MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 14, 1989, at 8:08 a.m.

ROLL CALL

Members Present: All members were present.

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: Rep. Brown announced the committee would hear HB 499, HB 528, HB 534, HB 548, HB 473, and HB 504.

HEARING ON HOUSE BILL 504

Presentation and Opening Statement by Sponsor:

Rep. Daily opened the hearing on HB 504 saying this bill was requested by Bob McCarthy, County Attorney in Butte.

Testifying Proponents and Who They Represent:

John Connor, Department of Justice, Montana County Attorney's Association

Proponent Testimony:

John Connor rose in support of HB 504. This bill was requested by the Montana County Attorney's Association to correct a problem that exists with respect to the statute of limitations on homicide. The problem is fairly basic. Before the 1987 session there were three types of homicides: 1.) Deliberate, 2.) Mitigated, and 3.) Negligent. They were defined in total as criminal homicide. In 1987 there were some changes made in the homicide statutes which essentially served to clean up the language of the three types of homicide especially with respect to felony murder under deliberate homicide. In the course of doing that, the definition of criminal homicide was repealed because it didn't appear necessary to define homicide as criminal homicide which is deliberate, mitigated and negligent. The problem is that the statute of limitations language was not

corrected so under the criminal statute of limitations there is a five year statute of limitations on felonies except for homicide for which there is no statute of limitations. The statute of limitations language says that the prosecution for criminal homicide may be commenced at any time. Now there is no longer criminal homicide. In theory, it could be argued that there is a five year statute of limitations as it relates to deliberate, mitigated or negligent. All this bill proposes to do is delete this language of criminal homicide and substitute in its place the terms deliberate, mitigated or negligent.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

No questions were asked.

Closing by Sponsor: Rep. Daily closed.

DISPOSITION OF HOUSE BILL 504

Motion: Rep. Daily moved HB 504 DO PASS. Rep. Addy seconded the motion.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion and CARRIED unanimously.

HEARING ON HOUSE BILL 473

Presentation and Opening Statement by Sponsor:

Rep. Bradley introduced HB 473 saying the bill does three things. First, it would end the practice of placing voluntarily and civilly committed persons in the forensic unit with criminal offenders and prisoners. Secondly, the bill requires restrictions of movement on hospital grounds to be based on individual assessments. That is, each individual, if he is restricted in his movement would have to have the rationale contained in an individual assessment of why those restrictions are being established. This continues with a list of patient rights adding that voluntarily and civilly committed patients have a right not

to be transferred to the forensic unit of the state hospital. The prohibition on mixing civilly and voluntarily committed individuals with criminal offenders is done in two ways. The third thing the bill does is allow competent patients to permit photographs to be taken. It was always assumed that only guardians could state that permission and assumed that everybody had a guardian. When the time came this past year for photographs to be taken, those who were entirely competent to state the permission themselves were not allowed to do that by law. The concept contained in this legislation is that the forensic unit is a prison type of structure designed for security purposes and it should not house patients who are in need of a hospital facility with hospital treatment. It is bad for the morale, therapy and treatment of people who are severely mentally ill to be put in with criminal offenders. Those are two entirely different problems and they have to be addressed separately by our institutions and the people who treat patients.

Testifying Proponents and Who They Represent:

Allen Smith, Attorney Representing Warm Springs
Jim Goetz, Attorney from Bozeman
John Thorson, Mental Health Association of Montana
Tom Posey, Public Policy Chair of National Alliance for Mentally Ill
Susan Stefan, Staff Attorney for the Mental Health Law Project
Richard Traynham, Clinical Psychologist in Bozeman

Proponent Testimony:

Allen Smith spoke in favor of HB 473 (See EXHIBIT 1).

Jim Goetz spoke in favor of HB 473 (EXHIBIT 2). Mr. Goetz also provided the committee with a summary of forensic unit literature prepared by Susan Stefan, a staff attorney of the mental health law project (See EXHIBIT 3).

John Thorson said that the Mental Health Association of Montana urges the committee's support of HB 473. The forensic unit at the state hospital is essentially a criminal justice facility. Civilly and voluntarily committed mentally ill patients have a basic constitutional right and a basic human right not to be confined in a criminal justice facility unless they are criminals or are being held on a criminal offense on probable cause.

Tom Posey said the National Alliance for the Mentally Ill is the largest advocacy organization for people labelled seriously mentally ill. It's membership is composed of people having the illness and their families. Four years ago the alliance adopted as public policy that civilly committed should never be housed in the same unit as criminally committed. This policy was based on a survey which showed that people in a prison like setting do not respond as rapidly to treatment;

the treatment offered in a forensic unit was often of less quality and inappropriate to the needs of the people there; civilly committed were subject to abuse by criminally committed; and in all cases where the populations were housed together, the forensic unit became the item of punitive discipline.

no exhibit 6

Susan Stefan testified in support of HB 473 (EXHIBIT 4).

Dick Traynham, a clinical psychologist in Bozeman, submitted a letter as written testimony in favor of HB 473 (EXHIBIT 5)

Testifying Opponents and Who They Represent:

John VanHassell, Clinical Psychologist
Archie McPhail Jr.
Terry Minnow, Montana Federation of Teachers and Public Employees
Wilbur Raymond, Montana Nurses' Association
Kurt Chisholm, Director of Department of Institutions

Opponent Testimony:

John VanHassell spoke in opposition to HB 473. Voluntarily and civilly committed patients at the state hospital do become dangerous. In fact, one of the primary factors that needs to be determined by a court to civilly commit a patient is that they are imminently dangerous to themselves or others. The environment at the forensic treatment facility is not comparable to a prison environment. It is a well accepted fact in the mental health field that when you are trying to treat a very ill patient whose behavior is out of control, the provision of a highly structured environment is, in itself, therapeutic. Patients who are out of control, out of contact with reality and violent are often aware that they are not able to control their own behavior and they look to the treating professionals to step in and help them exercise that control so they do not behave in a way that causes them greater problems down the road. On the forensic treatment facility there is a physical environment and staff that are specially trained in dealing with violent, dangerous patients. Those facilities and that staff are not available on the other treatment units at Montana State Hospital. In fact, when one of the other treatment units has a patient that is out of control, the typical response is to call special duty aides from the forensic treatment facility to go to the other unit and help control that patient. If they start trying to control violent patients with untrained staff on the other unit, they are going to have a situation of greater injuries both to patients and staff. With the physical facilities they have on the forensic treatment facilities they can allow potentially dangerous patients more freedom than they would have if they were being managed in the other treatment units of the hospital. The reason is because the physical facility provides security and within that facility patients are

allowed a considerable degree of freedom.

Archie McPhail Jr. spoke in opposition to HB 473 (See EXHIBIT 7).

Terry Minnow said on behalf of the employees at the Montana State Hospital she would rise in opposition to HB 473. The bill is well intended, however, its effects would negatively impact the staff and patients of Montana State Hospital. The forensic unit is designed to control violent patients and the staff in the forensic unit is trained to deal with violent patients. She is concerned about the safety of all of the staff if the forensic unit is not available for that treatment. Safety of patients and staff must be a major consideration in the deliberations on this bill.

Wilbur Raymond spoke on behalf of the nurses of Montana State Hospital. He said this is the wrong solution to the problem and urged the committee to give the bill a Do Not Pass recommendation.

Kurt Chisholm spoke in opposition to HB 473. He acknowledged that the sponsor of the bill is acting in good faith. Irrespective of the good faith, these kinds of statutory definitions as to the types of patients that can and cannot be placed in a newly completed facility are not needed.

Questions From Committee Members:

Rep. Gould asked Kurt Chisholm if he committed a crime and is 22 years old and receives a ten or twenty year sentence and remanded to custody, would it be at the Montana State Prison or the Department of Institutions? Mr. Chisholm responded that the court, at the time of sentencing, could sentence him directly to the custody of the Montana State Prison. If there was a finding of mental disease or defect, the court could remand him to the custody of the department to be placed at the state hospital. Their policy would dictate that he go to the forensic unit because he is coming from the criminal court.

Rep. Brooke questioned Kurt Chisholm as to page 11 of the bill there is language saying that the patients movement may not be restricted without individualized findings. On line 11 it says it may not be restricted on the basis of the unit wide policy. Is that a unitwide policy now for criminally assigned patients to the forensic unit? Mr. Chisholm said he believes that it is.

Rep. Stickney asked Representative Bradley if it's a matter of the facility being one building that is causing the problem with the mixture of criminals and mentally ill patients or is it more serious than that? Rep. Bradley responded that as she sees it the first floor has two high security units where the civilly and criminally committed males are separated. Then there is a medium security unit where both

kinds of male commitments are and then a low security unit. Then there is a women's ward. There is a great deal of intermingling. As far as what you might be able to do to correct that within that unit, she would refer that to Al Smith. Al Smith said they feel that one facility should be for criminal patients and one facility for civil patients.

Rep. Hannah asked John Thorson if he would say there is potential that the state made a wrong policy decision two or three years ago about how to house mentally and criminally insane people. Mr. Thorson said he wasn't involved in the discussions but the problems that have been identified did not require the building of a new facility. There needs to be a correction of the policy decision that was made several years ago.

Rep. Addy asked Mr. Goetz why we should not let the courts resolve this issue. Mr. Goetz said it is an issue that is before the courts and that they have the option of letting the court resolve it.

Closing by Sponsor: Rep. Bradley said she has great respect for the court system. There is no problem in taking a look at certain matters that are going on in the state and making policy decisions that very appropriately rest with the legislative body. The court can wrestle with them as well but if a law suit is pending it is their job to take a careful look at those issues. Perhaps the best test of fairness of policy is whether there is no court case at all. If they are properly doing their job and being as fair as they should, things don't usually go to court. The opposition to this measure is baffling. A number of opponents said they endorsed the intent and she's glad for that as the intent is what's most important. One of the problems is understaffing. Of course there's a staffing problem. Everything they're doing in the state is understaffed right now. They have been neglecting their revenue duties. If that's what the problem is, then let's properly staff them. A very different problem is being addressed by this bill. It's been conceded that yes, there is violence with civilly and voluntarily committed individuals. There are facilities elsewhere that deal with restraint and seclusion.

HEARING ON HOUSE BILL 499

Presentation and Opening Statement by Sponsor:

Rep. Giacometto opened the hearing on HB 499 saying that this bill would make sure that if something were to happen with custodial funds of livestock or other agricultural products in Montana, there would be a way to hold those people liable.

Testifying Proponents and Who They Represent:

Les Graham, Department of Agriculture
Jerry Jacker, Montana Stockgrower's Association
Lorna Frank, Montana Farm Bureau Federation

Proponent Testimony:

Les Graham spoke in favor of HB 499 (See EXHIBIT 8).

Jerry Jacker told the committee the Montana Stockgrower's Association supports the bill. His organization has worked with the Department of Livestock to carry this type of issue up to the National Cattleman's Association. If someone is dipping into the custodial accounts, it should be at least a felony.

Lorna Frank supported HB 499 (EXHIBIT 9).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

Rep. Strizich asked Rep. Giacometto how much money we're talking about in terms of these transactions.

Rep. Giacometto responded that it's not uncommon for a small operator to come in with 200 head of calves at about $400 a head. That's just one operator. Those sales will go through with sometimes 8,000 head of cattle in a week. That money is all in the custodial account between the week of the deposit and the cashing of the checks from the buyer.

Closing by Sponsor: Rep. Giacometto said there is no problem in the state and this bill would be preventive action. In the current law even writing a bad check of over $300 carries stiff penalties. Under current law tampering with custodial accounts is a misdemeanor and that involves large amounts of money.

DISPOSITION OF HOUSE BILL 499

Motion: Rep. Gould moved HB 499 DO PASS. Rep. Knapp seconded the motion.

Discussion: Rep. Mercer stated that looking at section 45-2-103 of the criminal code, it says that for any criminal offense there has to be a mental state for detail of the offense.

It has to be one of the three mental states stated in the code which are negligently, purposely and knowingly. There's another provision that says they can create an absolute liability offense which has no mental state, but they have to state in the code section that there is absolute liability. He suggested on page 1, line 10, after the word "who", put in "knowingly" and do the same thing on page 2, line 4 after the word "who".

Amendments, Discussion, and Votes: Rep. Gould moved to amend page 1, line 10 and page 2, line 4 to add "knowingly" after "who". Rep. Darko seconded the motion.

The motion to amend CARRIED unanimously.

Recommendation and Vote: Rep. Boharski moved HB 499 DO PASS AS AMENDED, motion seconded by Rep. Gould. Motion CARRIED unanimously.

HEARING ON HOUSE BILL 534

Presentation and Opening Statement by Sponsor:

Rep. Swysgood opened the hearing saying that HB 534 is an act to amend the interstate compact on juveniles to allow the extradition of youth charged with being a delinquent. The problem under current statute is that presently in Montana one can be extradited under two sets of circumstances; as an adult under extradition laws and as a juvenile under the interstate compact on juveniles. The problem arises in that under the interstate juvenile compact if one has been charged and adjudicated and leaves, he can be extradited back under the interstate compact. However, if one has been charged but not adjudicated and leaves the state, he can not be brought back under the interstate compact act. This bill merely addresses that part of it to allow those agencies to bring that youth who has been charged but not convicted, back into the state without having to go through the hassle and paperwork of the adult extradition process.

Testifying Proponents and Who They Represent:

Tom Scott, Beaverhead County Attorney
Dave Bennetts, Department of Family Services, Juvenile Compact Administrator
Steve Nelson, Board of Crime Control

Proponent Testimony:

Tom Scott told the committee they requested that Rep. Swysgood introduce the bill on behalf of Beaverhead County because under current law they only bring a juvenile back from another jurisdiction if that juvenile has already been

judged as a delinquent, if the juvenile is a runaway, or if the juvenile has escaped from a detention facility.

Dave Bennetts spoke in support of HB 534 (See EXHIBIT 10).

Steve Nelson said the Board of Crime Control is also in support of HB 534.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

No questions were asked.

Closing by Sponsor: Rep. Swysgood closed saying that this bill addresses an area that would be beneficial both to the law enforcement agencies and also to the juveniles in question. This is not a unique situation. 38 other states have adopted such a law. Rep. Swysgood urged the committee to Pass HB 534.

DISPOSITION OF HOUSE BILL 534

Motion: Rep. Stickney moved HB 534 DO PASS. Rep. Aafedt seconded the motion.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Motion CARRIED unanimously.

HEARING ON HOUSE BILL 548

Presentation and Opening Statement by Sponsor:

Rep. Hoffman opened the hearing saying HB 548 is a simple bill which asks for an increase in penalties for criminal trespass. Rep. Hoffman provided the committee with a memo from the University of Montana Law School regarding criminal trespass laws (See EXHIBIT 11). The penalty that presently exists in the law is an old penalty. It is the same penalty that has been on the books since 1895. It's not too hard to realize this law needs updating. Inflation has created the problem we're facing today. Under the present law people do not hesitate to take a chance at trespassing because the penalties have been so minimal. It's not only to protect

property rights but there is also the concept of liability. Rep. Hoffman presented a handout indicating how other states have progressed in this area (See EXHIBIT 11, PAGE 2).

Testifying Proponents and Who They Represent:

Kim Enkerud, Montana Cattle Women, Montana Stockgrower's Association and Montana Farm Bureau
Mike Buchet, Montana Power Company

Proponent Testimony:

Kim Enkerud rose in support of HB 548 on behalf of the Montana Stockgrower's Association, Montana Farm Bureau and the Montana Cattle Women's Association. She said those groups have their trouble with trespassers on private property and hope this added increase in the fine will deter people from doing so.

Mike Buchet spoke in favor of HB 548 (See EXHIBIT 12).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

Rep. Eudaily asked if this is the section of law that trespassers who are hunting big game are fined under. Rep. Hoffman said yes, it could be. Any time there is willful trespass, where the trespasser knows, this law is applicable. If the property the hunter is on is properly posted, he would know so this would apply.

Closing by Sponsor: Rep. Hoffman said this is a very precise bill and there's not much to be debated. This bill affects owners of all types of property. He told the committee when he was gathering signatures for the bill many people said it was a good bill and long overdue. Hopefully the committee will feel the same way.

HEARING ON HOUSE BILL 528

Presentation and Opening Statement by Sponsor:

Rep. Boharski opened the hearing saying HB 528 addresses a problem that is long overdue. In 1979 Montana implemented its mandatory liability insurance law to address the problem of drivers of automobiles being responsible for damages that they cause. His argument at the time the law was passed was

that the limits were too low. He doesn't think they were adequate. Now, ten years later, we are attempting to rectify that situation somewhat. Assuming the figures were correct in 1979, the numbers he is proposing aren't out of line, because medical costs have increased two to three times and the cost of a new vehicle has more than doubled in the last ten years. The impact of that portion would have a negligible affect on the price of liability insurance. Everyone in the state is required to carry liability insurance and the vast majority of responsible individuals carry the minimum limits. This is to protect the rest of us who are subject to damage caused by someone who is carrying the very minimum liability insurance. The second part of the bill addresses underinsured automobile liability insurance.

Testifying Proponents and Who They Represent:

Roger McGlen, Executive Director of Independent Insurance Agents Association
Wally Jewell, Montana Magistrates Association
Michael Sherwood, Montana Trial Lawyers Association
Alan Cronnister, State Bar of Montana
Cort Harrington, Montana County Treasurer's Association

Proponent Testimony:

Roger McGlen said under the limits of liability suggested in this bill they're talking about a split limit of liability. He suggested offering an amendment allowing for the words "or 100,000 single limit liability". Mr. McGlen explained the difference between split limit and single limit liability. The multi limit being suggested in this bill is $50,000 each person for bodily injury, $100,000 for each occurrence, and $25,000 for property damage. The single limit liability provides some expanded coverage. Some companies operating in Montana only offer single limit liability.

Wally Jewell spoke in favor of HB 528 (EXHIBIT 13).

Michael Sherwood said this bill will do three things. First, it will make lawyers and doctors money. Medical rates have gone up a great deal, about 400-500% since 1979. In many instances people are being injured and doctors are taking care of them and are never reimbursed. Many times lawyers are suing and only managing to get policy limits and their percentages are based on the recovery. It will also help injured victims. There are more and more victims who are finding themselves having to settle for policy limits and not being able to get any more money in spite of the fact that the policy limits don't even cover their medical expenses. Thirdly, it will protect people. Rates are going to go up, but it will protect people from having to make decisions about what they are going to do with their lives when their insurance policies don't cover the amount of

damages for which they are responsible.

Alan Cronnister stated the State Bar of Montana supports this bill. Perhaps the limits in the bill ought to even be higher. The limits in the law now were probably too low on the day they were enacted in 1979 and have continued to get more and more out of line as each day passes since then. Minimum liability limits come into play in the serious cases. In those cases where there are multiple deaths or serious injuries, the limits provided for in the bill are grossly inadequate. This bill would help but it doesn't go far enough. He said having higher minimum liability limits plus the underinsured coverage, which is very important, would give the persons who were injured the opportunity to settle their cases within the liability limits or to litigate their cases within the liability limits or to litigate against the party that was primarily liable without having to seek and extensively litigate cases with no liability.

Cort Harrington said the Montana Treasurer's Association supports the concept of this bill, however, they do oppose the idea of requiring the person to show proof of insurance prior to registering a motor vehicle. Mr. Harrington suggested a proposed amendment striking the requirement to show proof of insurance to register a motor vehicle. Prior to 1981 there was a requirement in the law that a person registering a motor vehicle had to show proof of insurance. The experience the treasurer's had at that time was that people would get a month's worth of insurance merely to register the motor vehicle and then they'd let it lapse.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

Rep. Addy asked Roger McGlen what the percentage cost of increase for premiums will be if they move to these limits. Roger McGlen responded that he did a short survey of a representative sample of the insurance companies offering coverage in the state and found that if a person is now carrying limits equal to or in excess of what is being proposed by this bill, there would be no increase in premiums. If they are carrying current limits they anticipate between a ten and fourteen percent increase to bring them up to the new minimum limits.

Rep. Wyatt asked, in reference to line 13-16 on page 9 "the card must contain language prescribed by the department including the limits of liability insurance provided in the policy applicable to the motor vehicle": Would that put someone with a very nice liability policy at risk in a higher number of cases because someone would know they are a deeper pocket than they might expect them to be? Mr. McGlen said he appreciates the question and he has asked representatives of insurance companies because that has concerned him too if it would divulge the limits of liability. He said, however, that he cannot speak for the companies. From his standpoint, it is a matter of public policy.

Rep. Brown said, in reference to page 8 lines 7-12, the language that requires taking proof of insurance to the treasurer's office to register a vehicle, he was here in 1981 when they went through the substantial debate and it was a nuisance. It served no practical purpose to do this and that's why it was eliminated in 1981. He said he sees no reason to change it and asked if anyone could address the issue. Mr. McGlen responded that he was also here in 1981 and this was a problem for the insurance agencies as well because people would indeed come in, purchase insurance, go down and get their license plates and stop payment on the check. That's very expensive to the agency.

Rep. Brown said last session the penalty section for failure to carry insurance was raised to a minimum fine of $250, maximum of $500 and up to ten days in jail. This is a fairly significant penalty. It would seem to me the more we raise the level of insurance that has to be carried, the more people who will drop their insurance. If we're going to raise the insurance rates, shouldn't we also address an increase in penalty as well? Is there a reason it wasn't addressed here? Roger McGlen said that is a concern that has shown up in other states. If they raise the limits, they are raising the costs. Will that not produce another percentage of persons who are uninsured on our roads by putting another segment of the market out of the financial ability to purchase that insurance? If this bill was adopted it would tie Montana with Alaska for the highest minimum limits of liability required in the United States. There is no state higher than the requirements being proposed before you here today.

Rep. Brooke questioned Roger McGlen regarding page 8 lines 13-17. Is now a procedure in place that insurance companies notify the department of policy cancellation? Mr. McGlen said there is not a procedure in place now. He is not in support of such a procedure because it increases the cost to the consumer.

Closing by Sponsor: Rep. Boharski said he agreed with the concept of raising the limits even higher. However, he said he doesn't want to jump in too far too fast without seeing what happens to the insurance rates. He is also in agreement with adding the amendment for single limit liability of $100,000. He does not believe the proof of insurance requirement should be stricken.

ADJOURNMENT

Adjournment At: 10:55 a.m.

REP. DAVE BROWN, Chairman

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DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 14, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

February 14, 1989

Mr. Speaker: We, the committee on Judiciary report that House Bill 504 (first reading copy -- white) do pass .

Signed: _____
Dave Brown, Chairman

STANDING COMMITTEE REPORT

February 14, 1989

Mr. Speaker: We, the committee on Judiciary report that House Bill 499 (first reading copy -- white) do pass as amended .

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Page 1, line 10 and line 4 of page 2.
Following: "who" on line 10 and "who" on line 4
Insert: "knowingly"

STANDING COMMITTEE REPORT

February 14, 1989

Mr. Speaker: We, the committee on Judiciary report that House Bill 534 (first reading copy -- white) do pass .

Signed: _____
Dave Brown, Chairman

EXHIBIT 1
DATE 2-14-89
HB 473

TESTIMONY ON HOUSE BILL 473
HOUSE JUDICIARY COMMITTEE
FEBRUARY 14, 1989 BY ALLEN SMITH JR.

Mr. Chairman, members of the committee, my name is Al Smith. I am an attorney representing patients at the Montana State Hospital. I am here to urge you to vote for H.B. 473.

The Forensic Unit is a self-contained unit at the Montana State Hospital. The Forensic Unit patients fall into two main categories and six sub-categories:

I. **Criminal** (35% of all patients)
   a) Court ordered evaluations- fitness to proceed § 46-14-202 and §46-14-221, MCA (also presentencing evaluations)
   b) Not guilty by reason of mental illness- acquittals committed to MSH, §46-14-301, MCA
   c) Guilty but mentally ill- sentenced to MSH, §46-14-312, MCA
   d) Montana Corrections System- Womens Correctional Center and Montana State Prison inmates.

II. **Civil** (65% of all patients)
   a) Voluntary- §53-21-111, MCA
   b) Involuntary- §53-21-127,128 MCA

Male patients on the Forensic Unit reside on three wards- high, medium, and low security. Criminal court order evaluation patients are housed only on the high and medium wards. All other patients, civil and criminal, are housed on high, medium, and low security. **Female patients**, civil and criminal, are all housed on one ward. (see attached chart)

Civil Patients are, ostensibly, placed on the Forensic Unit for "life threatening behavior to self or others". However, patients are transferred to the Forensic Unit for refusing to take medications, for being verbally abusive towards staff and for other reasons that are not "life threatening behaviors".

Civil patients are, ostensibly, to remain on the Unit only long enough to bring that behavior under control and then be transferred back to another, less restrictive treatment oriented unit of the Hospital. However, the Forensic Unit has become the end of the line for many civil patients. The average length of stay on the Forensic Unit for civil patients is measured not in weeks or months <u>but in years</u>. The average length of stay for men is over 4 years, for women 3.5 years. (See attached chart)

Traditional treatment for civil patients on the Forensic Unit is

virtually non-existent - individual therapy and group therapy conducted by professional level staff is not offered on a regular basis. Individual therapy is usually limited to "PRN" (as needed) cases which means a crisis situation. Group therapy is limited to approximately 10 patients per year. Professional time is consumed by the evaluation and reports on criminal court ordered evaluations.

Mixing civil patients with criminal patients has several deleterious effects upon patients and staff. Civil patients suffering from mental disorders are preyed upon by criminal court order evaluation patients, the vast majority of whom are not mentally ill but rather sociopathic criminals pure and simple. Staff become hardened when dealing with the criminal patients and there is a tendency to treat civil patients at if they were criminals because "security" rather than treatment is of paramount concern. The physical and psychological environment is that of a prison, and civil patients react accordingly- mimicking the behavior of the criminals and acting as the staff who deal with criminals expect them to act.

Who are these violent patients on the Forensic Unit?

One is a young man stricken with a degenerative disorder. He sits in a geri-chair, strapped in with supportive restraints because he is no longer ambulatory.

One is a man who has been known to drink excessive amounts of water. He's never physically assaulted anyone during the three years he's been on the Forensic Unit.

One is a young man who has not been assaultive since June, 1988. The reasons given why he should remain on the Forensic Unit are that he doesn't get up in the morning the first time he's called, he doesn't get up from naps the first time he's called to go eat, and he doesn't go to all the activities he's told to attend. Pursuant to a hearing to recommit this man, District Judge Ted Mizner just last week rejected those reasons and ordered the man transferred from the Forensic Unit.

One is a young woman whose "violent" behavior is sleeping too much and not going to enough activities.

One is a young man whose last act of violence was over two years ago. Since then he has worked hard to do all that's asked of him. The professionals in charge of his treatment feel he should be transferred from the Forensic Unit, yet he continues to be confined due to administrative interference with treatment decisions.

One is a young woman who spent over two years on the Forensic Unit. As a result of commitment proceedings, she was

transferred two months ago and she is now awaiting discharge to a group home in the community.

Who are the criminals mixed with these civil patients and who are the criminals that staff must deal with on a daily basis?

One is a man convicted of brutally assaulting a man in Missoula. Hospital professionals feel he belongs in prison, not the Hospital because his "illness" is merely a disorder that describes behaviors not one that causes the behaviors- manipulation, conning, violence, intimidation, no respect for rules or authority.

One is a man who is accused of murder. The Hospital professionals feel he does not have a mental illness, but rather uses symptoms of an illness to avoid criminal charges. He has a history of criminal assaults.

Forensic Unit staff must one minute deal with the likes of a Shawn Clawson or a Terry Langford, and the next minute with a civil patient whose only "crime" is suffering from a mental illness.

Civil patients can be and are at times violent, however, that does not mean that civil patients should be confined to a criminal facility. A treatment facility and criminal facility have conflicting purposes - the civil facility is to provide treatment and the criminal facility is to provide security. When dealing with a violent criminal population security concerns come first, to the detriment of civil patients' treatment needs.

Psychiatrists and psychologists agree that Hospitals need special management units to deal with assaultive civil patients. However, these units: **(1)** should have stringent criteria for admission; **(2)** should serve only a small number of patients (20% of Warm Springs civil patients are on the Forensic Unit); **(3)** should be for short durations of less than a year (Warm Springs patients spend 3+ years on the Forensic Unit); and **(4)** should segregate criminal from civil patients and also have separate staff for each population (Warm Springs mixes both patients and staff).

As long as civil patients are kept on the Forensic Unit, those patients will receive inadequate and inappropriate treatment for unnecessarily long periods of time. The current Hospital census and Department of Institutions' plan to transfer 24 patients to community services would allow all civil patients to be transferred from the Forensic Unit and allow for a special management unit for assaultive patients.

The Forensic Unit can then be used as the secure facility for

which it was designed. Accused criminals now wait in county jails awaiting evaluations. The Montana State Prison population is provided inadequate mental health treatment. Both of these situations are lawsuits waiting to happen, which can be avoided if the Forensic Unit is fully utilized as the secure facility it is.

PLEASE VOTE FOR HOUSE BILL 473.

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FORENSIC UNIT PATIENTS- Placement of Civil and Criminal Patients (February 10, 1989)

UNIT	CAPACITY	FILLED	CIVIL	CRIMINAL
LOW	24	22	18	4
MEDIUM	24	16	13	3
HIGH	30	20	10	10 (6 RCC)
FEMALE	26	14	13	1 (1 RCC)
TOTALS	104	72	54	18

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Forensic Unit: **Civil Patients-Time on Unit**

Date: February 25, 1988

Ward	# of pts on Unit 6 months or less	# of pts on Unit 2 years or more	Average number years on Unit
56	4	9	3.2 years
57	1	3	4.6 years
85	2	13	4.7 years
86	5	6	3.4 years

* **NOTE:** These statistics are from the old Forensic Unit. The new Unit has 100 beds and the corresponding wards are 56=High Security, 57=Medium Security, 85=Low Security, 86=Women's Security.

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EXHIBIT 5
DATE 2-14-89
HB 473

**TESTIMONY OF JAMES H. GOETZ,
REPRESENTING THE MONTANA AFFILIATE
OF THE AMERICAN CIVIL LIBERTIES UNION
IN SUPPORT OF H.B. 473**

I am a cooperating attorney with the Montana Affiliate of the American Civil Liberties Union, and I offer this testimony in support of H.B. 473, introduced by Representative Dorothy Bradley and co-sponsored by others.

The principal purpose of H.B. 473 is to prevent voluntary and civilly committed patients from being housed in the Montana State Hospital Forensic Unit. It does this in two ways. It defines the Forensic Unit as the unit designated "to house, evaluate and treat only persons committed to the state hospital in connection with a criminal proceeding or convicted prisoners transferred from a correctional institution, facility or jail;" and it gives patients a right not to be housed in the Forensic Unit if they do not meet the criteria set out above.

The bill also has two other provisions. One ensures that a patient's movement around the hospital campus can be restricted only as a result of an individualized finding that such restriction is necessary to protect the life or physical safety of the patient, or to prevent the patient from causing serious harm to others or to property. This provision is intended to prevent hospital administrators from making policies (as they have done in the past) that no resident of the Forensic Unit may leave the unit, thus restricting all patients' freedom of movement solely on the basis that they are residents of the Forensic Unit. The other provision corrects a defect in the law that prevents competent patients from consenting to have their photographs taken for any purpose. The heart of the bill, however, is the part which forbids voluntary and civilly committed patients from being housed in the Forensic Unit.

Originally, all the patients on the Forensic Unit were mixed together. I am told that the state has recently begun to segregate the court evaluees from the rest of the patients. This is all to the good, but it fails to address the crux of the problem, which is that voluntary and civilly committed patients are still being housed in the Forensic Unit itself.

The basic rationale for this legislation is that it is impossible to treat hospital patients in a prison setting. One of the principal functions of a prison is to keep people from escaping, and neither their liberty interests nor their therapeutic needs are foremost in the design of the building.

The Forensic Unit at the Montana State Hospital houses criminals sent by the criminal justice system for psychiatric evaluation, and prisoners from Deer Lodge sent for treatment. It was constructed with these functions in mind. To house voluntary and civilly committed patients in the Forensic Unit, which is clearly a prison setting, is punitive and anti-therapeutic.

Anyone suspected of a particularly brutal murder in Montana will probably receive a psychiatric evaluation in the Forensic Unit. Obviously, proper security for these people must be very stringent, and security would be the primary concern in housing them. Yet mentally ill people who have never committed a crime in their lives except to seek treatment or be committed to treatment at the Hospital are housed in the same Unit under the same conditions as these men.

The legal dimension of this is clear. Prisoners and people accused of crime who have been denied bail obviously have different liberty interests from voluntary and civilly committed patients, as the Supreme Court recognized in Romeo v. Youngberg, 457 U.S. 307, 320 (1982). The latter's liberty interests and interests in freedom from bodily restraint are greater, and such restrictions require greater justification on the part of the state. The Romeo decision, combined with the holding in Jackson v. Indiana, 406 U.S. 715 (1972) that the conditions of confinement of a mentally ill person must comport with the purpose of confinement, render the housing of civil and voluntary patients in the Forensic Unit constitutionally defective. The court said in Youngberg v. Romeo:

> If it is cruel and unusual punishment to hold convicted criminals in unsafe conditions, it must be unconstitutional to combine the involuntarily committed--who may not be punished at all--in unsafe conditions.

457 U.S. at 315, 316. The court continued:

> Next, respondent claims a right to freedom from bodily restraint. In other contexts, the existence of such an interest is clear in the prior decisions of this Court. Indeed, "[l]iberty from bodily restraint always has been recognized as the core of the liberty protected by the Due Process Clause from arbitrary governmental action." Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1, 18...(1979) (Powell, J., concurring in part and dissenting in part). This interest survives criminal conviction and incarceration. Similarly it must also survive involuntary commitment.

457 U.S. at 316.

There is one precedent in the area, Doe v. Gaughan, 808 F.2d 871 (1st Cir. 1986), which might marginally support the State's position but which has recently been de facto overturned. While the court in Doe found that civil patients could be transferred to Bridgewater, a maximum security facility run by the Massachusetts Department of Corrections, a more recent suit against Bridgewater resulted in a consent decree whereby the state agreed to stop sending civil patients to the institution.[1]

Another reason that the practice of housing civilly committed and voluntary patients in the Forensic Unit is detrimental is that the same staff deals with both this population and the criminal court-ordered evaluations and prisoners. This puts the staff in a double bind, since the attitudes and training that are necessary to deal with the latter population are almost diametrically opposed to the treatment required by the former population. As the literature makes clear, this conflict creates stress in staff which can result in patient abuse.

The Department of Institutions' response is undoubtedly that these civilly committed patients and voluntary patients are very bad actors themselves, who just could not be handled anywhere but in this extremely secure setting. There are several different answers to this argument.

Many other states forbid voluntary and civilly committed patients from being mixed with forensic patients or housed in a forensic unit, and their voluntary and civilly committed patients are just as violent as those in Montana. Hospitals in those states, and the Montana State Hospital, are equipped to deal with situations when patients act out. Every unit in the hospital except Pre-Release has seclusion rooms and every unit uses restraint for patients who are out of control.

Another point is that the violence associated with patients who are mentally ill is qualitatively different from violence associated with criminal court evaluees. The former can be treated, and the capacity for treating such patients is one of the main reasons that mental health professionals assert they have special expertise over the rest of us. There really is a

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[1] It is interesting to note that the psychiatrist-patient ratio decried in the news accounts of Bridgewater is higher than those currently in place at the Montana State Hospital. (Bridgewater has a 50-1 ratio; the Hospital currently has a 75-1 ratio. The Forensic Unit's psychiatrist-patient ratio is marginally worse than the Hospital as a whole. The accepted standard is between 25 and 30-1).

EXHIBIT 2
DATE 2-14-89
HB 473

difference in origin, and there should be a difference in placement and treatment, between a patient who strikes out at you because he is delusional, and a person who strikes out at you because he likes to see you in pain. The former should be reassured, comforted, maybe medicated. But they should not be treated as one and the same kind of aggression, and put together side by side in the same unit.

There are also answers which deal directly with the current situation at the State Hospital. The first answer is that transfer to the Forensic Unit is used at the Hospital for reasons unrelated to patient violence. A number of the patients on the Forensic Unit are <u>not</u> violent. One patient, D.M., is there for purely medical reasons. Patients are sent to the Forensic Unit simply for refusing to take their medications--it's right there in the Hospital policy. There need be no concurrent violence. In particular, transfers to the Forensic Unit are used for punitive purposes at the Montana State Hospital.

There are some very pressing pragmatic reasons to enact this legislation as well. A criminal lawyer in Billings has informed us that the waiting time for evaluations at Warm Springs is now up to about six months, thanks to the fact that half the Forensic Unit beds are being taken up by voluntary and civilly committed patients. Likewise, the prisoners at Deer Lodge badly need mental health treatment as well, and are similarly barred from the Forensic Unit because the hospital is solving its administrative problems at their expense. These are two lawsuits waiting to happen, which the legislature can do something to prevent by enacting this bill.

Respectfully submitted this
14th day of February, 1989.

James H. Goetz

EXHIBIT 3
DATE 2-14-89
HB 423

BRIEF SUMMARY OF FORENSIC UNIT LITERATURE[1]

Mixing civilly committed and voluntary patients with criminally court-ordered patients creates difficulties for both patients and staff. The needs and concerns of the two sets of patients are different, as is clearly emphasized in the Jensen article on a model program for forensic patients.[2]

In addition, the characteristics of the two different patient populations create difficulties when the populations are mixed for both patients and staff. While persons ordered from the criminal justice system may be violent, bullying and dominating persons, chronically mentally ill patients may be passive and vulnerable to abuse by the "true" forensic patients. Therefore, civilly committed and voluntary patients are typically subject to abuse and violence at the hands of forensic patients.

In addition, it is difficult for staff to simultaneously maintain a pure treatment orientation toward the voluntary and civilly committed patients and a more security-minded, wary attitude toward the forensic patients. The staff may be dealing one minute with an individual accused of brutal murder and the next with a harmless but very delusional patient. We believe that this may lead to staff abuse of the civilly committed and voluntary patients. This may not be due to malice in the staff as much as the result of the intolerable double bind inherent in these situations. The Hepburn article points out that role conflict in staff who are charged with "the often incompatible goals" of treatment and custody results in more punitive attitudes on the part of the staff toward the inmates.

The reason for putting voluntary and civilly committed patients in the Forensic Unit is usually that they are too aggressive to be kept in the other wards at Warm Springs. But Nelson says in his article,

> General state mental hospitals which claim they are unable to manage civil patients with violent behaviors frequently are allowed to use forensic service programs which have provisions for security. Such mixing of chronic mentally ill with criminal populations confounds the issue of security and patient management and raises philosophical and legal

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[1] Prepared by Susan Stefan, Staff Attorney, Mental Health Law Project.

[2] Jensen, Frederick, A.S., MBBS & Webster, Christopher Dee, Ph.D., "HELP: An Educational Forensic Psychiatric Assessment Program," Bul. Am. Acad. Psychiatry & the Law, Vol. 16, No. 1, 1988.

concerns.[3]

(P. 69). Nelson, who was Commissioner of Mental Health in Pennsylvania, closed state forensic units to non-criminal justice patients in 1981.

Another factor cited by the literature for not mixing the two groups of patients is stigmatization. Ironically, the bane of stigma operates in both directions, since as the Crossley[4] article notes

> relations of bona fide psychiatric patients vehemently protest the mixing of their relatives with forensic patients, whom they regard as murderers, arsonists, or sex offenders. On the other hand, forensic patients likewise object to the integration, as they claim that they are not mentally ill.

(P. 160). In fact, many of those referred by the criminal courts for evaluations are found not to be mentally ill, but to have "anti-social personalities" which is not recognized as a mental illness under Montana law.

A final reason which is especially true in Montana is that the design of the Forensic Unit facilities is often (and rightly) focused on security considerations, which is proper as to people accused of murder who should not escape, but very anti-therapeutic to people who have done no wrong and have come for treatment. The message conveyed to those patients simply by being housed in a prison-like setting is very harmful. This is why simply segregating the voluntary and civilly committed patients from the forensic patients within the Forensic Unit itself is insufficient.

Attached is a sample of the extensive press coverage of the Bridgewater case, O'Sullivan v. Dukakis, which ended in a consent decree with the state agreeing to never again house civilly committed patients with criminally court-ordered patients. The Bridgewater facility is not identical to the Montana Forensic Unit since it was run by the prison system rather than the mental health system. On the other hand, in

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[3] Nelson, Scott H., M.D. and Berger, Vincent F., Ph.D., "Current Issues in State Mental Health Forensic Programs," Bul. Am. Acad. Psychiatry & the Law, Vol. 16, No. 1, 1988.

[4] Crossley, Thane, Ph.D. and Guzman, Roger, M.D., "Management of a Forensic Psychiatric Unit," Am. J. Forensic Psychiatry, p. 159, presented at the Second Annual Symposium of the American College of Forensic Psychiatry, Maui, Hawaii, April 25-28, 1984.

EXHIBIT 3
DATE 2-14-89
HB 473

Massachusetts those are two more separate systems than they are in Montana, where both systems are part of the Department of Institutions.

DATE 2-14-89
HB 473

Judge Upholds Complaint on Hospital

Special to The New York Times

BOSTON, Sept. 18 — A state court has ruled that the administration of Gov. Michael S. Dukakis is violating the law in its treatment of inmates at Bridgewater State Hospital for the Criminally Insane.

Judge James P. Lynch Jr. of Suffolk Superior Court has ruled that the state frequently and carelessly used solitary confinement and physical restraints at Bridgewater, a hospital for mentally ill men that is run by the prison department. He ordered the state to comply with a 1985 law restricting the use of solitary and restraints by Monday.

The Massachusetts Civil Liberties Union filed the suit in July in response to eight unexplained deaths at the hospital in 18 months, including three possible suicides last spring by inmates in solitary confinement. The rights group charged that the state was negligent and had abused patients by using solitary confinement in routine cases. It also asserted that inmates' rights had been violated by inadequate care, understaffing and overcrowding.

State Appeals Order

The state appealed the court order on Thursday, but Judge Lynch agreed only to stay one part of his ruling regarding the number of monitors for men in solitary. State officials have refused to comment regarding the suit.

Advocates and attorneys for the mentally ill say Monday's order could bring major changes to the prison hospital that became known for brutality 20 years ago when a documentary film was made about Bridgewater.

"It could end the abuses that are endemic at Bridgewater and the violations of the law, which I informed the Dukakis administration of more than two years ago," said Jack H. Backman, a former state senator who sponsored the 1985 law.

Robert H. Weber, head of a state-financed agency that gives legal advice to the mentally ill, said: "This means that the Dukakis administration may start running the place as a hospital, not a prison, to comply with the law. They didn't want to comply and last fall filed legislation to exempt Bridgewater from the law."

Massachusetts is faulted for its care of the criminally insane.

Mr. Weber assailed the use of solitary confinement for mental health care, saying, "Most states deal with patients like this in special units run by mental health departments."

'Order Will Save Lives'

Roderick MacLeish Jr., an attorney in the case, said, "I think this order will save lives and change the use of seclusion at Bridgewater."

The administration has conceded that Bridgewater is hardly a model institution, and that improvements are needed.

The administration has requested $500,000 from the Legislature to hire 35 mental health workers and 20 prison guards for monitoring inmates, but the section of the court order now pending appeal said the state would have to hire 120 monitors.

Bridgewater now is surrounded by barbed wire and staffed mostly by prison guards. Inmates idle in the yard since jobs, activities and voctional workshops are rare.

About 36 percent of the inmates are convicted criminals, said Michael V. Fair, the commissioner of corrections. The others are either awaiting evaluation of their competence to stand trial, were acquitted by reason of insanity or were transferred from state mental hospitals for behavior problems.

The law permits the use of solitary confinement and restraints only in emergencies for violent or suicidal inmates, with approval of a physician and under constant monitoring by specially trained observers. The physician is to reassess the case every three hours.

Changes Are Promised

The court found that at Bridgewater, solitary and restraints were used in non-emergency situations, reasons for confinement were not properly documented and inmates were not constantly monitored.

Secretary of Human Services Philip W. Johnston said on Thursday that he would end the incarceration of noncriminals at Bridgewater and improve care, but that the prison department would continue to run Bridgewater.

"To shift administration would cause morale problems among the staff and I want to support them," he said in an interview.

After the series of deaths were disclosed last spring, Mr. Johnston's office began an investigation into the apparent suicides. No final reports have been issued.

EXHIBIT 3
DATE 2-14-89
HB 473

The Boston Herald 11-26-87 pg.2

Bridgewater settlement brings hospital 'out of the Dark Ages'

By L. KIM TAN

AN out-of-court settlement reached yesterday on a suit against the state regarding conditions at Bridgewater State Hospital was hailed as a "victory for patients" by both sides in the case.

The agreement between the state Department of Correction and the Civil Liberties Union of Massachusetts would end the department's practice of sending mentally ill patients to the correctional institution, even though they are not convicts.

The pact also sets several conditions on changing seclusion practices at the hospital, where five patients have died since March. Three of the five deceased patients were in seclusion when they died, with one of them also in restraints.

"What we've agreed to do today is a victory for everybody ... but most importantly, it's a victory for the patients," said Roderick MacLeish Jr., the CLU attorney who filed the suit on behalf of former and present patients.

"This settlement will have the effect of bringing Bridgewater State Hospital out of the Dark Ages into the 20th century," he added.

MacLeish said the settlement sets several conditions on changing seclusion practices at the facility, although one area — monitoring patients in seclusion — remains unresolved and has been set for a hearing by the state Supreme Court Dec. 10.

However, the settlement also sets a target date of March 31, 1989, for ending transfers of "civilly committed" patients to Bridgewater State Hospital. And all such patients now at the facility would be removed by that date, MacLeish said.

He said the commitment by the Dukakis administration to remove the mentally ill patients will reduce the Bridgewater patient population of 400 by 25 percent to 30 percent.

Human Services Secretary Philip Johnston, who has said Department of Mental Health facilities are expected to be completed by March 31, 1989, to handle the mentally ill patients, called the pact "a victory for the patients at Bridgewater, their families and all of the people of the Commonwealth."

According to MacLeish, the unresolved portion of the lawsuit is over what the state is required to do when audio-visual monitoring of patients is not used.

The patient advocates contend specially trained observers must be used when audio-visual equipment isn't. The state contends no such observation is needed.

Other requirements agreed to in the settlement include:

- Effective immediately, all patients in seclusion rooms will be monitored at least every 10 minutes.
- A policy of placing new patients in seclusion rooms upon admission will be phased out over the next six months.
- Strip searches of new patients in open corridors will end.
- The state will retain a panel of consultants to determine the clinical and security needs of Bridgewater patients and make recommendations on how those needs will be met.

— John Impemba contributed to this report

EXHIBIT 3
DATE 2-14-89
HB 473

Globe 11·26·87

Bridgewater agrees to reforms

■ BRIDGEWATER ·
Continued from Page 1

ties Union of Massachusetts who filed the suit, described the provision as a much needed reform and said it would end the hospital's distinction of being the only corrections facility in the country to house such patients. The Department of Mental Health will assume responsibility for these patients.

"The removal of civilly-committed patients is really a key element because it will bring Bridgewater State Hospital out of the dark ages," said MacLeish, who represents plaintiffs in the lawsuit.

"There is no question that mistakes have been made by the administration, but they are being righted now and this thing is being resolved," he said, referring to the Dukakis administration.

Full resolution of the case rests with the Massachusetts Supreme Judicial Court, which must decide whether specially trained officers ..ld constantly monitor pa.. .s who are placed in seclusion rooms because of violent or suicidal behavior. The state's high court is scheduled to hear oral arguments Dec. 10.

In a statement released yesterday, Secretary of Human Services Philip W. Johnston, a defendant in the lawsuit, described the agreement and recent requests by various legislators for more funds for the troubled institution as a "victory for the patients at Bridgewater, their families and all the people in the commonwealth."

In September, Gov. Dukakis submitted a request for funding for 150 additional clinical, health, security and administrative positions. Further steps were taken by the Legislature in a House bill that would increase Bridgewater's budget from about $9.5 million a year to $15.5 million and result in a 90 percent increase in staffing.

"The improvements we have already made and the future plans that are recognized in this settlement will result in dramatically improved care," Johnston said.

Attorney General James Shan.. remarked that the agreement was a "very serious effort to radically change conditions at Bridgewater."

"It includes increases in staffing, better monitoring of patients and creating a panel of experts to assess what needs to be done," Shannon told reporters.

Criticism offered

However, an attorney and advocate for mental health issues was critical of a provision in the agreement that calls for the gradual phasing out, over three to six months, of the practice of secluding all new patients at the facility.

"Why can't they do that tomorrow?" asked Robert Weber, a Newton lawyer and former head of the Mental Health Legal Advisors Committee.

"It seems to me that when a person is new and they do not present a threat they should be placed with others," he said. "I don't think the phase-out period is ..."

Schwartz, general counsel for the human services office, the phase-out period is necessary because a new admissions policy is still being developed. He also said that too little information is received from the jails, prisons or mental health institutions that transfer patients to determine whether they are suicidal or dangerous.

Agreement's terms

Under the terms of the settlement, the following provisions were agreed upon:

- Physical searches will be conducted only in private quarters, with the stipulation that only patients who are considered dangerous or suspected of carrying contraband be searched. Currently, all patients are searched, sometimes in public hallways or common areas, according to MacLeish.
- Creation of a panel of consultants who will review the facility and develop new treatment modalities and programs as well as patient-staff ratios. Panelists are to be selected no later than Dec. 15.
- Begin by Dec. 15 an auditing process to track the rate of seclusion and restraint among patients at Bridgewater. Copies of the report are to be forwarded to the Executive Office of Human Services and the attorney for the plaintiffs.
- Hospital personnel will begin immediately to monitor patients in seclusion rooms every 10 minutes, pending a decision by the state's supreme court on patient monitoring. In addition, audio-visual monitoring equipment will be installed in all rooms in the admissions unit that are used for seclusion. The provision is subject to any changes recommended by the high court.
- 24-hour monitoring by trained personnel posted in front of audio-visual cameras, with the provision that no employee will be responsible for monitoring more than 10 patients at a time.
- A minimum ratio of one trained officer posted outside the rooms of every seven patients in seclusion. This provision, as well as all others concerning seclusion and restraint, is subject to change by the high court.
- Effective immediately, the hospital will discontinue the practice of locking patients alone in their rooms after 6:30 p.m. However, patients will be permitted to go to their rooms provided their doors are not locked.

The settlement requires the development of an admissions procedure by a working group of three officials established earlier this year by Johnston. Another provision calls for the development of a family group made up of patients' family members who would review the institution periodically.

EXHIBIT 3
DATE 2-14-89
HB 473

11·26·87 Pg. 1

Bridgewater agrees to reform practices

By Diane E. Lewis
Globe Staff

In a settlement announced yesterday, the state agreed to stop several practices at Bridgewater State Hospital, including public strip searches, seclusion of new admissions and the longstanding practice of sending patients who have not been charged with a crime to the maximum-security facility for the mentally ill.

Yesterday's action stemmed from a lawsuit that assailed the use of seclusion at the hospital and noted that five patients had died since November. The suit, filed last July in Suffolk Superior Court, stated that three of the patients who died were in seclusion rooms, including a man who choked on an eyeglass lens and a piece of cloth after freeing himself of wrist restraints.

Those deaths and other problems at the institution were reported in a series of articles in The Boston Globe, beginning with the first of the five deaths that occurred last November.

Among the provisions worked out by the state and lawyers for patients at Bridgewater is an agreement to transfer out of Bridgewater by March 31, 1989, about 150 mentally ill patients who have not committed a crime.

Attorney Roderick MacLeish, general counsel for the Civil Liber-

BRIDGEWATER, Page 34

EXHIBIT 3
DATE 2-14-89
HB 473

Greg Derr/The Patriot Ledger

Enclosed by 16-foot fences, the grounds of Bridgewater State Hospital appear secure. However, violence at the facility is an everyday fact of life for both patients and guards.

Staff, patients endure repeated violence

First of three parts.

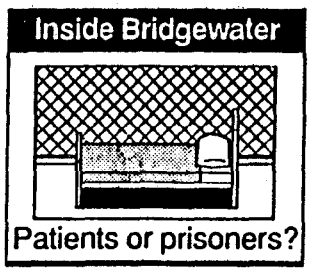
By Thomas Moran
The Patriot Ledger

BRIDGEWATER — It was a quiet rape during the middle of the night, and none of the four men watching dared to interfere. It happened in a six-man dorm room at Bridgewater State Hospital, and the door was closed. The nearest guard was in a glass cubicle at the end of the hall, beyond steel grating that is closed every night.

"I saw it happen," said James McKeller, a former patient who lived in the dorm for nine months. "When they lock the gate at 11, there's no supervision."

Violence is an almost daily occurrence at the all-male hospital, but it is a problem that has received scant official attention. The Dukakis administration's Aug. 10 report, its blueprint for reform, makes no mention of the violence. The hospital administration says it does not collect statistics on the frequency of violent attacks.

But for the staff at the hospital, and for the families of patients there, violence is a central concern.



"Our patients are frequently assaulted by other patients, and it clearly disrupts clinical care," said Dr. Wesley Profit, head of forensic care.

Marilyn Louraine, whose son Peter is a patient, said the violence has "scared him to death."

"He said he saw someone being raped in his ward, and he was deeply troubled," she said.

From the outside, Bridgewater appears to be under tight control. Run by the Department of Correction, its 16-foot fences topped with barbed wire make escapes rare. Visitors must pass through metal detectors and several locked doors to enter.

But on the inside, it is quickly apparent that the outnumbered guards, who carry no weapons, have only limited control. Twenty of the 225 guards are on injured leave after being attacked by patients, and virtually every guard has been on injured leave at least once, according to hospital administrators. The state hired 30 guards earlier this year to replace those out with injuries.

Please see BRIDGEWATER — Page 9

Continued from Page 1

"Getting assaulted is part of this job," one guard said. "I've been here for one year, and I've already been out three times. I've been kicked in the ankle, sucker punched, everything."

The hospital's patients, numbering about 400, are a particularly tough group to police. They include some of the most dangerous and violent men in the state. About 100 of them have taken a human life — one suffocated his own infant child, another plunged a knife into his sleeping roommate's chest thinking he was killing the devil, and another killed 30 people who he believed somehow threatened his mother.

Even those who haven't killed are sometimes so psychotic that they lash out at guards or other patients for no known reason.

"That happens every day," said Mary Campbell, the chief social worker. "You always have to be scanning, watching out for yourself and your patients."

Hospital or prison?

Bridgewater is sometimes called a hospital for the criminally insane, but that description is misleading. Even state officials say it is more of a prison than a hospital, although about one-quarter of the patients there have not been accused of a crime.

The non-criminal, civil patients were transferred from regular state mental hospitals when they became too violent to manage. The more docile and disorganized among them make easy targets for the hard-core criminals to rape or rob, according to guards and administration critics.

"The prison types more or less stick together," said guard Raymond Perry, 34, who has worked at the hospital seven years. "But the civil patients are usually loners. They just don't have the mental capability to defend themselves, and they're preyed upon."

EXHIBIT 3
DATE 2-14-89
HB 173

The robberies are usually strong-arm, and the take is usually cigarettes, the main currency at Bridgewater, or personal items such as a radios.

"These are distinct populations," said Eric MacLeish, an attorney who is suing the state over conditions at the hospital. "The civil committments are so disorganized they couldn't live outside of an institution. They're very vulnerable, and they're mixed in with these dangerous criminals. It's a very, very dangerous situation, and they are scared to death."

The dorm rooms, where almost half the patients live, are the focus of intense criticism. Not only can patients in each room attack each other, but patients can move from room to room along a hallway with relative ease, guards say. The dorms are supposed to house the less aggressive patients, but guards say many dorm residents are violent.

The rooms are checked hourly, but several guards say continual supervision would be needed to stem the violence.

"The dorms are where most of the sexual assaults take place," said a guard who works in a dorm unit but asked not to be named for fear of harassment by the administration. "I've been bothered by this for years. It's a horrible system. We really can't monitor them on the 11 to 7 shift."

From patient to victim

MacLeish calls the dorms "an ideal opportunity for the experienced convicts to prey on the more vulnerable (civil) patients."

"It's really a horrible thing to have at Bridgewater," social worker Campbell said.

Charles Gaughan, who was superintendent when the hospital opened in 1974, said the designers hoped the dorm rooms would lead to a "collegial atmosphere." Other clinicians say the dorms are helpful to the mentally ill because they can become depressed and suicidal if they spend too

"The dorm room question has b[illegible]lebated for a long time," said D[illegible]obert Fein. He oversaw c[illegible]al care at Bridgwater for nine years and is now director of forensic care for the Department of Mental Health.

At other maximum security facilities, prisoners sleep alone in separate cells as a security measure. State officials have said repeatedly that the patients at Bridgewater are the state's most dangerous men, but they allow them to sleep in dorms.

Mudd

Asked why this is so, Human Services Undersecretary John Mudd said, "That's a question we'll be reviewing."

Several factors make it particularly difficult to control the violence at Bridgewater. Some patients are serving life sentences and are not deterred by the prospect of facing more time for a robbery. Others are so irrational that the threat of punishment has no effect.

And even family members say they don't know whether to believe the stories they hear, so the job of convincing a jury or even a guard that a crime occurred is extremely difficult.

Marilyn Louraine, for example, said her son told her he has seen guards beat up patients.

"But how can I quote that as a truth?" she asked. "He says he saw it, but I don't know. I really don't know about Peter."

MacLeish said he expected to find evidence that guards abused patients, but was surprised to find it was uncommon. The larger problem, he said, is violence by patients attacking other patients.

That's the type of violence that can escape detection because the victims fear retribution and do not report it.

"They're scared to say anything," Perry said. "And a lot of them, their mental ability is so bad they just don't have the ability to tell us."

Lack of follow-up

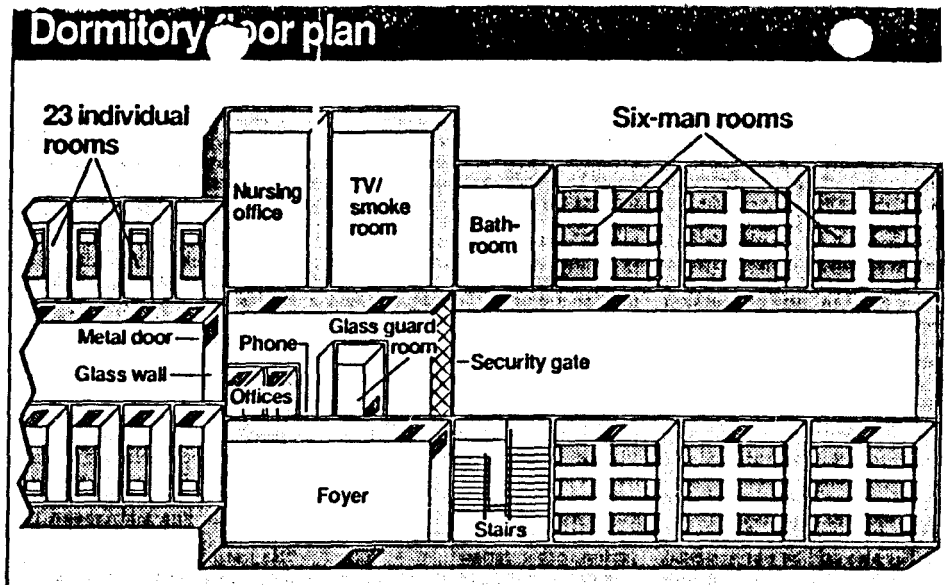
Perry and several other guards also fault the hospital's administration for largely ignoring the violence, even when an attacker is caught red-handed. In an affidavit he submitted last month for MacLeish's lawsuit against the state, Perry told of catching a strong-arm robber with items belonging to other patients. He thought he had the case wrapped up, but administrators never pursued it, he said.

"The guy was back in the yard strong-arming again," Perry said. "They should have prosecuted him. It would have set a good tone. It would have said that we're not going to tolerate this. But they just turn a deaf ear to it. They don't care."

Superintendent Gerard Boyle did not return repeated phone calls to his office to discuss the violence. He also refused to allow interviews with patients at the hospital, saying it would disrupt their care.

Charles Correia, the director of security, said he brings charges whenever possible. More often, he said, offenders are put in a more secure living unit within the hospital for a few days.

"Violence isn't tolerated at all," he said.



This is a representation of one of six dormitory floor plans. Layout approximates the unit and is not to scale.

Bob Monahan/The Patriot Ledger

3 facilities make up Bridgewater

BRIDGEWATER — Bridgewater State Hospital is one of three facilities that make up the Massachusetts Correctional Institution at Bridgewater. The other two are:

- The Treatment Center for Sexually Dangerous Men. Run by the Department of Mental Health, with security provided by the Department of Correction, the center houses 262 inmates convicted of sexual crimes.
- The Addiction Center. With a mixture of voluntary admissions and court referrals, the center has 384 alcohol and drug addicts under its care. The Department of Public Health and the Department of Correction share responsibility for their treatment.

Also on the same 1,450-acre site, but run under separate administrations, are:

- Southeastern Correction Center. A medium security prison, it has 662 inmates.
- Old Colony Correctional Center. Recently opened, this medium security prison has only 59 inmates so far, but is taking in new prisoners at the rate of about 10 a week. It is designed to hold 259 inmates.

EXHIBIT 3
DATE 2-14-89
HB 473

Non-criminal mentally ill dumped in prison

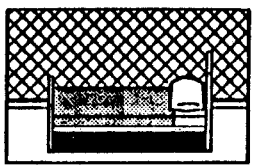
Second of three parts.

By Thomas Moran
The Patriot Ledger

BRIDGEWATER — Scotty Duff had committed no crime, but he arrived at Bridgewater State Hospital with his hands and feet in chains. In a dingy hallway smelling of urine, he was stripped naked and searched, then put into a cement cell with a mattress on the floor and a bucket that served as his toilet.

"He's being punished because he's mentally ill," said his mother, Mildred Duff. "He may be sick for the rest of his life. But we treat dogs better than that. He needs to be treated with dignity and respect, not to be locked up in that dungeon."

Inside Bridgewater



Patients or prisoners?

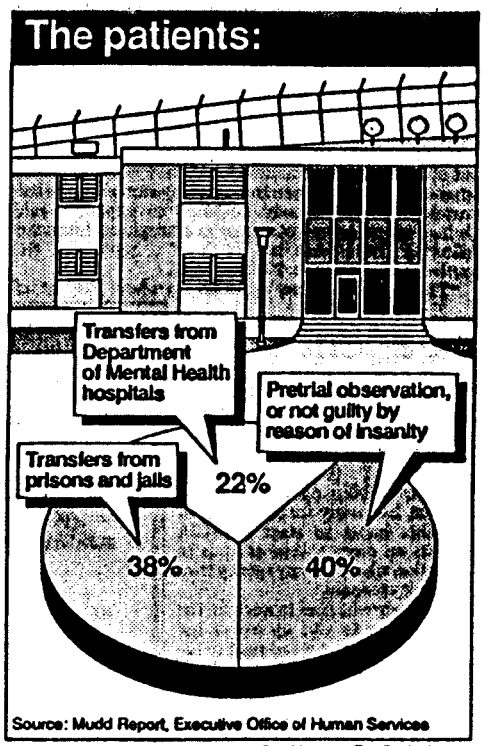
Of all the failures at Bridgewater State Hospital, the one that angers critics and embarrasses the Dukakis administration the most is the practice of putting people like Scotty Duff into a prison. A 34-year-old schizophrenic, Duff was transferred from a state mental hospital to Bridgewater on his doctor's orders the night after he became violent. Unlike the seven hospitals run by the state Department of Mental Health, Bridgewater is considered a prison and is run by the Department of Correction.

Critics say this transfer process deprives the mentally ill of the stringent protections against imprisonment the rest of us enjoy, leaving them exposed to the hazards of prison life, robbed of whatever care they had been receiving.

Massachusetts is the only state to put non-criminals in the prison system, and the Legislature is considering two bills that would put a halt to it. The Dukakis administration says it has a five-year plan to end the practice, but many critics and family members are skeptical — they worry that the effort will stall once the political spotlight turns elsewhere.

"This is a moral disgrace," said Eric MacLeish, an attorney suing the state over conditions there. "Most people go to jail when they're convicted of a crime. But in Massachusetts, you can go to jail for being mentally ill. Their rights are being completely violated."

Please see PATIENTS — Page 15



■ PATIENTS

Continued from Page 1

The non-criminal patients make up about one-quarter of the 400 patients at Bridgewater. They are sent there after becoming violent at one of the state hospitals, usually after striking out at staff members or other patients there.

The root problem, critics and state officials say, is that the state has no facility where a hospital program is complemented by tougher security. That gap means a state mental hospital patient who strikes a staffer can wind up in chains at Bridgewater, alongside serial killers and rapists.

"A lot of times, our clinicians think a patient really doesn't need to be here, but where is he supposed to go?" said Dr. Wesley Profit, head of forensic care at Bridgewater. "He winds up here by default, and that isn't quite right."

Problem with transfers

The patients who are transferred from state hospitals may have no criminal charges pending against them, but some are very dangerous and some have served time for violent crimes in the past. One man, for example, went to a state mental hospital after he finished serving a sentence for hijacking a plane. He became violent there, and was transferred to Bridgewater as a non-criminal patient.

Guards say some of the patients they fear most are those who are transferred from mental hospitals, because they tend to strike out for no apparent reason. One patient, for example, would attack guards one day and be friendly the next. Finally, they discovered that the paper cup the guards were handing him to wash down his medicine had a pattern that this man saw as a crucifix. Seeing himself as an anti-Christ, he went berserk when that side of the cup faced him. Now, they give him his medicine in a transparent cup and he's gentle as a lamb.

That's a success story, of sorts, but in most cases these unprovoked attacks remain a mystery, inspired by delusions that are known to the patient alone.

But most of the non-criminal patients are the victims of attacks, not the aggressors, according to family members, some guards and some social workers. Typically, they say, these patients are more docile and less organized than others at Bridgewater.

"I've got 14 DMH transfers on my unit, and I don't think any of them are assaultive," said guard Raymond Perry. "Mental Health dumps too many people here they should be treating themselves."

That's a complaint many family members share. They have read about the understaffing, the violence, and the five deaths at the hospital during the last year, and they find it

EXHIBIT 3
DATE 2-14-89
HB 473

hard to believe that a state like Massachusetts could heap such punishment on sick people.

"How could they put my brother Shawn in there?" asked Dan O'Sullivan, 27, of Yarmouth. "He was a nice kid from Winchester who had a nervous breakdown. Now's he's traumatized for life. He'll always have scars from this."

The Department of Mental Health says it carefully reviews all cases to make sure only those needing strict security go to Bridgewater. Privacy rights, administrators say, prevent them from discussing individual cases.

Aftermath of accident

Shawn O'Sullivan's problems began nine years ago when he crashed his car and went through the windshield. His close-knit family saw his behavior become erratic, and one day he had a breakdown and ran naked through his hometown. He was admitted to a state hospital, was transferred to Bridgewater shortly afterward for assaulting staff members, and has been back and forth several times since, his family says. He is now the lead plaintiff in MacLeish's suit against the state.

O'Sullivan, according to his brother and mother, gets worse every month he spends at Bridgewater. When they visit, he is often severely bruised but won't tell them how it occurred.

"I come out of there in tears," Dan O'Sullivan said. "He's really scared. And they've got him so zinged out on drugs, he even walks differently now."

The smaller indignities that result from prison regulations grate on the families, too. Duff remembers bringing her son a Christmas pie, but prison rules barred her from giving it to him. She has been unable to see her son for months at a time because he has been in solitary confinement and would not consent to see her.

"That's just his disease speaking," Duff said. "I just want to look through that hole in the door and say 'Scotty, we love you. Don't give up. We know you're there.'

"But I can't tell him that. The state of Massachusetts deprives me of saying that to my son, and he's committed no crime."

The Department of Mental Health, by contrast, has no specific rules on visiting patients in solitary. It's an issue that rarely comes up because department uses the practice far less often than Bridgewater does.

Started as poorhouse

Bridgewater was started as a poorhouse for families and was transferred to the Department of Correction in the early 1900s. It has had non-criminal inmates as far back as any of the people debating the issue can remember.

"That goes way, way back," said Arthur Rosenberg, an attorney for McLean Hospital who served on a state commission 20 years ago that reviewed and revised the system for transferring non-criminal patients.

But to end the transfers, the state would have had to build another secure facility. Rosenberg said the commission felt that would have touched off a political battle over funding and siting, a battle that might have endangered other reforms.

Twenty years later, the process is under review again. Now, a patient who becomes violent at a mental hospital receives immediate counseling and is put into isolation, if necessary, to try to improve his behavior. If that does not work, senior clinicians review the case to see if the stricter security at Bridgewater is necessary. In 1986, staff members asked that 411 patients be transferred, but the internal reviews reduced that number to 99.

Once the patient is sent to Bridgewater, clinicians must convince a visiting judge from Brockton District Court that the patient needs such a secure environment to prevent "the likelihood of serious harm" to himself or others. But those hearings are usually one-sided affairs. None of last year's 99 transfers was turned away from Bridgewater.

"Not very often have I had much in the way of testimony from the patients or from a clinician he's hired," said Judge David E. Stevens, who hears cases there. "In 99 percent of the cases, the only testimony we have is from the (state) clinicians."

The initial decision is reviewed by the court after six months and again each 12 months thereafter.

Critics say each of the seven state hospitals has a different standard, so a patient's fate depends in part on luck. They say that the Department of Mental Health uses the transfer process as a way to get rid of its most difficult patients.

"There is really no consistency," said Steven Schwartz, an attorney for a transfer patient who died earlier this year. "It depends on the hospital, the unit and how crowded it is, and most of all on the doctor.

"What is it that gets you to Bridgewater? Is it hitting someone one time, or 20 times? Well, there are cases where people go there for striking out once."

Who should run it?

The Department of Correction has received most of the criticism for conditions at Bridgewater. But mental health Commissioner Ned Murphy accepts part of the blame, saying that the transfer process is faulty, though it is improving.

"We in DMH own a large part of this problem," he told a Legislative committee. "There have been abuses."

Some legislators and advocates want to let the Department of Mental Health run Bridgewater because it has more experience and expertise in caring for the mentally ill. A bill to transfer control is in committee now, and Senate Ways and Means Chairman Patricia McGovern, D-Lawrence, said she will consider pushing for that change soon.


Murphy

"It's not simply changing the name on the door," said Robert Webber of the Mental Health Legal Advisors Committee, an independent office funded by the Supreme Judicial Court. "The mental health workers (at DMH) chose this profession and are part of a trained mental health team. At Bridgewater, the day-to-day people the patients see are corrections officers. Their training, inclination, and desire when they accepted the job was to be a correction officer."

The Dukakis administration opposes a switch to the Department of Mental Health, at least for now, because it says the change would distract and demoralize the staff just as conditions are starting to improve. But Human Services Secretary Philip Johnston said he might consider the move in a few years.

Cost of care

The administration's plan is to build some secure beds at state mental hospitals so violent non-criminal patients will not have to go to Bridgewater. That will take between three and five years, according to the Department of Mental Health.

In the meantime, the pipeline from a state hospital to Bridgwater remains open. Justified or not, it means that when a patient is transferred, his care and quality of life drop dramatically.

The Department of Mental Health spends about $50,000 a year per patient, more than twice the $24,000 spent by Bridgewater, despite Bridgewater's more strict security needs. When the department builds its secure units, it will spend $72,000 per patient, according to early estimates.

The extra money means the state mental hospitals have three times Bridgewater's clinical staff per patient. Violence is less common, recreational and vocational programs are in greater abundance, and some patients have brightly lit rooms with windows and curtains instead of dreary cell-like rooms at Bridgewater.

That's why the families of the patients want the transfer process to end.

"Scotty is in agony," Mildred Duff said. "Try to imagine being awake in the middle of a nightmare. That's what these boys are going through."

EXHIBIT 3
DATE 2-14-8
HB 473

Hope springs from tragedy

New allies bring funding, reforms to neglected state hospital

Last of series

By Thomas Moran
The Patriot Ledger

BRIDGEWATER — In the last six months, a remarkable turnaround has occurred in the political fortunes of Bridgewater State Hospital.

For decades, the hospital has been starved of funds and no one made a great fuss. Legislators resisted spending money on the prison system, few advocates pushed for change, and when the state poured millions of dollars into revamping state hospitals and prisons, Bridgewater was left behind.


Mudd

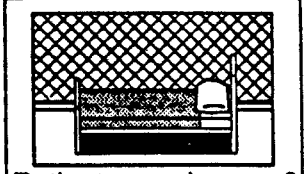
"It just fell between the cracks," said Human Services Undersecretary John Mudd. "It's clear there's never been a constituency for them."

But now, the political landscape has dramatically changed and historic improvements are in the works. That's the view shared by the Dukakis administration, legislators and advocacy groups.

"There's never been a better time than now, and there probably never will be again," said Eric MacLeish, an attorney who is suing the state over conditions at the hospital. "There's no question we have a window of opportunity now, and I want to take advantage of it."

The Dukakis administration has asked for money to nearly double the staff at the hospital this year, the first move in an effort to turn Bridgewater from a prison into a hospital. A legislative committee recently voted to give Dukakis all he asked for, then added $700,000 more for other improvements. And a pending suit filed by patients might force more changes.

Inside Bridgewater



Patients or prisoners?

It's an exciting time for the families of patients there, some of whom have been urging changes for years and suddenly find themselves with new and effective allies.

Linda Diaz, whose brother Joseph was one of five patients to die at the hospital this year, sits through court hearings and testifies before legislative committees, knowing it is too late to help her brother.

"This could give Joe's death some purpose," she said. "I'm going to try to help Joe by helping these others."

Please see CHANGES — Page 30

■ CHANGES

Continued from Page 1

But what sparked this turnaround? First on the list has to be the string of five deaths, at least three by suicide, that started 11 months ago.

"The deaths, I think, jolted us," Mudd said.

Mudd began an investigation, conditions at Bridgewater were thrust into the political spotlight, and the reform movement began to gain momentum. But the deaths did not, by themselves, turn the tide. Reformers inside state government and advocates outside it offered these other reasons:

- Dukakis' presidential campaign may have speeded the administration's efforts. National media, including ABC News' *Nightline* and *The New York Times*, are covering the problems at Bridgewater, and CBS News' *60 Minutes* has conducted preliminary interviews.

"The governor is campaigning on the Massachusetts success story," MacLeish said. "There have been some shocking reminders that there's no success story here if you're mentally ill. Certainly, it's a nightmare if you're mentally ill at Bridgewater."

- Families of the patients have become politically active, and lobby groups for the mentally ill are turning their attention to Bridgewater for the first time.

The Alliance for the Mentally Ill, a lobbying group, did not throw itself behind the reform movement at Bridgewater until this summer, when families of Bridgewater patients began joining up. Now, the alliance is calling for more funds and an end to the practice of mixing criminal and civil patients.

"It comes down to citizen action," said Geoffrey Brahmer, the group's executive director. "It's the long term I'm most concerned about. This is where our organization has to play a role."

- A lawsuit over conditions at Bridgewater has forced the state to strengthen measures aimed at preventing suicides. The suit's next phase will challenge care there more broadly in hopes of forcing wider improvements.

Filed by MacLeish on behalf of two patients there, the suit's effect is disputed. Family members and several advocates believe the suit is vital, but state officials say it has been a nuisance.

"It's been a distraction," Mudd said. "We had started our work before the suit."

Gradual changes

The administration began making modest changes at Bridgewater at least two years ago, before the deaths began. The number of patients began to drop from 520 to its current level of about 400, and the number of guards was increased from 200 to 225.

After the five patients died, the administration added six new clinical staff positions and boosted the operating budget from $9 million last year to $10 million at the start of this year.

These measures changed the ratio of patients to clinical staff from 16:1 to 12:1 over the last three years — an improvement, but still far short of the staffing at hospitals run by the Department of Mental Health.

Most of the advocates pushing for change, as well as active family members and some of the hospital's staff, say that the Dukakis administration has only reluctantly agreed to the more drastic changes it recently proposed. They say that his administration, through Secretary of Human Service Philip Johnston, agreed to make changes only after the courts and Legislature forced its hand.

"I wouldn't call Johnston an ally. He just tries to act like one," Linda Diaz said. "It looks to me like they're concerned with politics more than anything else. When you have someone in Bridgewater, you learn not to trust anyone."

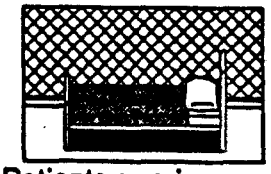
Others are angry that men had to die before Johnston proposed the


Susan Walsh/The Patriot Ledger

Linda Diaz holds a photo album with pictures of her brother, Joseph, who

EXHIBIT 3
DATE 2-14-89
HB 473

Inside Bridgewater

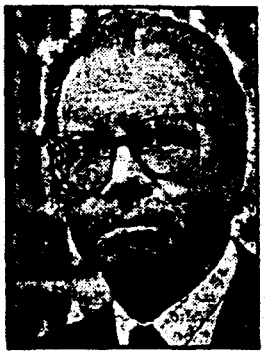


Patients or prisoners?

This is the last in a three part series describing:

The outlook for change at the institution after the political turmoil caused by five deaths at the hospital in less than a year.

(Human Services Undersecretary John) Mudd began an investigation, conditions at Bridgewater were thrust into the political spotlight, and the reform movement began to gain momentum.



"He knew about this before," said Robert Webber of the Mental Health Legal Advisors Committee. "Five people died before he asked for the money."

The administration says it has taken the lead, and a look at the summer's events makes it hard to determine who is right.

Johnston

Johnston asked for $500,000 in August to increase anti-suicide measures, but the request came after a judge ruled that procedures in place were inadequate. Johnston later asked the Legislature for $1.7 million more to increase staff, but critics say that was because House Ways and Means Chairman Richard Voke, D-Chelsea, said the $500,000 figure was "woefully inadequate."

In both cases, the administration says it had been working on its own requests independently and was not reacting to outside pressures.

Changes come slowly

Inside the hospital, some newly hired guards have reported for work, but so far little has changed. Just as when the film *Titicut Follies* was released 20 years ago, patients waste away the hours milling around the courtyard in prison blues, smoking cigarettes, while others sleep with their jackets wrapped around their heads.

Inside, a common room has about 40 people in it, and 30 of them are lying on benches, staring into space or trying to sleep. Some play basketball in a gym, and a few are in a nearby art class, but most remain idle. There just is not enough staff to keep them busy.

"It's horrible," said Dr. Wesley Profit, director of forensic care. "At an acute care facility, you want patients busy all the time. Time is an enemy because it produces boredom, and boredom produces stress. That's not clinically good."

Lack of space is another problem. The hospital was built in 1974 for 320 patients and has 400. Rooms intended for therapy are used as bedrooms. Janitors' closets are used as therapy rooms. And finding a place for group therapy is a challenge even for the most determined staff members.

"You're traipsing around with eight people behind you looking for a room," said Mary Campbell, the chief social worker.

But the worst problem is the shortage of clinical staff, including nurses, social workers, psychologists and psychiatrists. One nurse who had a degree in counseling said she had to cancel sessions because the shortage of nurses — considered the most severe of all — forced her to spend her whole shift passing out medication. Another nurse said in a court affidavit that the hospital sometimes has only one nurse on the overnight shift for all 400 patients.

The administration's strategy is aimed at bringing care at Bridgewater up to the level of care at the seven state hospitals run by the Department of Mental Health. It would do that by cutting the number of patients to about 320 and hiring new staff to improve therapy, recreation and vocational training.

"It's pretty clear, once we have the money, what we need to do," Profit said. "The more resources we have, the better job we'll do."

Some of the staff members seem almost as anxious to revamp the hospital as the families of patients. But many staffers who have been speaking to the press and filing court affidavits fear that they will be harassed for doing so, and one nurse has filed a complaint with the Labor Relations Commmission charging wrongful dismissal which she claims resulted from her repeated complaints about the nursing shortage.

"If it wasn't for the people who were prepared to step forward and tell the truth about this, we'd be nowhere," MacLeish said.

Now, despite the turbulence, there is a glimmer of optimism at the hospital and an eagerness to get on with the improvements. Many of the patients will always need care, but clinicians believe they will be able to begin making a difference.

"I've worked with the chronically mentally ill almost my entire life, and it's my experience that there's hope for everyone," said Dr. Robert Fein. He is director of forensic care for the Department of Mental Health and helped chart the administration's course.

"Exceptionally few people are not able to move significantly to be able to take care of themselves, develop better relationships with people, and evoke their sympathy — things the rest of us depend on to survive."

MHLP
MENTAL HEALTH
LAW PROJECT

EXHIBIT 1
DATE 2-14-89
HB 473

TESTIMONY OF SUSAN STEFAN
ON H.B. 473
BEFORE THE HOUSE JUDICIARY COMMITTEE

My name is Susan Stefan, and I am a staff attorney for the Mental Health Law Project. The Mental Health Law Project is a non-profit organization which represents persons with mental disabilities through policy advocacy, litigation, and legislative advocacy on the state and national levels. Often the Mental Health Law Project combines these approaches, as in the case of education for handicapped children: MHLP brought Mills v. Board of Education, one of the two lawsuits which moved Congress to consider legislation on behalf of handicapped children. The Mental Health Law Project then went on to play a major role in helping to draft and work for the passage of P.L. 94-142, the Education for All Handicapped Children Act. Our primary goal is to expand opportunities for mentally disabled persons, and to ensure that their rights are not ignored simply because their suffering is so often unseen.

The bill before the Committee would (1) forbid placing voluntary and civilly committed individuals in Montana State Hospital's Forensic Unit; (2) require restrictions of patients' movements on hospital grounds to be based on individual assessments, and (3) allow competent patients to permit their photographs to be taken.

The Forensic Unit at Montana State Hospital is the unit where psychiatric evaluations of defendants under criminal charges takes place. It is a maximum security unit designed to prevent such individuals from escaping. The building where evaluees such as Shawn Clawson and Terry Langford have been housed must necessarily be prison-like to protect against escape; the Forensic Unit was built with these concerns in mind. The Forensic Unit should not house patients who came to a hospital for treatment. To be housed in as restrictive and prison-like a setting as the Forensic Unit is profoundly harmful and anti-therapeutic for these patients and sends mixed messages to staff, who are expected to warily guard sociopaths while sympathetically treating seriously mentally ill patients.

The practice of keeping voluntary and civilly committed patients in the Forensic Unit is being challenged in the lawsuit Ihler v. South. We believe that we will succeed in this challenge. As early as 1971, courts noted that "[t]he consensus among the psychiatrists testifying for the plaintiffs, who were well qualified in the opinion of the court as experts, was to the effect that it is unnecessary to have special maximum security facilities for civil patients; [and] that confinement in a

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EXHIBIT 4
DATE 2-14-89
HB 473

maximum security institution is adverse to rehabilitation," Dixon v. Attorney General of Commonwealth of Pennsylvania 325 F.Supp. 966, 970 (M.D.Pa. 1971).

The Department of Institutions may claim that the civil patients confined in the Forensic Unit are aggressive. This is certainly not true in all cases; one patient in the Forensic Unit is confined to a wheelchair. Many civilly committed patients can be aggressive: one of the reasons for commitment to Warm Springs is if a person is suffering from a mental disorder which has resulted in physical injury to others or the imminent threat thereof. Montana Code Ann., §53-102-15 (1988). This is a reason to be committed to the hospital for treatment, not to a Forensic Unit where many evaluees are found not to be mentally ill at all, but sociopaths who simply enjoy violence. In another case, a court held that even mentally ill civil patients who were considered dangerous and assaultive could not be transferred to a facility which was intended primarily for mentally ill persons charged with or convicted of a crime. Kesselbrenner v. Anonymous, 350 N.Y.S.2d 889 (N.Y.App. 1973). The consensus of forensic psychiatrists is clear to this day: "the use of forensic hospitals should be limited to treating persons who are either criminal defendants or offenders." Heller, Erlich and Lester, "A Consultant's Survey of the Patients in a Maximum Security Hospital," 31 Journal of Forensic Sciences 1429 (October 1986).

If you pass this legislation now, it may well save the state thousands of dollars in legal expenses for extensive trial preparation and court time, as well as attorney's fees for plaintiffs. More importantly, it will ensure that civilly committed and voluntary patients in Montana receive treatment for their illness in a hospital rather than a maximum security prison-like setting.

The two other sections of this bill ensure that treatment personnel will have the final say in determining the extent to which an individual patient's movements should be restricted for his or her own benefit, and to permit patients who are competent and do not have guardians to give permission for their photographs to be taken, if they should so desire. These changes represent definite improvements for the patients at Warm Springs, but they do not have the same fundamental importance as the guarantee that voluntary and civilly committed patients will not be housed in the Forensic Unit.

Several weeks ago, this Committee heard testimony on a bill which would prevent mentally ill individuals from being held in jails. The Committee reported this bill favorably. Many of the same principles underlying that bill support this bill as well:

EXHIBIT 4
DATE 2-14-89
HB 473

the shame and confusion of mentally ill people over being held in a jail or prison-like setting, and the anger of their relatives that a sick son or daughter is being held in the same place as people under criminal charges or convicted of a crime. Both these bills go far towards ensuring appropriate treatment for mentally ill people. I urge you to report this bill favorably.

EXHIBIT 5
DATE 2-14-89
HB 473

HB-473 testimony as proponent (kwd)

RICHARD N. TRAYNHAM, PH.D.
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CLINICAL OFFICE:
111 SOUTH TRACY AVENUE

ADMINISTRATIVE OFFICE:
504 WEST HENDERSON STREET

13 February 1989

TO: David Brown, Chairman and members
House of Representatives Judiciary Committee

RE: House Bill 473, "An act to clarify the rights of patients committed to the Montana State Hospital..."

I would like to present testimony for an amended form of the above bill. However, because of short notice and several emergency situations, I am unable to appear in person and would like to have my following testimony presented for consideration of this important change in the treatment laws of our state.

I worked at Montana State Hospital, Warm Springs Campus from 1976 through 1979 in a variety of professional positions and have worked as a consultant to the Mental Disabilities Board of Visitors since that time. I am well aware of the conditions at the hospital from the role of an outside consultant. I feel the need to address both the concerns for the patients committed there through civil commitments and the staff in the "trenches" at the facility.

The attempt to define the mission of the Forensic Unit needs to be addressed legally as there are too many cases where I have seen civil individuals transferred to this unit for behaviour control and then their re-entrance to treatment units blocked by some form of unit-wide policy. The Forensic Unit staff have stated to me on several occasions, legal as well as informal, they do not provide very much treatment to clients on their unit. The research also tends to confirm the concept that civil and criminal patients whom are mentally ill should be treated in separate locations.

At the same time, the safety of the staff in the general treatment units needs to be protected. The treatment of the behaviourally out-of-control mental patient is difficult to provide and safety is of consideration. The Special Duty Aides (SDAs) have special training and offer a valuable treatment resource for management of out-of-control situations for all patients. It would be less than effective to not be able to utilise this resource in treatment emergencies in other treatment units.

I would professionally hope that this bill would be amended to assure that civilly committed patients would be able to be adequately treated in out-of-control situations as well as maintain their living status separate from the criminally mentally ill. I am aware that there is a change in treatment programmes being requested within the hospital to create a management treatment unit under the authority of the Extended Treatment Unit. I would hope that any change in status of the Forensic Unit would be written to assure treatment for both criminal and civil involuntary treatment patients.

Sincerely,

R. (Dick) N. Traynham, Ph.D.
Clinical Psychologist
504 West Henderson Street
Bozeman, MT 59715-61143

2/14/89

EXHIBITS WERE MISNUMBERED. THERE IS NO EXHIBIT # 6 FOR THIS DAY.

EXHIBIT 7
DATE 2-14-89
HB 473

Testimony

Archie W. McPhail Jr., Against House Bill 473

1. The approach of house bill 473 is anti-therapeutic and simplistic. Merely taking combative patients off of the new Forensic Unit does not mean they will be transferred to a least restrictive environment, nor does it mean they will get the therapeutic help they need.

a. Treatment programs outside the Forensic Unit are not designed to manage the highly violent, disruptive, dangerous and assaultive patient.

b. There would be an ~~increaded~~ increased need for restraints and seclusion on the other Hospital Units.

c. With the addition of violent patients the Staff couldnot provide a safe environment and create a treatment climate where a patient can practice new approaches to problems and have corrective emotional experiences. When a ward becomes emotionally charged because of dangerous patients the other patients cannot get the help they needs to change their psychopathology.

2. There are insufficient vacancies to house the forensic patients that would have to be transferred.

a. Serious over crowding would result in esculating behavior by the patients.

b. Lack of appropriate seclusion rooms and longer patient stays in seclusion rooms.

3. The new forensic treatment facility was specifically designed and equipped to provide treatment to the most serious behavior that those patients manifest.

a. To deprive those patients of treatment offered on that facility would be inhumane. What did you build that 6 million dollar facility for if it wasn't to treat the patients who are unmanageable except in a secure intensive treatment program which is offered in Forensic.

b. All patients have a right to sound and effective treatment which is geared to reducing the amount of time patients need to be hospitalized and reducing the number of patients who need to return to the hospital

c. Also, all patients have a right to care and treatment in a safe environment.

4. This bill would seriously impact the safety of both staff and patients and would no doubt increase liability and worker's compensation costs.

5. The mentally ill patient who is seriously dangerous to self and/or others has the right to protection in a secure environment and they demand this or act out non-verbally to get this specialized treatment.

6. Furthermore, filling the two major treatment units to capacity would result in inability to transfer patients from the Intake Unit who could benefit from the treatment offered.

7. Admissons may, and probably would have to be denied.

8. The possibility would exist for many inappropriate early discharges.

EXHIBIT 8
DATE 2-14-89
HB 499

H.B. 499

Summary.

The Department of Livestock supports this legislation. We have not had the problem in Montana that other states and areas have witnessed. We have a close working relationship with our state's 15 auction markets.

However, a custodial account is a trust of sorts in that only four transactions are allowed to pass thru this account.

1.) Proceeds from the sale of the animal.
2.) Check written by the auction to pay the seller.
3.) Check or withdrawal by the auction to withhold cost of sale and
4.) The auction may withdraw interest accumulated.

EXHIBIT 9
DATE 2-14-89
HB 499

MONTANA FARM BUREAU FEDERATION
502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

BILL # HB 499 ; TESTIMONY BY: Lorna Frank

DATE Feb. 14, 1989 ; SUPPORT Yes ; OPPOSE _____

Mr. Chairman, members of the committee, for the record my name is Lorna Frank, representing 3600 Montana Farm Bureau members.

Farm Bureau members support HB 499 as they feel anyone tampering with the proceeds or custodial funds of livestock, grains or any other agricultural products and convicted should be considered guilty of a felony.

We urge this committee to pass HB 499 to give farmers and ranchers in Montana the protection provided in this bill

SIGNED: Lorna Frank

EXHIBIT 10
DATE 2-14-89
HB 534

DEPARTMENT OF FAMILY SERVICES

STAN STEPHENS, GOVERNOR

(406) 444-5900

STATE OF MONTANA

P.O. BOX 8005
HELENA, MONTANA 59604

TO: Dave Brown, Chairman
House Judiciary

FROM: Dave Bennetts
Juvenile Compact Administrator

RE: Support for H.B. 534

DATE; February 13, 1989

The Department of Family Services, Juvenile Compact Unit, supports H.B. 534. We believe that when a youth commits the crime of delinquency in this state, while a resident of another, he should be prosecuted. This ammendment allows for a less complicated procedure geared toward protecting the youths rights. These rights might be jeporadized under the more cumbersome adult proceeding of the Uniformed Extradition Act.

The proposed bill meets all standards established by the National Organization of Interstate Compact Administrators. It only binds states that have adopted the policy and clearly states that the youth be charged with being a delinquent. It further provides a legal court of competent jurisdiction.

db/le

db/55

Intra-campus MEMORANDUM

EXHIBIT 11
DATE 2-14-89
HB 548

UNIVERSITY OF MONTANA

DATE: January 23, 1989

TO: Representative Bob Hoffman

FROM: Lawrence LaFountain, U of M School of Law

SUBJECT: Criminal Trespass Laws in Western States Laws

The trespass laws and penalties in the nine western states surveyed all vary to some degree. But trespass is generally treated as a misdemeanor in all the states, though Colorado classifies some trespasses as petty offenses; and trespass to an occupied structure, a home, is a felony in Arizona, Colorado, and North Dakota.

The corresponding penalties are set by statute based on the classification given the trespass. For instance, if the trespass is classified as a Class C misdemeanor in Texas, the penalty is simply a fine of up to $200, but if it is classified as a Class A misdemeanor, the penalty is a sentence of up to a year in prison and/or a fine of up to $2,000. Simply put, the classification of the trespass determines the limits of the penalty that can be assessed against the trespasser.

Generally, the classification is based upon the seriousness of the trespass in relation to other trespasses and other types of crime. For instance, trespass on to land is not generally as serious as trespass into a home. Thus the former will be classified as a lesser misdemeanor or even a petty offense, and the latter will be classified as a higher misdemeanor, or even as a low-level felony. Similarly, a trespass is less serious than an assault with a deadly weapon so will be classified as a less serious offense and receive a less severe penalty.

The range of penalties imposed by statute of course varies according to the classification system used. Montana generally classifies crimes as either misdemeanors or as felonies. Other states like North Dakota and Texas subdivide misdemeanors and felonies into different classes. Colorado even creates a third type of offense, a petty offense which is of a less serious nature than misdemeanors. The larger the number of classifications the wider the variation in possible penalties and of course the fewer classifications, the less variation in possible penalties. The result is, in Montana where there are only misdemeanors and felonies, that most less serious crimes such as trespass will be classified as misdemeanors rather than felonies and receive the standard penalty of not more than six months in jail and/or a fine of not more than $500.

This is because the law generally recognizes crimes against property, e.g., trespass, as less serious than crimes against persons, e.g., assault. The crimes against property are less seriously punished than crimes against persons. However, lawmakers have also considered the fact that some offenses against property, such as trespass to a home, are simply a step toward committing another crime. In such cases in Montana, the trespass becomes a burglary which is a felony, and the offender is faced with a potentially severe penalty. But otherwise, trespass is a misdemeanor carrying the penalty of not more than six months in jail and/or a fine of not more than $500.

However, this can be changed by the legislators. Though crimes are only classified as misdemeanors and felonies in Montana, unlike some other states, Montana does not tie its classifications to certain set penalties according to statute. In Montana, any

EXHIBIT 11
DATE 2-14-89
HB 548

individual crime can be given its own unique penalty. So the legislature could increase or decrease the penalty for trespass if it thought this appropriate and leave the misdemeanor classification intact. A crime only becomes a felony when the penalty includes the possibility of imprisonment in the state prison.

Type of Trespass and Penalty Maximums

	Unfenced Land	Unfenced Agricultural Land	Fenced Land-Commercial	Fenced Agricultural Land	Non-residential Structures	Fenced Residential Land	Residential Structures
Montana	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500	Misdemeanor 6 mo./$500
Arizona	Class 3 Mis. 1 mo./$500	Class 3 Mis. 1 mo./$500	Class 2 Mis. 4 mo./$750	Class 3 Mis. 1 mo./$500	Class 2 Mis. 4 mo./$750	Class 1 Mis. 6 mo./$1000	Class 6 Fel. 18 mo./ $150,000
California	Mis. 6 mo./$1000	Mis. 6 mo./$1000	Mis. 6 mo./$1000	Mis. 6 mo./$1000	Mis. 6 mo./$1000	Mis. 6 mo./$1000	
Colorado	Class 1 P.O. 6 mo./$500	Class 3 Mis. 6 mo./$750	Class 3 Mis. 6 mo./$750	Class 2 Mis. 1 yr./$1000	Class 3 Mis. 6 mo.$750	Class 3 Mis. 6 mo./$750	Class 5 Fel. 4 yrs./ $100,000
Idaho	Mis. 6 mo./$300	Mis. 6 mo./$300	Mis. 6 mo./$300	Mis. 6 mo./$300	Mis. 6 mo./$300	Mis. 6 mo./$300	Mis. 6 mo./$300
No. Dakota	Class B Mis. 1 mo./$500	Class B Mis. 1 mo./$500	Class A Mis. 1 yr./$1000	Class B Mis. 1 mo./$500	Class A Mis. 1 yr./$1000	Class A Mis. 1 yr./$1000	Class C Fel. 5 yr./$5000
Texas	Class C Mis. $200	Class C Mis. $200	Class C Mis. $200	Class C Mis. $200	Class C Mis. $200	Class C Mis. $200	Class A Mis. 1 yr/$2000
Washington	Mis. 3 mo./$1000	Mis. 3 mo./$1000	Mis. 3 mo./$1000	Mis. 3 mo./$1000	Gross Mis. 1 yr./$5000	Mis. 3 mo./$1000	Gross Mis. 1 yr./$5000
Wyoming	Mis. 6 mo./$750	Mis. 6 mo./$750	Mis. 6 mo./$750	Mis. 6 mo./$750	Mis. 6 mo./$750	Mis. 6 mo./$750	Mis. 6 mo./$750

Mis. - Misdemeanor
Fel. - Felony
P.O. - Petty Offense

MONTANA POWER COMPANY

GENERAL OFFICES: 40 EAST BROADWAY, BUTTE, MONTANA 59701 • TELEPHONE (406) 723-5421

EXHIBIT 12
DATE 2-14-89
HB 548

HOUSE BILL 548

The Montana Power Company supports HB 548 as a measure intended to deter trespass and vandalism.

As the recent cold wave proved, loss of electric and gas utility service - whether caused by the weather or someone shooting out line insulators - can very quickly create life threatening situations for people dependent on that service.

Also, and obviously, much of our property contains high voltage electrical lines and equipment which can seriously injure people unfamiliar with them.

We hope passage of HB 548 will provide a reminder to people of the criminal - and physical - hazards of trespass, and at the same time deter acts of vandalism that could threaten the users of our services.

EXHIBIT 13
DATE 2-14-89
HB 528

Montana Magistrates Association

14 February 1989

Testimony offered in support of HB528, a bill for an act entitled: "An act increasing the limits of coverage required under a motor vehicle liability insurance policy; requiring underinsured motorist coverage; requiring proof of liability insurance to be shown to register a motor vehicle."

Given by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The Montana Magistrates Association favors this proposed legislation, especially the provision found on page 8, line 2, under which a person applying to register his vehicle would have to show proof of compliance with liability insurance coverage at the time of application for registration. The Magistrates Association feels this would reduce the number of violations of this statute and would thus reduce the workload in the limited jurisdiction courts.

We urge your passage of this measure.

Wallace A. Jewell

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 504 DATE FEB. 14, 1989

SPONSOR REP. DAILY

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
John Connor	Dept. of Justice Mt. County Attys Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 473 DATE FEB. 14, 1989

SPONSOR REP. BRADLEY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Archie W. McPhail	Warm Springs		X
Dan Evans	Helena		X
John Van Hagel, Ph.D.	Clancy		X
M. Smith	Anaconda	X	
John Thorson	Montana Mental Health Assn	✓	
Tom Posey	Alliance for the Mentally Ill	X	
Mary Gallagher	Anaconda	X	
Curt Chisholm	~~Dept~~ Institutions		X
Steve Waldron	Mental Health Centers Helena		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 499 DATE FEB. 14, 1989

SPONSOR REP. GIACOMETTO

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Les Graham	Dept. of Livestock	✓	
Jerry Jack	MT Stockgrowers	✓	
Curtis Franke	Farm Bureau	✓	
Dalene Lasson	Farm Bureau (Helena)	✓	
Carol Mosher	Mt. Cattle Women	✓	
Kim Einkerud	State Grazing Dist.	✓	
Marvin Barber	A.P.A.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 534 DATE FEB. 14, 1989

SPONSOR REP. SWYSGOOD

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dave Bennett	Intermtn Compact Adm Jefferson County	✓	
Tom Scott	Dillon, Mt	✓	
Steve Nelsen	Board of Crime control	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 548 DATE FEB. 14, 1989

SPONSOR REP. HOFFMAN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kim Emkerud	Wool Growers, Grazing Dist. Farm Bureau Mt Stockgrower, Cattlewoman	X	
Lorna Frank	Farm Bureau	X	
Valyce Lawson	Farm Bureau Women	X	
Carol Mosher	Mt. Cattle Women	X	
Mike Pichette	Mt. Power Co	X	
Marvin Borlon	A. P. A.	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 528 DATE FEB. 14, 1989

SPONSOR REP. BOHARSKI

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Wally Jewell	MT MAG Assoc	X	
Roger McGlenn	IND Ins. Agents Assoc. of MT	X	
Bob Harrington	Mont. Court Reporters Assn	X as amended	
Michael Sherwood	MTLA	X	
Allen Chronister	State Bar	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.