

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON HUMAN SERVICES & AGING

Call to Order: By CHAIRMAN JOHN COBB, on February 8, 1993, at 8:00 A:M.

ROLL CALL

Members Present:

Rep. John Cobb, Chairman (R)
Sen. Mignon Waterman, Vice Chairman (D)
Sen. Chris Christiaens (D)
Rep. Betty Lou Kasten (R)
Sen. Tom Keating (R)
Rep. David Wanzenried (D)

Members Excused: None

Members Absent: None

Staff Present: Lisa Smith, Legislative Fiscal Analyst
Lois Steinbeck, Legislative Fiscal Analyst
Connie Huckins, Office of Budget & Program Planning
John Huth, Office of Budget & Program Planning
Billie Jean Hill, Committee Secretary

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

Committee Business Summary:

Hearing: DEPARTMENT OF FAMILY SERVICES
Executive Action: NONE

HEARING ON DEPARTMENT OF FAMILY SERVICES

Tape No. 1:Side 1

Mr. Al Davis, Administrator, Juvenile Corrections, talked about the needs of youngsters and the role of judges and parents. He explained Pine Hills School, Mountain View School, transition centers in Great Falls and Billings, their capacity and costs. He said that DFS needs community-based programs and flexibility for a community-based fund; then they can put together the best community-based programs in the country. EXHIBITS 1 AND 2

Mr. Steve Gibson, Superintendent, Pine Hills School, spoke to the federal review that they had just received and the report from the U.S. Department of Justice, Civil Rights Division. EXHIBIT 3

The civil rights of the boys are being violated, and a full-scale reform is being undertaken with the help of the federal government.

Mr. Jess Munro, Deputy Director, DFS, said he approved the demolition of cottages at Pine Hills, Lodge Grass and Crazy Horse cottages.

Mr. Bill Unger, Superintendent, Mountain View School, introduced Ms. Gale Keil, Chief of Clinical Services, and Dr. Larry Stednitz, DFS psychologist. Mr. Unger has resigned his position at Mountain View, but said that now is the first time they have seen positive direction. They also had a federal review.

Mr. Gibson said that they had two main problems with their children. Providers want youngsters who will get better and some come in who are inappropriately placed.

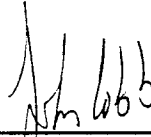
Mr. John McCrae, Montana Advocacy Group, said there are not enough dollars or services in the community for these youngsters, however, if they are in their own home, they are Medicaid eligible for community programs. They are not Medicaid eligible in institutions.

Ms. Candy Wimmer, Board of Crime Control, offered strong support for the corrections system. Community-based services are the greatest need, she said.

Mr. Richard Meeker, Chief Probation Officer, First Judicial District, said that community-based services are very important before youngsters get as far as Mountain View or Pine Hills. They have a 30-day program for a shock type program. They try to show them how to act correctly.

ADJOURNMENT

Adjournment: 10:40 A:M



JOHN COBB, Chairman



BILLIE JEAN HILL, Secretary

JC/bjh

HOUSE OF REPRESENTATIVES

HUMAN SERVICES

SUB-COMMITTEE

ROLL CALL

DATE

2-8-93

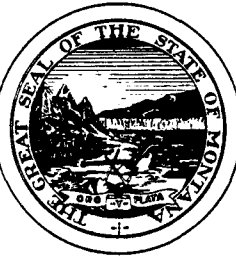
NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN COBB, CHAIRMAN	✓		
SEN. MIGNON WATERMAN, VICE CHAIR	✓		
SEN. CHRIS CHRISTIAENS	✓		
SEN. TOM KEATING	✓		
REP. BETTY LOU KASTEN	✓		
REP. DAVID WANZENRIED	✓		

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 1

DATE 2-8-93

SB _____ (406) 444-5900
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MARC RACICOT, GOVERNOR

STATE OF MONTANA

HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTOR

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HELENA, MONTANA 59604-8005

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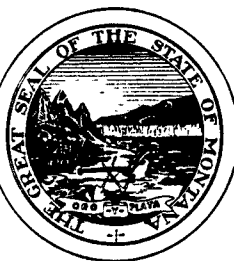
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DEPARTMENT OF FAMILY SERVICES

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STATE OF MONTANA

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HELENA, MONTANA 59604-8005

February 8, 1993

TO: Human Services Sub-Committee
FROM: Al Davis, Administrator
Juvenile Corrections Division
RE: Mission Statement And Goals

A handwritten signature in dark ink, appearing to read "Al Davis", is written over the "FROM:" line of the letterhead.

MISSION STATEMENT

The Montana Department of Family Services, Juvenile Corrections Division shall provide a continuum of supervision and rehabilitation programs which meets the needs of the youthful offender in a manner consistent with public safety. Individual treatment and control for youthful offenders for the benefit of youth and the protection of society shall receive primary focus. The Montana Juvenile Corrections Division will be operated within the framework of the following principles to accomplish this mission:

1. Provide the least restrictive and most appropriate setting for the youthful offender while adequately protecting the community.
2. Provide institutional secure-care programs only for those youth who has demonstrated a present danger to the community.
3. Provide an array of community-based programs which, whenever possible and appropriate, is offered in the close proximity to the youth's community and family.
4. Enhance community-based opportunities by insuring linkages to human service programs and community resources currently in place.
5. Hold youth accountable for their criminal behavior in a manner consistent with their individual needs.

6. Promote a realistic relationship between a youth and his/her family.
7. Assist the Youth Court in developing and implementing appropriate offender dispositions that are consistent across the state.
8. Provide for efficient and effective correctional programs within the framework of professional correctional standards, legislative intent, and available resources.
9. Promote continuing staff professionalism through the provision of educational and training opportunities.
10. Promote public awareness and participation in correctional programs.

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February 9, 1993

TO: Human Services Appropriations Sub-Committee

FROM : Al Davis, Administrator
Juvenile Corrections Administrator

RE: Juvenile Corrections Pilot Project Summary

A handwritten signature, likely of Al Davis, in dark ink.

Introduction: There is a dire need to standardize the manner in which adjudicated youth are received and treated in juvenile corrections programs. Research has revealed that there is a significant population of incarcerated youth in Montana's correctional facilities that could more appropriately be treated in community based programming. A study of one years referrals to correctional institutions has indicated that at least 30% of incarcerated youth could be programmed at the community level if adequate programs were available.

The Center for the Study of Youth Policy has provided technical assistance to Montana corrections officials in developing an instrument to determine classifications of youth who require secure-care vs those who should be considered for community placement. The instrument was developed recognizing the following:

- the placement decision needs to balance treatment with public safety.
- Any reduction in reliance on secure care in Montana must be paired with an increase in the number of alternatives available in each jurisdiction.
- the instrument can only be used as a guideline and the option for "override" and judicial discretion in sentencing needs to prevail.
- the instrument does not predict re-offense potential
- an adequate "needs" assessment needs to accompany the instrument results.

- continual review of instrument results is demanded in order to validate a Montana flavor.

Recognizing that much work needs to be done involving system change the Department has elected to implement a pilot project to field test the placement instrument and develop a classification review. The districts agreeing to participate in the project are; Missoula, Libby, Kalispell, Helena, Bozeman, and Great Falls. Approximately 50% of current referrals evolve from these districts.

Youth Court Involvement: The Department of Family Services, Division of Corrections needs to insure that all components of the juvenile justice system are involved in decision making regarding placement and treatment of adjudicated youth. As design efforts are developed special attention has been given to those components.

The Youth Court probation officers are especially influential in the success of any system modifications. Care has been given to allow optimal influence from that component.

- The president of the Montana Probation Officers Association is a member of the task force reviewing system design moves.
- Cross-training with probation has occurred related to the utilization of a classification model.
- Ongoing meetings have occurred between corrections officials and probation officers.
- Scheduled meetings with probation officers in the pilot region are planned to insure ongoing monitoring of system change activity.

Judicial Involvement: Any success realized from reform efforts will demand ongoing support from the district judges in the State of Montana. It is important to understand that district judges need to be kept closely involved in any system changes and to have influence on any decision making.

Involvement with the district judges is being insured by the following:

- A synopsis of the general direction being considered by the Division of Corrections was presented to the District Judges at the spring District Judges conference in May of 1992.

- A District Judge is a member of the task force reviewing corrections reform which has met on three occasions to date.
- District Judges from the districts in the pilot region were invited to a training session in November to discuss the placement guideline and receive guidance from a nationally recognized circuit judge from the National Judges Counsel. (funded by the Center for the Development of Youth Policy - key decision makers grant)
- District Judges from the pilot project districts are invited to a meeting with judges and other professionals from other states to review reform movement in March. (funded by the Center for the Development of Youth Policy - key decision makers grant)
- A meeting with District Judges (and Chief Probation Officers) from the pilot district is scheduled for May of 1993 to review activity taking place in the pilot districts. (funded by the Key Decision Makers Grant.
- A presentation and training symposium is planned for all District Judges, Chief Probation Officers and Corrections staff to review system reform and look at full state implementation of the placement guideline shortly there-after.
- Ongoing awareness with the District Judges will be an ongoing emphasis.

Pilot Project Procedure: Each youth who ordinarily would have been considered for commitment to a correctional facility will be reviewed by a team to determine the most appropriate placement option. The team will consist of representation from the Department as well as the youth court. During this review the following information will be gathered:

- Placement guideline recommendations.
- Needs assessment information (Strategies for Juvenile Supervision)
- Financial profile information.
- Risk assessment.

The availability of this information will allow the youth court probation officer the opportunity to present the Youth Court Judge with a recommendation regarding the disposition of each

youth as well as anticipated treatment response.

The results of this project should indicate valid support for the number of secure-care beds needed in the state of Montana as well as identifying community-based services that need to be enhanced or developed.

Other System Changes Resulting From Reform Movement: Existing services effected by a modified system approach involve the following:

Mountain View School - Mountain View School would be converted to a shorter term 0 - 90 day treatment program for youngsters not in need of long-term care. This program would allow time for the development of community-based options.

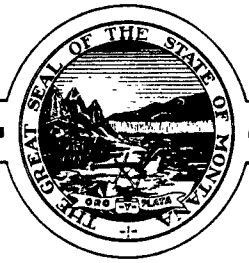
Aftercare - The role of the seven regionally placed aftercare workers would be converted to a case-manager responsibility.

YEP and Billings Transition Center - The program in these two facilities would be developed in response to out-of-home placement of youth needing response less restrictive than that in Mountain View School.

DEPARTMENT OF FAMILY SERVICES

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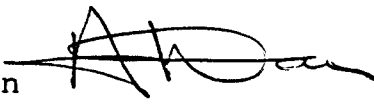
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STATE OF MONTANA

HANK HUDSON, DIRECTOR
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HELENA, MONTANA 59604-8005

February 8, 1993

TO: Human Services Appropriations Sub-Committee

FROM: Al Davis, Administrator,
Juvenile Corrections Division 

RE: Establishing Capacity Levels for Institutions

An evaluation of the juvenile corrections system in the State of Montana suggests that appropriate community-based programs are lacking for youngsters with needs not requiring secure-care placement. It is the intent of the Juvenile Corrections Division to immediately begin to develop those options.

Establishing capacities for institutional populations has been considered throughout the years in an effort to deal with problems related to institutional overcrowding. Current studies, however, suggest that overcrowding could be impacted more effectively through better initial classification and redirecting low-risk offenders to alternative placements. It is felt that until such time that these options are developed, that providing a cap on the correctional facilities would be pre-mature.

States that have established institution capacities through legislation have simply shifted the problem to another area. Utah, for example, although maintaining appropriate populations in their secure-care facilities are experiencing serious overcrowding and waiting lists in their detention facilities.

North Dakota, on the other hand, considered establishing capacities for their state training school but found that it wasn't necessary due to the shift to community-based corrections programming.

It is the Department's recommendation that we establish our capacities without legislation at this time and adhere to those recommended levels through creative community-based program development. Throughout the next biennium a determination should be made as to the impact of the departments efforts. It would seem reasonable at that time to pursue the establishment of a cap if necessary.

DEPARTMENT OF FAMILY SERVICES EXHIBIT 2 1

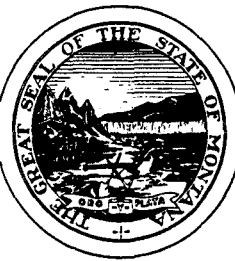
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MARC RACICOT, GOVERNOR

STATE OF MONTANA

HANK HUDSON, DIRECTOR
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HELENA, MONTANA 59604-8005TO: Human Services Sub-Committee
1993

January 21,

Department of Family Services

FROM: Al Davis, Administrator
Juvenile Corrections Division

A handwritten signature in dark ink, appearing to read "Al Davis".

SUBJECT: Juvenile Corrections Division Overview

JUVENILE CORRECTIONS DIVISION - BACKGROUND

The Juvenile Corrections Division, Department of Family Services was established as a division in July of 1991. Historically, various components of the department's correctional programs had been evaluated, and provided for on an individual program basis. In order to take full advantage of all aspects of juvenile corrections programs, there was dire need to examine corrections as a system rather than individual programs. Collaboration with the various established programs was demanded in order to pursue a true continuum of services and best utilize existing resources.

Montana's Youth Courts refer approximately 400 youth to the Juvenile Corrections Division (JCD) each year. All referred youngsters are adjudicated juvenile delinquents who need services beyond those youth probation officers can provide. The JCD is responsible for institutional care and community-based aftercare or parole services for adjudicated delinquents.

Currently, the Juvenile Corrections Division has two state office staff and provides the following programs:

• **Pine Hills School:** an 80-bed secure facility that provides clinical, academic/vocational and residential care services.

Staff: 118

Annual Budget: \$4.2 million

The Pine Hills campus was established in the late 1800's. With the exception of two boys lodges, (Sundance - constructed in 1980 and Range Rider - constructed in 1982) all buildings being utilized are approximately 50 years old - some dating back to the early 1900's. The age of the campus, as well as the site plan (spread over some 65 acres), make the facility an expensive and difficult program to manage.

Currently only 4 lodges are appropriate for inhabitation restricting the manageable population to 80 residents.

A lack of other opportunities for youth evolving from the Youth Court leads to a history of overpopulation and an extremely varied population. These concerns have led to legitimate criticizing from a variety of outside inspectors. These investigations include Montana Legal Services, Department of Justice (Civil Rights Division), the San Francisco Youth Law Center, and the Montana Advocacy Program. Although law-suits have not been filed by any of these groups, careful observation is prevailing to ascertain that efforts are being made to correct deficiencies.

- **Mountain View School:** a 57-bed, medium security, residential care facility that provides clinical, academic, vocational and direct care services.
Staff: 68 Annual Budget: \$2.2 million

Mountain View was established in the early 1920's and occupies a campus consisting of some 20 acres. With the exception of one cottage, (built in the 1950's) all living units are the original structures. Historically, the facility has housed only female adjudicated delinquents and maintained an average daily population of about 50 residents. Six months ago adjudicated boys were introduced to the facility as a result of overcrowding at Pine Hills School.

The age and construction of the institution's living units has drawn criticism from outside investigators. Fire/safety concerns are a major issue of concern at this time and the design of the old cottages makes program supervision difficult.

A recent investigation conducted by the United States Department of Justice revealed many issues that need to be dealt with in order to bring the facility and program up to acceptable standards. Receipt of that report is still pending.

- **Billings Transition Center:** an eight-bed residential care home that provides short term residential care for youth preparing to return to their homes after commitment to a state correctional institution.
Staff: 5 Annual Budget: \$165,791

The Transition Center was introduced in 1990 to provide a program for difficult to place youth from Pine Hills School. The intent of the program was to provide life-skills training while slowly reducing the level of supervision. The program is in a state leased

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the problem of increased incarceration demand. New beds made available are immediately filled and additional needs are continually required.

Option #2 - Shift Significant Response to Community Base For Appropriate Youth: It is recognized that a significant number of youngsters being housed in secure-care facilities can more appropriately be dealt with at the community level. This can only occur if local opportunities prevail to respond to identified needs.

A community based emphasis for youth in the corrections system allows that secure-care beds be reserved for only those who truly need that environment. Program structure and other interventions can more appropriately be developed and designed to accommodate those high-risk youngsters.

It has been determined that short-term cost savings from a community based corrections emphasis is not realized. It has further been determined that public safety is not jeopardized by this approach. Long term savings are anticipated through the impact on the adult corrections system and brick and mortar costs associated with maintaining large, expensive secure-care facilities.

PROPOSED OPTION:

It is proposed that the option of choice be a system as described in option #2. An examination of that option suggests major enhancement of the quality of response, as well as a long term investment benefit.

Throughout the past year The Center for the Study of Youth Policy, a nationally recognized consulting group, has worked closely with division staff in examining the Montana juvenile corrections system throughout the past year. Montana is one of nine states the Center has elected to provide ongoing assistance in an effort to enhance the juvenile corrections system. Through a received grant from the American Correctional Association, technical assistance has been made available to assist Montana in the development of community based options. The emphasis is on a Private-Sector-Partnership emphasis.

Current studies have revealed that approximately 40% of youth committed to Pine Hills and Mountain View School could more appropriately be treated in a community based program. It is further suggested that this could occur without increasing a concern for public safety. Research suggests that the State of Montana has a need for approximately 80 secure-care beds. This can occur only if major attention is directed toward program

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opportunity development in the community.

Pilot Project: In order to determine a means of determining who appropriately demands secure-care bed placement from those that could function in an appropriate community program, a placement guideline instrument has been developed. This objective means of classifying youth will be utilized prior to Youth Court on all youth being considered for commitment to the Division of Corrections.

It is the intention of the Juvenile Corrections Division to test the placement guideline in a pilot project prior to considering full State implementation. Six judicial districts have agreed to participate in the six month pilot project. The participating districts are:

MISSOULA	4TH JUDICIAL DISTRICT
GREAT FALLS	8TH JUDICIAL DISTRICT
BOZEMAN	18TH JUDICIAL DISTRICT
KALISPELL	11TH JUDICIAL DISTRICT
LIBBY	20TH JUDICIAL DISTRICT
HELENA	1ST JUDICIAL DISTRICT

Testing of the guideline in this project will allow adjustments to be made to the instrument before full state implementation be considered. (July, 1993 - tentative)

With the modified means of dealing with court referred youth, existing juvenile corrections programs will be modified to react to youth treatment demands. This will involve the conversion of the Mountain View School program to a short-term staff-secure facility, the Youth Evaluation Program and Transition Center to community bed options, and the Aftercare (Parole Officers) to Case Managers charged with the responsibility of monitoring community placed youth.

Recognizing that funding of community programs is an issue, major effort must be devoted toward taking full advantage of as many alternative funding sources as possible. Collaboration with existing programs to insure that full advantage is being taken of available options is demanded. Finally, the redistribution of existing resources (including funding) will result.

The modified request for \$500,000 for the biennium is intended to respond to those critical needs identified by the United States Justice Department. Many of those concerns were physical concerns related to old lodge facilities being utilized at Pine Hills School. The emphasis to respond to those concerns is to reduce the populations of the facility so that it is not necessary to use those buildings. In order to accomplish this goal, funding will be necessary to support alternative placements for youngsters who ordinarily would have been placed in the correctional facility.

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CLOSE:

Montana must modify the manner in which adjudicated delinquents are provided for in our corrections system. In order for this to occur, corrections programs must be viewed as a system rather than independent components. Short-term cost savings will not be realized through the proposed reform movement but should be experienced in the future.

Proceeding with the described direction should respond to concerns of potential litigators as well as intensify the quality of service delivery to youngsters.

DEPARTMENT OF FAMILY SERVICES

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JUVENILE SENTENCING SYSTEMS IN THE UNITED STATES

A snapshot of juvenile sentencing practices in the United States that focuses on the extent of judges' authority after commitment and the amount of determinacy in periods of confinement shows that the stay in custody for most juveniles is indeterminate in length. It reveals that the executive branch authorities have discretionary authority to make most of the decisions in placement, treatment, and length-of-stay matters. The following state descriptions summarize national current practice.

Legend:

Extent of Judges' Authority

Class 1 - Little or no authority
Class 2 - Mixed
Class 3 - Total authority

Amount Of Determinacy

Class A - none
Class B - mixed
Class C - total

JURISDICTION

ALABAMA - Judge has authority to order a particular placement when committing to agency, but this occurs infrequently. Agency evaluates and if disagrees attempts to negotiate with judge. Terms are indeterminate. Agency has release review committee that can discharge at any time, or request court to provide aftercare. (Classification - 2A)

ALASKA - Judge commits to agency. No authority to order to specific program or facility, but recommendations are considered. Indeterminate length of stay with commitment not to exceed two years. Agency makes release decision. (Classification - 1A)

ARIZONA - No authority to order treatment or placement, but can make recommendations. Judge retains authority to recall a commitment. Determinate terms, in that duration is established at the beginning of incarceration based on guidelines, but agency makes final release decision. (Classification 1B)

ARKANSAS - No authority of Judge to order specific plan. Agency

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within 30 days prepares treatment plan containing anticipated length of stay and post-commitment needs and submits to court. Indeterminate stays. Agency has discretion in release decisions. (Classification 1A)

CALIFORNIA - Judge has no authority to determine facility, program, or release, except order can be vacated under certain conditions. Agency encourages input from judges, but viewed as recommendations. Indeterminate stay. Parole board sets parole consideration date, which may be changed, and makes final release decision.

COLORADO - Judge has no authority in treatment decisions, but can recommend, which agency finds helpful. Prosecution decides whether to seek mandatory or non-mandatory sentence. Non-mandatory serves 4-12 months. Aggravated provision requires 30 - 60 months. Guidelines add some determinacy to process. Community placements are screened by local board. Parole board releases. (Classification 1B)

CONNECTICUT - Judge can order specific treatment and make direct placements. Court personnel work with Department to develop treatment plan to present to judge. Indeterminate stays, with maximums. Agency has authority to parole or discharge, but some juveniles are eligible to return to their communities only after 6 months. (Classification - 2B)

DELAWARE - Agency has discretion in placement and treatment decisions. Judges recommend and agency attempts to accommodate. Indeterminate length of stay. Second felony in a year allows judge to set six month minimum. Agency classification team decides to release to aftercare. (Classification 1A)

KENTUCKY - Judge has little authority. Agency has jurisdiction in placement care, and treatment issues. Terms are indeterminate. Agency has release authority. (Classification 1A)

LOUISIANA - Once judge commits juvenile, agency determines level of care and custody. The commitment order establishes the maximum length of stay. Agency may reassign to progressively more or less restrictive setting based upon offender progress. (Classification - 2B)

MAINE - No separate juvenile system. Judge has no authority to order treatment, but can place in juvenile facility if conditions in law are met. Judge has persuasive power in treatment decisions. Indeterminate terms. Cases are reviewed at least once per year until discharge. Review must describe services provided, certify that services recommended are available, and that plan is least restrictive alternative. (Classification - 2A)

MARYLAND - Judge has broad discretion in determining

decision made by superintendent. (Classification - 2A)

MASSACHUSETTS - Prior to adjudication, judge has considerable resources and treatment authority. After adjudication, agency makes placement and treatment decisions, but judge can make recommendations. Agency can order release under supervision at any time. (Classification - 1A)

MICHIGAN - Judge does not have authority to order a specific placement or treatment, but often does. Agency views as recommendations and will appeal if disagrees. Stay is indeterminate, but judge has release authority. Judge can release without recommendation of agency, or can turn down agency's release recommendation (Classification 1B)

MINNESOTA - After commitment, agency has discretion except that judge can order restitution, which becomes part of treatment plan. Length of stay is indeterminate to age 19. Correctional agency makes parole decision, but releases guidelines add determinacy to process. (Classification 1A)

MISSISSIPPI - Judge has range of options before commitment, which is to a training school, but no say in treatment and release decisions. Agency personnel provide probation and aftercare supervision. Indeterminate terms. Training school superintendent determines parole date. (Classification 1A)

NORTH CAROLINA - Court has range of options before commitment to agency. Institutional option is restricted to extraordinary situations where no alternative is available, but after commitment, agency has discretion. Two tracks, both indeterminate. Regular adjudication, where agency has parole discretion. Serious offender designation, where agency can reduce sentence (maximum of two years) by 25% and judge can reduce an additional 25%. (Classification 2B)

NORTH DAKOTA - Agency has discretion after commitment. Judge can place temporarily and order evaluation. Agency reports rehabilitation programs to court and informs court of disposition. Law requires court to make available all pertinent data. Length of stay is indeterminate, but cannot exceed two years. Agency makes release decision. (Classification 1A)

OHIO - Commitments only for felony offenses. Law provides for six or twelve month minimum in most cases, but judge can release early and often does. Judge also can rescind commitment., but authority not often used. After minimums, agency has discretionary authority to release. Institutions and regional parole have to concur in decision. Judges make recommendations and agency tries to accommodate. Agency has implemented release guidelines, which add considerable determinacy. (Classification 2B)

NEW HAMPSHIRE - Judge makes decisions. Agency has little or no

discretion in treatment and classification matters. Term is indeterminate. Agency has internal parole board and recommends parole on a case by case basis. (Classification 3A)

NEW MEXICO - After commitment, agency determines appropriate placement, supervision and rehab program. By law, agency provides all pertinent information to court. Stay is indeterminate. Agency recommends, but parole board makes release decision. (Classification 2B)

NEW YORK - Judge has no authority to order treatments or placements in specific agency facilities, but often makes recommendations, which agency tries to follow if resources are available. Judge has authority to order initial periods of placement, but agency can request extensions. Length of stay is indefinite, but program completion criteria add measure of determinacy. (Classification 2B)

OKLAHOMA - Judge has little authority in placement, treatment, or release decisions after commitment to agency. Length of stay is indeterminate. Agency determines release date. (Classification 1A)

OREGON - Judge cannot commit to a particular residential facility, but can specify type of care. It's responsibility of corrections agency to find appropriate resource. Judge does have considerable oversight authority. Court retains wardship regardless of placement of child. Indefinite stay up to maximum allowed for adult. Agency makes release decision based upon treatment completion criteria and a parole plan. Decision is made by a committee at the institution level. (Classification - 2A)

PENNSYLVANIA - Judge orders specific placements and commitments. Probation develops referral package with options for judge to choose. Judge can stipulate a specific length of stay, but most terms are indefinite. Judge releases and court provides aftercare. (Classification 3B)

RHODE ISLAND - Judge has broad authority. Court can place a child in the custody of the agencies or institutions under the control of or approved by the department upon such terms as the court shall determine. Determinate length of stay. Judge makes release decision. (Classification 3C)

SOUTH CAROLINA - Judge can order to an institution, but anything else is beyond court's authority. Agency tries to follow recommendations. Length of stay is indeterminate. Correctional agency recommends release, but decision is made by separate juvenile parole board. (Classification 1A)

SOUTH DAKOTA - Judge can order juvenile to an adolescent facility of department of corrections. After commitment, facility staff determine services. Indeterminate stay. Release made by agency

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based on recommendation of institution administrator. Courts administer aftercare supervision. (Classification 2A)

TENNESSEE - Judge has no authority in treatment and placement decisions, but can make recommendations. Agency has discretionary decision-making authority. Two types of commitments: Indeterminate, in which agency recommends release, and if judge disagrees, goes to 3-judge panel; and determinate, (under specific conditions) where sentence is fixed, but offender can earn time off for good behavior. Agency can recommend early release. (Classification 1B)

TEXAS - No authority to specify facility, program, or treatment when committing to agency. Can make recommendations, which agency considers. Indeterminate length of stay. Agency has discretion, but release criteria add determinacy to process. Determinate sentences for a class of violent offenders. (Classification 1B)

UTAH - Judge has no authority beyond commitment, but can commit for 90 days for observation and evaluation. Judge has discretionary authority short of commitment decision. Commitment is viewed as a last resort. Correctional agency reviews history compiled by court and considers recommendations. Indeterminate stay. Youth parole board makes release decision. Probation administered by courts. Aftercare and institutions (which can contract facilities) administered by agency. (Classification 1A)

VERMONT - Judge has little authority to make placement and treatment decisions. Length of stay is indeterminate. Agency is the release decision maker. (Classification 1A)

VIRGINIA - Judge has little authority in placement, treatment, and release decisions after commitment. Commitment is seen as last resort, and can be reviewed and revised within 60 days. Indeterminate terms. Department makes release decision. If a juvenile is sixteen, a prior offender, and commits a felony, court can set time at 6 - 12 months. (Classification 1A)

WASHINGTON - No authority to specify facilities, programs, but some authority to set length of stay and add community supervision. Recommendations are part of sentencing packet considered by agency. Community supervision as part of sentence. Sentencing standards add considerable determinacy to term. Eligible for release at service of minimum, which is 80 percent of maximum. Release decision made by institution review board, with target release date established by 60 percent of minimum. (Classification 1B)

WEST VIRGINIA - Judge commits to a facility, but choices are limited, and can commit for 30 days for diagnosis and evaluation. Also, can specify certain types of treatment or education. Indeterminate stay, with maximum determined by adult penalty. Director of institutions makes release decision, but returned to

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court for further disposition. Parole abolished. Aftercare provided by probation officers. (Classification 2A)

WISCONSIN - Judge has range of local options before commitment to Division, but has no authority to mandate plan of treatment when youth are committed to the state for placement in a secured correctional institution. Judge often makes recommendations, which agency tries to accommodate. Court determines maximum stay in dispositional order, as allowed by code. Agency makes release decisions, except for youth convicted of certain serious crimes, which only the court can release early. (Classification 1B)

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DETERMINANT SENTENCING FOR JUVENILE DELINQUENTS
Most Common State Patterns

Indeterminate Period of Confinement	Indeterminate Period of Confinement Up to a Maximum period	Minimum/Maximum Sentence Set for Some or All Offenses
Alabama	Arizona	Delaware (e)
Alaska (a)	California (c)	Georgia (a)
Arkansas	Colorado (d)	Kentucky (g)
Idaho	Connecticut	Louisiana
Indiana (a) (b)	Florida (b)	Maine (h)
Kansas (a)	Hawaii	Nebraska
Massachusetts	Illinois	New Jersey
Minnesota (a)	Iowa (b) (i)	Ohio
Mississippi	Maryland	Washington (j)
Missouri (a)	Michigan	
Nevada	New Hampshire (b)	
New Mexico	New York	
Oklahoma (a)	North Carolina (b) (j)	
Rhode Island	Oregon (b)	
South Carolina (a)	North Dakota (a)	
South Dakota	Pennsylvania (a) (b)	
Tennessee (a)	Utah	
Vermont (a)	West Virginia (b)	
Virginia (a)		
Wisconsin (a)		
Wyoming (a)		

This chart describes the general sentencing practice followed by a state in confining a delinquent child in a youth corrections facility. Several states combine sentencing features from all three categories, but an attempt has been made to identify the category which best reflects the state's approach.

- (a) Courts are required to review periodically all cases of youth in confinement.
- (b) The maximum sentence may not exceed the maximum adult sentence for the same offense.
- (c) Commitments to the California Youth Authority are for two years or until a person reaches age 21, or age 25 for certain offenses.
- (d) Sentences are for a determinate period not to exceed two years but with the provision that they may be extended an additional two years.

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- (e) A minimum six-month sentence is mandated for certain repeat offenders or youth who escape from confinement.
- (f) Commitments are for an indeterminate period with court review until the age of 18. For youth 17 1/2 or older, a commitment cannot exceed the length of an adult criminal term.
- (g) A minimum six-month commitment is required with the maximum term not specified. Weekend or evening detention is limited to a maximum number of days.
- (h) Commitments to the Department of Human Services do not extend beyond 18. Commitments to the Department of Mental Health and Corrections are for an indeterminate period but not less than one year nor beyond age 21.
- (i) Maximum sentences may be reduced by up to 25% for good behavior.
- (j) The Juvenile Dispositions Standards Commission sets sentence ranges based on a point system. The court may go beyond the ranges only by following certain procedures and making specific findings.

DEPARTMENT OF FAMILY SERVICES

EXHIBIT 1

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MARC RACICOT, GOVERNOR

(406) 444-5900
FAX (406) 444-5956

STATE OF MONTANA

HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTOR

PO BOX 8005
HELENA, MONTANA 59604-8005

TO: Hank Hudson, Director
Department of Family Services

FROM: Al Davis, Administrator
Juvenile Correction Division

A handwritten signature in dark ink, appearing to read "Al Davis", written over the "FROM:" line.

RE: Questions of Sub-Committee

What is the incidence of Juvenile Sex Offenders? Where are they treated? What is the status of the current treatment strategy?

About one out of every five commitments to Pine Hills School are either referred due to the instant crime being a juvenile sex-offence or their records reveal a sex offence in their delinquent history. Currently Pine Hills School has 17 youth who are enrolled in the Juvenile Sex Offender Program.

The sex offender program was developed and implemented at Pine Hills School in 1985. Approximately 40 youngsters each year are admitted to the program. The program is a 12 phase program and requires approximately 2 years to complete. It is the only residential treatment program in the state (accept for limited beds available at Yellowstone Treatment Center) for adjudicated delinquents.

Other sex offender programs being utilized for Montana youth are private residential facilities in Utah, Idaho, and Minnesota. Most of the youth referred to those programs are those who are referred directly from youth court workers.

What is Montana's involvement with the Interstate Compact Agreement?

Montana is one of 48 states who have entered into a statutorily enforced agreement to comply with an regulations relative to sending Montana youth to other states for courtesy supervision as well as providing courtesy supervision for youth coming into the state. Conditions of supervision are governed by rules and regulation promulgated by the network of member states.

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The Department of Family Services, Division of Corrections is charged with the inter-state coordination responsibility. This population of youth includes both those who are on parole status as well as those on probation.

The following statistics have been compiled from the current files on hand:

1991 Interstate Juvenile cases closed...108

1992 Interstate Juvenile cases closed...106
Parole.....40
Probation.....66

Current active files.....120
Supervised in Montana:
Parole.....40
Probation.....29

Supervised by other states:
Parole.....19
Probation.....17

Cases pending response in Montana:
Parole.....0
Probation.....25

Cases pending response from other states:
Parole.....7
Probation.....13

What is the status of court ordered evaluations at Mountain View School and the Youth Evaluation Program in Great Falls?

The Department of Family Services began charging the counties a per-diem cost for court-ordered evaluation in July of 1992. Prior to this date, all evaluations were conducted at no cost.

Approximately 250 evaluations were completed annually each year prior to the state charging for this service. Since July of 1992 nine court-ordered evaluations have been completed at Mountain View School and none at the Youth Evaluation Program. (Pine Hills School quit providing evaluation services in July of 1991)

What is the status of the Home On The Range expansion program?

Currently 23 Montana youth are involved in the North Dakota Home On The Range program. Because of the demand to provide service to Montana youngsters, the program is considering expanding their services in this state. The original plan was to provide residential care (similar to the North Dakota program) for

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females in the community of Glendive. The target date for implementation was October of 1994.

Most recently, Home On The Range is considering developing smaller (8-bed) therapeutic group homes and foster care for appropriate female adolescents.

In an effort to divert youth from secure-care beds in Montana, it is anticipated that the Home On The Range option would be an opportunity for female delinquents that ordinarily would have been committed to Mountain View School. Although the major emphasis is to provide for youth needs in the least restrictive setting and close to home, it is anticipated that a number of youth can benefit from a specialized program such as is being considered by H.O.T.R.

DEPARTMENT OF FAMILY SERVICES

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(406) 444-5900

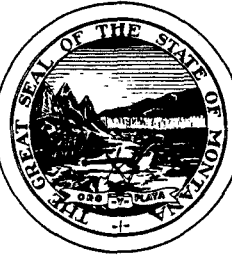
FAX (406) 444-5956

MARC RACICOT, GOVERNOR

STATE OF MONTANA

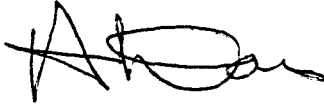
HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTOR

PO BOX 8005
HELENA, MONTANA 59604-8005



February 9, 1993

TO: Human Services Appropriations Sub-Committee

FROM: Al Davis, Administrator
Juvenile Corrections Division 

RE: Training

Training opportunities have been enhanced greatly throughout the past 15 months. The goal is to develop an ongoing training schedule that complies with the American Correctional Association recommended standards. Funding support for training is provided by the following resources:

- Federal Block Grant for Child Abuse in Correctional facilities.
- Montana Board of Crime Control Substance Abuse Grants
- Center for the Development of Youth Policy
- American Correctional Association
- National Institute of Corrections
- National College of Youth Corrections

Through the utilization of these funding sources, the following training has been provided to juvenile correctional facility staff as well as field staff:

CPR training for all institutional and residential care staff.

Suicide prevention at correctional facilities and residential care facilities.

Early Child Hood Development training for direct care staff at Pine Hills And Mountain View School's

Crisis Intervention training for direct care staff at Correctional facilities.

Security officer training at Montana Law Enforcement Academy

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for all correctional security officers.

Reality therapy training for direct care and clinical services staff at both correctional facilities.

Use of Restraint training for security personnel at correctional facilities.

36 hour certification training for cottage life attendants at Pine Hills School through Miles City Community College

Strategies for Juvenile Supervision training for clinical and direct care staff at correctional facilities, juvenile probation officers and aftercare workers.

Changing Directions training for direct care, administrative and field staff throughout the Division.

Other specific training has been provided to administrative staff through the auspices of the American Correctional Association, Center for the Development of Youth Policy and National Institute of Corrections throughout the past 12 months. Ongoing training by these organization will continue on an ongoing basis. In addition to these options, the National Counsel for Juvenile Court Judges has expressed interest in providing a training package to correctional personnel in the state of Montana.

DEPARTMENT OF FAMILY SERVICES

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STATE OF MONTANA

HANK HUDSON, DIRECTOR
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PO BOX 8005
HELENA, MONTANA 59604-8005

TO: Appropriations Committee February 1, 1993

FROM: Al Davis, Administrator
Juvenile Corrections Committee

RE: National Juvenile Corrections Budgets
(From 1991 American Corrections Association Vital
Statistics Survey)

The following budgets include major operating expenses - including salaries and administration as of June 30, 1990. Variations in different states regarding programs included in the listed budget differs based on the states system definition. For example, some states juvenile corrections budget includes juvenile probation and detention while Montana only includes the correctional facilities and community aftercare programs.

Arkansas	\$34,000,000	Arizona	\$ 19,000,000
Colorado	33,000,000	Conn.	10,000,000
Delaware	13,000,000	Florida	142,000,000
Georgia	76,000,000	Iowa	8,000,000
Kansas	15,000,000	Kentucky	21,000,000
Maryland	98,000,000	Maine	52,000,000
Mississippi	61,000,000	Missouri	17,000,000
MONTANA	7,000,000	Nevada	8,000,000
New Mexico	41,000,000	N. Dakota	10,000,000
Oregon	41,000,000	Ohio	99,000,000
Rhode Island	14,000,000	Penn.	44,000,000
Tennessee	54,000,000	S. Carol	36,000,000
Utah	21,000,000	Texas	63,000,000
Virginia	96,000,000	Vermont	36,000,000
Washington	44,000,000		

The listed budgets were rounded to the nearest million dollars. States not listed either did not have the information available or the juvenile corrections and adult systems were combined.

2 copies

DEPARTMENT OF FAMILY SERVICES

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STATE OF MONTANA

HANK HUDSON, DIRECTOR
JESSE MUNRO, DEPUTY DIRECTOR

PO BOX 8005
HELENA, MONTANA 59604-8005

TO: Human Services Appropriations Subcommittee
FROM: Al Davis, Administrator
Juvenile Corrections Division 
RE: Placement Guideline

A Placement Guideline designed to determine a means of insuring that only youth in need of secure care are referred to juvenile corrections facilities has been developed. The tool will be used in a pilot region beginning immediately to field test and modify as needed. It is hoped that full-state implementation can be considered in October of 1993.

Information on youth placed at Mountain View School (MVS) and Pine Hills School (PHS) was collected by personnel at each facility on a form developed by the Center For the Study of Youth Policy. The information was coded and entered into the computer by CSYP staff on a total of 440 youths, 125 girls and 315 boys. These youth comprised a years intake (1992) at both institutions.

In order to determine the level of seriousness of an offense committed by a youth, the Montana adult criminal code and corresponding sentencing guidelines were used. Offenses were grouped according to the maximum sentence an adult could receive for an offense placing offenses which could receive life imprisonment at the top of the seriousness ladder, and serious misdemeanors with a maximum sentence of 6 months jail time at the bottom of the criminal offenses. Other non-serious misdemeanors (sentencing guidelines of less than six months) were a separate category, as were status offenses.

OVERVIEW OF CURRENT SYSTEM

Who is being placed in Secure Care?

Almost two-thirds of the youth placed in secure facilities during the study period were coded as "White" (SEE TABLE 1). Native American youth accounted for 19%, and Hispanic youth 5%. Twelve percent of the youth were of unknown ethnic background.

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TABLE 1
ETHNIC BACKGROUND OF MONTANA YOUTH PLACED IN
SECURE FACILITIES: MARCH 1991 - MARCH 1992

ETHNIC BACKGROUND	Females		Male		Total	
	n	%	n	%	n	%
Anglo	81	66%	187	62%	268	63%
Hispanic	6	5%	16	5%	22	5%
Native Am.	32	26%	46	15%	78	18%
Not Known	4	2%	51	16%	51	12%
Total	123	29%	300	71%	423	100%

note: There were differences among male and female populations in terms of ethnicity. Native Americans made up a larger percentage of the female population than they did of the male population. Almost all cases with "unknown" ethnicity were male.

Where are the youth from?

Fifty-nine percent of all males placed at PHS came from five counties: Cascade (46), Flathead (33), Missoula (41), Silver Bow (19) and Yellowstone (39). Five counties accounted for 64% of the female placements: The rest of the counties had smaller numbers of placements ranging from one to under 12 for the males and under six for the females. (SEE TABLE 2)

TABLE 2
YOUTH PLACED IN SECURE CARE IN MONTANA BY COUNTY
March 1991 - March 1992

Female	County	Male	Female	County	Male
0	Beaverhd	5	0	Big Horn	1
0	Blaine	1	22	Carbon	13
22	Cascade	46	1	Custer	5
1	Dawson	0	3	D Lodge	9
0	Fergus	2	9	Flatd	33
5	Gallatin	7	5	Glacier	2
3	Hill	12	1	Jefferson	9
4	Lake	9	9	L & C	11
5	Lincoln	10	17	Missoula	41

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1	Muslshll	6	1	Park	3
0	Phillips	1	0	Pondera	1
5	Powell	1	7	Ravalli	8
0	Richlnd	2	0	Rsvlelt	1
1	Rosebud	3	0	Sanders	6
3	Slvr Bow	19	0	Toole	2
0	Valley	1	21	Yellowst	39

Use of Secure Care

During the time period of the study, there were four reasons for placement at PHS of MVS (SEE TABLE 3). Reasons for placement varied greatly between males and females.

TABLE 3
 REASON FOR PLACEMENT IN SECURE FACILITIES FOR
 MONTANA YOUTH. March 1991 - March 1992

	Females		Males		Total	
REASON FOR PLACEMENT						
EVALUATION	81	66%	91	30%	172	41%
RPV	0	0%	61	20%	61	14%
HOLD	0	0%	8	3%	8	2%
REGULAR COMMIT	42	34%	140	47%	182	43%
TOTAL	123	29%	300	71%	423	100%

DEVELOPMENT OF SECURE CARE GUIDELINES

Formal guidelines for the use of secure care are generally developed out of a desire to provide equitable decisions for juvenile justice youth across and within juvenile court jurisdictions. Without the use of formal guidelines decisions about who to place in secure care can vary greatly.

While most judges can agree that secure institutions should be utilized for only serious and chronic offenders, they may differ on what these terms mean. In addition, lack of alternative placement options and money to pay for alternatives, public opinion, and other factors out of the control of the youth or the

judicial process, can affect youth placement decisions across and even within judicial jurisdictions. Written guidelines objectify and process and make decisions across jurisdictions more likely to be similar.

Juvenile court judges make decisions based on many factors:

PROTECTION OF THE PUBLIC. Judges and others who make placement decisions have public safety as their primary consideration. Guidelines provide a consistent, objective method for decision makers to use in responding to public safety concerns as expressed by local residents.

NON-INCARCERATION FOR MINOR OFFENDERS. Incarceration in a secure facility should not be used as a placement option for minor offenders. Less restrictive community-based options have proven to be more effective, less costly and more consistent with the kind of consequence associated with the commission of minor offenses.

JUST DESERTS. Decisions about the use of secure care are traditionally built around the idea that youth who commit more serious offenses should pay a higher penalty than youth who commit less serious offenses. In addition, those youth who are chronic offenders, and who commit more and more serious offenses as time goes on, should also receive more restrictive placements than those whose history is less chronic or serious. Secure care guidelines provide for consistency in sentencing that is more "fair", since they take into account offending history and connect offenses to punishment considerations in an objective consistent manner.

Montana Guidelines

Montana is adopting guidelines that focus on legal factors in making decisions involving the use of secure care, separating treatment needs from actual criminal behavior. We suggest that the treatment needs of a youth, which are also tied into his/her risk of reoffending if such needs are not addressed, be taken into account after the decision is made regarding secure care.

This plan will allow non-serious/chronic offenders with high treatment needs to be supervised closely in a community setting rather than at a secure facility. It will hold a youth responsible for his/her own behavior but will but restrict their liberty for problems having nothing to do with criminal activity.

States utilizing guidelines have seen a decrease in the use of secure care and a need for an increase in the number of community based placement options. Any reduction in reliance on secure care in Montana must be paired with an increase in the number of alternatives available in each jurisdiction.

The proposed guideline follows a pattern of decision making used in Washington, Massachusetts, New Hampshire and Virginia. As in these states, Montana will use the current offense and the youth's past behavior in making decisions about whether or not to place a youth in secure care or in an alternative setting.

Finally, guidelines are just that - guidelines. The option of overrides must be available, however documentation of overrides must be maintained to be used as adjustments are made to the instrument.

Guidelines for Secure Care

For the purpose of ranking, the Montana guidelines utilize maximum sentences for adults as a measure of offense seriousness. Offenses are grouped as follows:

Violent: maximum sentences of death, life imprisonment or 40 years in prison.

Serious: all other crimes against persons with sentences of 10 or 20 year maximum.

Minor: Serious misdemeanors with sentences of less than one year but more than 10 days.

Other misdemeanors and status offenses.

Proposed guidelines are based on the following policy:

Consideration of secure care is given for only for those youth who are serious/chronic offenders, or for those youth who commit a violent offense, no matter how many other prior offenses they have committed.

Youth with the following histories will be considered serious/chronic offenders, and placement in the most secure setting should be considered:

- Youth who commit a violent offense regardless of their prior history.
- Youth who commit a serious offense and have a separate referral or adjudicated for a prior violent offense in their history.
- Youth who commit a property offense and have two or more separate referrals or adjudications for serious offenses in their past record.
- Youth who have combination of four or more separate referrals or adjudications for criminal offenses on their

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record with at least one offense being a felony.

RESULTS OF GUIDELINE APPLICATION

The guideline instrument was applied to the 419 youths described elsewhere in this report. Once again there were differences between male and female scores (SEE TABLE 4) All together, only 13 females scored high enough to qualify for secure care. Of these 13, four were probation violators who had not committed a new offense.

Based on the scores on the secure care guideline, 135 youths out of the 419 scored would have been placed at MVS or PHS during the period of this report. Ninety-nine youths would have needed some type of community placement with a level of restrictiveness below that of secure care, and 184 would have been placed in an appropriate community alternative.

TABLE 4
SECURE CARE GUIDELINE SCORES FOR YOUTH PLACED
IN MONTANA SECURE FACILITIES: MARCH 1991 - MARCH 1992

	Female		Male		Total	
	n	%	n	%	N	%
TOTAL YOUTH	123		296		419	
HIGH SCORES (12 +)	13	11%	122	41%	135	32%
Evaluation	4		15		19	
Regular Commit	9		77		86	
RPV	0		28		28	
Holds	0		2		2	
MEDIUM SCORES (8 - 11)	18	15%	81	27%	99	24%
Evaluation	7		34		41	
Regular Commit	11		34		45	
RPV	0		12		12	
Holds	0		1		1	
LOW SCORES (below 8)	91	74%	93	31%	184	44%
Evaluation	70		41		111	
Regular Commit	21		27		28	
RPV	0		12		12	
Holds	0		5		5	



U.S. Department of Justice

Civil Rights Division

EXHIBIT 3

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Office of the Assistant Attorney General

Washington, D.C. 20530

REGISTERED MAIL
RETURN RECEIPT REQUESTED

SEP 28 1992

The Honorable Stan Stephens
Governor
State of Montana
State Capitol
Helena, Montana 59620

Re: Pine Hills School for Boys

Dear Governor Stephens:

I am writing in reference to our recent investigation, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 et seq., of the Pine Hills School for Boys located in Miles City. Consistent with the requirements of the statute, the purpose of this letter is to advise you of our findings by identifying the conditions at the facility that deprive juveniles confined there of their constitutional rights, the facts supporting our determination of constitutional violations, and the necessary remedial measures to correct these violations. I regret to advise you that our investigation disclosed serious problems at the Pine Hills facility which implicate the constitutional rights of confined juveniles.

We have assessed the constitutionality of conditions at this juvenile detention facility in light of a narrow constitutional standard. Institutional administrators are granted wide discretion in the operation of the facility; only those restrictions on juveniles which do not further or are not reasonably related to the legitimate governmental objectives of rehabilitation, safety, internal order or security violate constitutional standards. Bell v. Wolfish, 441 U.S. 520, 539 (1979); see also Garv H. v. Hegstrom, 831 F.2d 1430 (9th Cir. 1987).

Based on our investigation, we have concluded that the following conditions violate the constitutional rights of juveniles confined at the Pine Hills School for Boys:

1. Security measures and supervision of juveniles are

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insufficient to protect juveniles from undue risks to their personal safety.

2. Fire safety, sanitation, and other building hazards are evident throughout the facility.

3. Mental health services are not adequate to meet the serious mental health needs of juveniles, including juveniles posing serious risks of suicide.

4. Seclusion, restraint, and certain disciplinary measures are consistently imposed in an arbitrary fashion and fail to meet constitutional standards.

5. Restrictions on access to telephone usage and writing materials likewise fail to meet constitutional requirements.

The Attachment to this letter sets forth the facts supporting the findings of constitutional violations.

Remedial measures must be taken to ensure that juveniles confined at the facility are not deprived of their constitutional rights. These measures must include, at a minimum, the following remedies:

1. Security measures and the supervision of juveniles must be improved to ensure that reasonably safe conditions of confinement are provided.

2. Fire safety, sanitation, and other building hazards must be eliminated.

3. A mental health care delivery system designed to meet the serious mental health needs of juveniles must be developed and implemented.

4. Standards for the use of seclusion, restraint, and the imposition of discipline must be revised to meet constitutional requirements. Written policies and protocols must be monitored by institutional professionals to ensure appropriate implementation.

5. Juveniles must be granted that degree of access to telephones and writing materials mandated by constitutional standards.

You may wish to contact the regional offices of the Departments of Health and Human Services and Education as well as the National Institute of Corrections and Bureau of Justice Assistance to ensure that state officials have taken full advantage of any available federal financial assistance which may be available to assist you in the correction of these

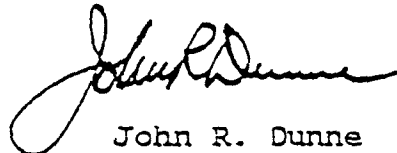
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available to assist you in the correction of these deficiencies. If we can assist you in this regard, please contact us.

We appreciate the assistance and cooperation of all State and institutional officials extended to us during the course of this investigation. My staff will contact appropriate officials in the near future to discuss this matter further. If, in the meantime, you or members of your staff have any questions, please feel free to contact Arthur E. Peabody, Jr., Chief, Special Litigation Section at (202) 514-6255.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division

Attachment

cc: The Honorable Marc Raciot
Attorney General

✓ Mr. Thomas Olsen
Director
Department of Family Services

Mr. Alan Davis
Department of Family Services
Division of Correctional Facilities

Mr. Steven Gibson
Superintendent
Pine Hill School for Boys

The Honorable Doris M. Poppler
United States Attorney
District of Montana

ATTACHEMENT
FACTS SUPPORTING FINDINGS OF CONSTITUTIONAL VIOLATIONS

Our investigation of the Pine Hill School for Boys consisted of two on-site tours by consultants in December 1991 and January 1992. Our consultants included two psychiatrists, a penologist with expertise in juvenile delinquency, a sanitarian, and a life safety expert. During these tours, we conducted extensive interviews with direct care and professional staff with a variety of responsibilities at the facility. We also reviewed numerous records and the facility's policies and procedures.

Security and Supervision

The failure of institutional administrators to employ adequate security measures and the failure of security personnel to supervise juveniles confined at the facility has subjected juveniles to harm. Staff is both insufficient to properly supervise juveniles and to maintain the facility in a manner which does not present serious security risks.

Staff with responsibilities for the operation of various lodges or buildings at the facility reported that juveniles engage in dangerous activities due to lack of supervision. For example, staff reported that juveniles engage in a dangerous activity referred to as "strobing." Several juveniles form a human chain with one person "grounding" himself against a metal object while the youth at the other end of the line of juveniles inserts a metal object into an unprotected electrical outlet. Electrical current of some dimension then runs "down the chain" and through the body of each individual juvenile.

Additionally, cleaning chemicals are not properly stored in the facility. Staff confirmed that they have discovered youths inhaling such substances in an effort to create a substance induced "high."

The need for enhanced security personnel to conduct rounds and to otherwise supervise juvenile is further heightened by the design of many structures at the facility. Our consultants noted numerous areas out of sight of staff in areas where they are routinely posted. Moreover, doors on various rooms open inward. Such doors are and have been easily barricaded by youth inside the rooms. Incident reports reflect allegations of arson, sexual misconduct, and victimization by juveniles in such areas not kept under routine surveillance by staff.

Fire Safety, Sanitation, and other Building Hazards

Fire safety, sanitation, and other building hazards are evident throughout the facility. Indeed, many of the structures comprising the facility present serious and immediate risks to juveniles confined there. Furthermore, in the view of our

consultant, a number of structures are unfit for human habitation.

Pine Hill's antiquated locking system, where each individual door must be individually unlocked for egress, exposes juveniles to grave risks in the event of fire. In addition, the facility's fire and smoke alarm system is seriously deficient. The facility's only annunciator panel which is designed to detect and identify the presence of smoke or fire is located in an abandoned, closed building. Smoke detectors in buildings occupied by juveniles are likewise seriously deficient. Fire fighting equipment is not properly maintained.

Adequate egress from buildings in the event of fire is not assured. There is no fire plan identifying the proper means of egress. In designing such a plan, institutional administrators should identify all current barriers to egress, including dead ended corridors and the availability of exits, and take appropriate steps to eliminate such barriers.

Smoke compartmentation is likewise grossly deficient. In simple terms, smoke from any fire in a building at the facility would rapidly spread throughout the entire structure absent any impediment. Missing doors, open transfer grills, and the absence of smoke partitions require attention.

Buildings also contain a number of highly flammable materials which unnecessarily contribute to fire safety risks. Mattresses and furniture containing polyurethane foam are utilized throughout the facility. When burned polyurethane produces deadly, life threatening fumes. Moreover, our fire safety consultant noted numerous other highly flammable materials throughout the various buildings composing the facility.

There is a general lack of cleanliness throughout many living areas and food service at Pine Hills is deficient. In living areas, bathroom and shower areas are especially problematic. Many such areas are in poor repair; stalls and toilets are broken, walls and floors are rotten. Various food service equipment is likewise in poor repair and unsanitary. For example, dish washing facilities consistently fail to utilize water sufficiently hot enough to kill bacteria and ensure cleanliness. Food service equipment is not clean or properly maintained and food preparation areas are not sanitary.

Our consultant found general maintenance at Pine Hills to be grossly deficient. Broken glass windows and unrepaired boarded up windows were noted in various structures. Floors, walls, and ceiling show serious damage. Indeed, such deficiencies in the Crazy Horse and Lewis and Clark Lodges are so severe that our consultant determined them to be unfit for human habitation. While we understand that these buildings are presently closed, major renovations are necessary if state administrators determine

to re-open the buildings for use by juveniles, an issue discussed with our consultants during their tours.

Mental Health Care

Pine Hills provides grossly inadequate mental health services to juveniles with serious mental health needs. Deficiencies include insufficient psychiatric services, deficient nursing coverage, and misuse of psychotropic medications.

All mental health and medical services at Pine Hills are supervised by a non-psychiatrist, general practice physician with insufficient expertise in the field of psychiatry. Moreover, he spends only one hour per week at the facility. In such a little period of time, he can do little more than give routine review to medication prescriptions. In addition, our consultants found that nursing coverage is likewise inadequate. Those few nurses on duty also have no training in psychiatric nursing. With youths who present the risk of suicide, exhibit other self-destructive behavior, including self mutilation, such psychiatric coverage is clearly inadequate. Indeed, professional mental health resources are so limited that facility administrators indicated that they are unable to identify, assess, and treat the serious mental health problems of juveniles.

The use of psychotropic medications at the facility represents a substantial departure from generally accepted standards for the use of such medication. A review of records of some youths on psychotropic medications revealed no diagnosis to justify the use of such medication. Others failed to identify target symptoms for which the drug was prescribed, a procedure generally accepted within the medical profession. Further, at least one drug, lithium, has been prescribed on an extensive basis to juveniles for general disruptive behavior. The use of lithium on this basis represents a substantial departure from generally accepted medical practice. Finally, psychotropic drugs administered on an emergency basis are not followed up by any medical examination by a physician.

Our consultants indicated that the risk of suicide by juveniles at Pine Hills is especially high. A combination of lack of professional resources coupled with a hazardous environment which freely presents both the opportunity for unobserved activity and objects, e.g., broken glass, exposed pipes, which can be used in a lethal manner explain this risk. Unfortunately, this view has been confirmed both by suicides and suicide attempts at Pine Hills.

Misuse of Seclusion Arbitrary Imposition of Discipline

The use of seclusion and isolation as a form of discipline is arbitrary and indiscriminate. Staff impose both seclusion and isolation in their personal discretion and often do not fill out required documentation or obtain supervisory approval prior to

taking such actions. As a result, youths are isolated in an arbitrary manner absent appropriate monitoring or review by institutional officials. Due to lack of appropriate documentation, it is difficult to accurately assess the number of juveniles secluded or isolated or the periods of time they remain separated from others. To the extent that such information is recorded on incident reports maintained by the facility, a review of these records indicates that many juveniles remain isolated or in seclusion long after they have brought their behavior back under control. Juveniles interviewed reported being kept in lockdown status for extended periods of time incompatible with accepted clinical practice. Moreover, there is no documentation recording the monitoring of the status of juveniles while isolated or secluded. While the facility's policy appears to incorporate both isolation and seclusion into a behavior modification program, this program, as administered at the facility, fails to meet any known professional standard. Certainly, staff have not been trained to employ these behavior modifying techniques properly.

Significantly, a review of records indicates that youths exhibiting self-destructive and potentially suicidal behaviors have been secluded, absent appropriate monitoring by professional staff. This practice is unacceptable.

In sum, our consultant who reviewed the use of both seclusion and isolation at Pine Hills found their use to be wholly unacceptable. Indeed, he characterized the use of seclusion and isolation at the facility as "heinous."

Restrictions on Access to Telephones and Writing Materials

Pine Hills arbitrarily limits access by youth to one incoming and one outgoing telephone call per month. Calls attempted by youth to their counsel are often denied. Access to writing materials is arbitrarily limited to three sheets of paper per week. These practices, especially the denial of calls to an attorney, appear to represent unusually harsh restrictions for which there is no justification. In view of the fact that many of these youth are hundreds of miles away from family, friends and counsel, policies with respect to telephone calls and letters merit reexamination.

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