The two special custody status designations for those inmates who are segregated from the regular inmate population are as follows:

<u>Custody Level</u>	<u>Housing Area</u>
Administrative Segregation Custody	Close Unit II Building (upper level)
Reception (New Inmates)	Close Unit II Building, or Close Unit I Building (specifically selected housing wings)

The types of inmates classified by their custody levels and their security procedures and policies are as follows:

- A. Maximum Custody: Those inmates classified to Maximum Custody (or housed in the Maximum Security Building) typically include:
 1. Death row inmates.
 2. Assaultive, rebellious, disruptive, or predatory types of inmates, or those with high escape potential, all of whom require the utmost control measures.

3. Inmates requiring segregation because of special dangers they may pose to themselves or others.
4. "Temporary lock-up" inmates facing court or disciplinary committee hearings for crimes or serious rule infractions.
5. Inmates serving detention time for disciplinary hearing sentences.

Maximum Custody security procedures and policies typically include:

Work Assignments: Limited to unit jobs only.

Mobility from Unit: None (except for unavoidable legal or medical purposes)!

Escort: Security personnel only (and with restraint equipment worn by the inmate when leaving the unit).

- B. Maximum II Custody: Inmates classified to Maximum II Custody typically include:

1. Assaultive, rebellious, disruptive, or predatory types of inmates, or those with high escape potential, all of whom require the utmost control measures, but who can be managed by staff in small groups.
2. Inmates requiring segregation because of special dangers they may pose to themselves or others, but who can safely function in small, well supervised groups.
3. "Temporary lock-up" inmates facing court or disciplinary committee hearings for crimes or serious rule infractions, where Maximum Security is overcrowded, and the inmate can be safely controlled and managed in a small group.

Maximum II Custody security procedures and policies typically include:

Work Assignments: Unit jobs only.

Mobility from Unit: None (except for visiting, legal and medical purposes)!

Escort: Security personnel only (and with restraints used if deemed necessary).

- C. Close I Custody: Inmates classified to Close I Custody typically include:

1. Releases from Maximum Security or Maximum II Custody who have serious records of institutional misconduct in the past.
2. New inmates with prior histories of aggressive, disruptive, or escape attempt behavior.
3. Reclassified inmates from less restrictive custody who have been found unworthy of the greater trust afforded in the lesser custody classifications.

Close I Custody security procedures typically include:

Work Assignments: Inside main perimeter (double fenced) only.

Mobility from Unit: Gym, library, kitchen, religious activities center, visiting room.

Escort: Either security or nonsecurity staff may escort in groups.

D. Medium I Custody: Inmates classified to Medium I Custody typically include:

1. New inmates with long sentences about whom little is known.
2. Inmates released from Maximum, Maximum II or Close I Custody, usually being granted an increased degree of trust on a step-by-step basis.
3. Reclassified inmates (from less restrictive custody of Medium II, Minimum I, and Minimum II) who have been found unsuitable for less restrictive custody by abusing such trust.

Medium I security procedures typically include:

Work Assignments: All job sites within the main (double-fenced) perimeter, with some rare exceptions allowed for Medium I inmates to work in the single fenced perimeter.

Mobility from Unit: Gym, library, kitchen, religious activities center, visiting room, plus limited access to single-fenced perimeter.

Escort: Either security or nonsecurity staff may escort in groups.

E. Medium II Custody: Inmates classified to Medium II typically include:

1. Those who have more than three years remaining to parole or discharge, or with incidents of escape or disruptive behavior on record.
2. Reclassified inmates from minimum custody, who through misconduct or change of judicial status are no longer considered appropriate for trustee assignments and privileges.

Medium II security procedures typically include:

Work Assignment: All job sites within the main (double-fenced) perimeter, with assignments in the single-fenced perimeter being commonplace rather than rare.

Mobility from Unit and Escort: The same as Medium I, although escorts inside the main fence perimeter are not required.

F. Minimum I Custody: Inmates classified to Minimum I Custody typically include:

1. Inmates with three years or less to discharge or parole, with no incidents of disruptive or escape behavior (or confinement without such behavior for over ten years).
2. Reclassified inmates from Minimum II Custody, who through misconduct or change of judicial status are no longer considered appropriate for trustee assignments and privileges.

Minimum I security procedures typically include:

Work Assignment: 1) Unsupervised positions inside perimeter fences, or 2) directly supervised positions when outside the perimeter fences.

Mobility from Unit: All areas inside the main perimeter fences.

Escort: Required for outside perimeter fence.

G. Minimum II Custody: Inmates classified to Minimum II Custody typically include:

1. Inmates with less than two years to parole or discharge.
2. Inmates with exemplary records of dependability and trustworthiness.

Minimum II security procedures typically include:

Work Assignment: All positions, including those with least staff supervision outside the perimeter fences.

Mobility from Unit: All areas, subject to schedule and work assignments.

Escort: Required under special circumstances only.

H. Administrative Segregation Custody: Those inmates classified to Administrative Segregation Custody typically include:

1. Inmates who request to be protected from other inmates to the point of being isolated from regular program activities.
2. Inmates who have been identified by the classification committees as likely victims of assault through broad and pervasive inmate conspiracy.

Administrative Segregation security procedures typically include:

Work Assignment: In unit only.

Mobility from Unit: Visiting area, kitchen (until food service in cells is operationalized), and infirmary.

Escort: Staff escort for all movement beyond unit.

Current Classification Level of the Prison Population

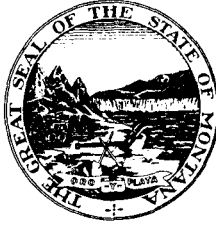
Of the current population of 718 at MSP, approximately 6 percent are classified as Maximum Security, 15 percent are classified as Maximum II or Close I Custody, 40 percent are classified as Medium I or Medium II Custody and 39 percent are classified as Minimum I or Minimum II custody. According to Department of Institutions personnel, data has not been maintained that would provide an analysis of whether or not there is any trend in the custody levels.

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TO: Judy Rippingale, Legislative Fiscal Analyst

FROM: Lee Heiman, Staff Attorney

DATE: June 18, 1982

RE: Legality of Double Bunking in Prisons.

It is my opinion that (1) double bunking is not in and of itself unconstitutional; and (2) double bunking together with other factors can make incarceration unconstitutional.

Double bunking in prisons is putting two prisoners into a cell designed to accommodate one prisoner. This is usually accomplished by putting bunk-beds into the cell replacing a single bed. The standards usually promulgated for single cells suggest that each cell be in the area of 50 to 80 square feet. Thus double bunking cuts the square footage per inmate in half.

Challenges to double bunking in prisons are usually made in Federal District Courts alleging violation of the 8th Amendment to the U.S. Constitution. The 8th Amendment reads: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." The U.S. Supreme Court has interpreted the phrase "cruel and unusual punishment" "in a flexible and dynamic manner"³, meaning that it does not have a static test for cruel and unusual punishment -- instead it looks to the meaning from "the evolving standards of decency that mark the progress of a maturing society"⁴.

The leading cases on cruel and unusual punishment, involving state prisons, were actions by prisoners against prisons in Southern states, particularly Alabama⁵. The conditions that the Federal District Court discovered were appalling. That prison was described as "totally unfit for human habitation according to virtually every criterion used for evaluation by public health inspectors"⁶. The prison was overcrowded to the point that inmates slept on the floor in hallways and next to urinals; the cells were infested with roaches, flies and vermin; the sanitary facilities were usually broken and had an overpowering stench;

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June 18, 1982
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200 hundred inmates were forced to use one toilet; the inmates were not provided with even necessary toilet articles; the food was insect infested, unwholesome, poorly prepared, and served without proper utensils; no meaningful vocational, recreational or work programs were provided; violence was rampant with weaker inmates repeatedly victimized by the stronger -- robbery, rape, extortion and theft and assault were everyday occurrences. Faced with facts like these in Alabama and other states, it is not surprising that Federal Courts have found that some prisons violate an inmate's right against cruel and unusual punishment.

Because of the success of these cases it was natural for prisoners in all sorts of prisons to challenge their conditions. In a sense the later challenges were an attempt to try and determine the lower limits of cruel and unusual punishment. The trend has been for Federal Courts to examine the totality of the conditions of confinement. Individual circumstances viewed separately may not appear so bad, but when the totality of the conditions is examined it may constitute unconstitutional confinement.

The latest U.S. Supreme Court case involved in 8th Amendment challenges, Rhodes v. Chapman, was solely on the issue of double bunking. The prison that was challenged, an Ohio maximum security prison, may sound familiar. It was constructed in 1972 with 1620 cells, but by 1975 it held 2,300 inmates of whom 1,400 were double bunked. The prison held 38% more prisoners than it was designed to hold. Single cells of 63 square feet were bedding two prisoners each. Although the Supreme Court stated that this condition certainly was not desirable and certainly was something that should be corrected by the executive and legislative branches of the Ohio government, the double bunking in and by itself was not cruel and unusual punishment. The Supreme Court examined the totality of the confinement and used a rule that is kind of the reverse of the former totality of the circumstances test -- the rest of the prison was nice and pleasant enough so that one bad condition was cured by the good conditions. The prison had day-rooms adjacent to cells with TV's and sitting areas that prisoners were free to use during the day; there was a large library, including a good law library; there was a good gymnasium; the food was good; the prison generally was light and airy; there was sufficient educational, vocational, recreational facilities and opportunities; and medical and dental care was sufficient. Each cell had a built-in radio, hot and cold water, a toilet, a cabinet and shelf, and a heating and air circulation vent near the ceiling. Most of the cells also had windows that inmates could open and close. Inmates, except under special circumstances, were required to be in their cells only during the hours of 9:30 p.m. to 6:30 a.m. daily.

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In suits against states that have been found to impose unconstitutional confinement Federal Courts have imposed a variety of correctional conditions ranging from shutting down a prison and levying fines against state officials to requiring corrective action within a given time. The Supreme Court stated: "Courts certainly have a responsibility to scrutinize claims of cruel and unusual confinement, and conditions in a number of prisons, especially older ones have justly been described as 'deplorable' and 'sordid'. [cites omitted] When conditions of confinement amount to cruel and unusual punishment, 'federal courts will discharge their duty to protect constitutional rights.' [cites omitted] In discharging this oversight responsibility, however, courts cannot assume that state legislatures and prison officials are insensitive to the requirements of the Consitution or to the perplexing sociological problems of how best to achieve the goals of the penal function in the criminal justice system: to punish justly, to deter future crime, and to return imprisoned persons to society¹⁰ with an improved change of being useful, law-abiding citizens."

LH:hm

FOOTNOTES

¹Two of such standards are American Correctional Association, Manual of Standards for Adult Correctional Institutions, Standard No. 4142; National Crime and Delinquency Model Act for the Protection of Rights of Prisoners, §1.

²Prison standards, although helpful, are nothing more than generalized opinions of experts and they do not in and of themselves establish constitutional minimums. Bell v. Wolfish, 441 U.S. 520, at 543-544, n. 27, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979).

³Gregg v. Georgia, 428 U.S. 153, 96 S. Ct. 2909, 49 L. Ed. 2d 859 (1976).

⁴Trop v. Dulles, 356 U.S. 86, 78 S. Ct. 590, 2 L. Ed. 2d 596 (1957).

⁵Pugh v. Locke, 406 F.Supp 318 (MD Ala. 1976), aff'd as modified, 559, F.2d 283 (CA 5 1977), rev'd in part 438 U.S. 781, 98 S. Ct. 3057, 57 L. Ed. 2d 1114 (1978).

⁶Id. at 406 F. Supp. 323-324.

⁷Id. at 406 F. Supp 322-326.

⁸Rhodes v. Chapman, Infra, 101 S. Ct. at 2407 (concurring opinion by Justice Brennan.)

⁹452 U.S., Part 2 337, 101 S. Ct. 2392, 69 L.Ed. 2d 59, (1981).

¹⁰Id. at 2401-2402.

ANNUAL OPERATING COSTS--OTHER PRISON OPTIONS

The executive presented six building options for handling prisoners other than its proposal to expand community corrections and build a new 120-man close unit at Montana State Prison. Each of these options is summarized in Table 32.

The annual operating budget is shown for each option. The cost of each option is not comparable as the type and number of prisoners who can be housed vary. Also the department did not show how choosing each of these options would affect the overall correction system budget.

Table 32
Annual Operating Costs--Prison Options
Other than the Executive Proposal

<u>Option</u>	<u>Security</u>	<u>Number of Prisoners</u>	<u>Annual Operating Costs</u>	<u>Cost/ Day</u>
Old Prison	Maximum	200	\$3,547,895	\$48.60
Glasgow	Med./Min.	140	2,725,188	53.33
Stillwater	Minimum	80	1,652,427	56.59
Lakeside	Med./Min.	200	3,424,100	46.91
New Maximum	Maximum	192	3,851,637	54.96
New Medium	Medium	192	3,424,100	48.86

Cost per day ranges from \$46.91 at Lakeside to \$56.59 for the proposed medium security unit at Stillwater.

The proposed 120-inmate close unit is an expansion of the current prison. Its annual operating cost will be \$2,098,645 over the appropriated fiscal 1983 level. The Department of Institutions wants a \$1,022,453 budget increase for Montana State Prison even if the new unit is not built. Table 33 shows the additional operating costs above the executive request if the new unit is build.

Table 33
Additional Operating Costs at Montana State Prison
New 120 Inmate Close Unit
Fiscal Year 1983

FTE	53.78
Personal Services	\$1,003,092
Communications	6,600
Utilities	38,500
Repair and Maintenance	23,400
Equipment	<u>4,500</u>
Total Additional Operating Costs	\$1,076,192 =====

WITNESS STATEMENT

Name David J. Collings Date 6/21/82
Address Deer Lodge, Mt. Support ?
Representing Powell County Sheriff Oppose ?
Which Bill ? Amend ?

Comments: Testimony to support Governor's
prison proposal.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Ted L. Mizner Date 6/21/82
Address Box 820, Deer Lodge, Mt. Support ?
Representing Powell County Attorney Oppose ?
Which Bill ? Amend ?

Comments:

Testimony in support of Governor's
prison proposal.

Please leave prepared statement with the committee secretary.

Joint VISITORS' REGISTER

HOUSE _____
 & Senate _____

Date 6-21-82

SPONSOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.