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Law and Justice Interim Committee

60th Montana Legislature

MINUTES

October 1, 2007

Room 137, State Capitol
Helena, Montana

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

SEN. CAROL SEN. JUNEAU
SEN. JESSE LASLOVICH
SEN. DANIEL MCGEE
SEN. JIM SHOCKLEY

REP. SHANNON AUGARE
REP. BOB EBINGER
REP. KRAYTON KERNS
REP. DEBORAH KOTTEL
REP. TOM MCGILLVRAY
REP. RON STOKER

COMMITTEE MEMBERS ABSENT/EXCUSED

SEN. LARRY JENT
SEN. GARY PERRY

STAFF PRESENT

SHERI HEFFELFINGER, Lead Staff
VALENCIA LANE, Staff Attorney
DAWN FIELD, Secretary

AGENDA & VISITORS' LIST

Agenda, Attachment #1.
Visitors' list, Attachment #2.

COMMITTEE ACTION

The Law and Justice Committee approved the July 13, 2007, meeting minutes as written.

CALL TO ORDER AND ROLL CALL / APPROVAL OF MINUTES

00:00:01 SEN. MCGEE called the Law and Justice Interim Committee (LJIC) to order at 8:14 a.m.. The secretary noted the roll, SEN. JENT and SEN. PERRY were excused (ATTACHMENT #3). The July 13, 2007, meeting minutes were approved as written on a unanimous voice vote.

STAFF OVERVIEW OF MEETING OBJECTIVES

00:01:44 Ms. Heffelfinger explained how the panel presentations would be made and noted that Deb Matteucci would act as moderator for the day. Ms. Heffelfinger asked that Committee members use the *Stay On Course* handout (EXHIBIT #1) as a guide for the meeting and explained the sequential intercept approach. Ms. Heffelfinger said that a short biography of each speaker along with contact information was provided to the members (EXHIBIT #2).

00:06:46 SEN. MCGEE announced that the next LJIC meeting, scheduled for November 8 and 9, 2007, has been changed to November 9 and November 30. The Committee will meet in Butte on November 9 and in Helena on November 30.

DR. POLLY PETERSON, Ph.D., PSYCHOLOGIST

00:07:22 **Dr. Polly Peterson, Psychologist, Anaconda, Montana,** gave a Power Point presentation titled *"OVERVIEW OF MENTAL ILLNESS: DEFINITIONS AND DIAGNOSIS"* (EXHIBIT #3). Her discussion of mental illness included:

- the objectives of her presentation;
- the complexity of and difficulty in defining "mental illness";
- use of the term "mental illness" versus "mental disorders";
- common terms and acronyms used when dealing with mental disorders;
- a categorical approach to diagnosing mental disorders;
- an explanation of the *Diagnostic and Statistical Manual - Fourth Addition* (DSM - IV), which is the standard manual used for diagnosing mental disorders in the United States;
- a detailed explanation of the multi-axial assessment system;
- DSM-IV diagnostic groups; and
- manifestations of mental disorders.

Dr. Peterson gave her closing remarks and asked for committee questions.

00:36:00 REP. KERNS said he is perplexed by the 8-fold increase in the number of pages of the DSM-IV and speculated that either the population is developing disorders at a much higher rate than in the past or people are being over-diagnosed. Dr. Peterson said that assessment tools and techniques have become more sophisticated and allow for greater clarity of differences between disorders. She attributed the increase to the normal process of evolution as well other factors, and said that the increase is a subject of some controversy.

00:38:27 REP. MCGILLVRAY asked about drug use and what effect drug use may have on mental disorders, for instance, the impact of marijuana use on schizophrenia. Dr. Peterson said there is no question that drug use and abuse affects mental illness and can trigger mental illness that may not have occurred otherwise.

00:39:52 SEN. MCGEE asked for clarification regarding the difference between a mental disorder versus a mental illness. Dr. Peterson said that the term "illness" is an overarching and more general term. SEN. MCGEE asked if there should be an "SMD" (severe mental disorder) instead of an SMI (severe mental illness). Dr. Peterson said that for consistency's sake, perhaps that should be done.)

00:41:18 **Joyce DeCunzo, Addictive and Mental Disorders Division (AMDD), Department of Public Health and Human Services (DPHHS),** said Montana's definitions of mental illness and mental disorders are not nearly as encompassing as those discussed by Dr. Peterson. She said the current SDMI definition used by DPHHS was defined in part as a function of decreases of funding. Ms. DeCunzo explained the rationale for the state's definition, saying that it is a combination of specified mental disorders plus functional disabilities that lead to eligibility and is more related to a funding process, as opposed to a complete definition.

00:42:56 SEN. JUNEAU asked about veterans suffering from Post Traumatic Stress Disorder (PTSD) and where that disorder is classified. Dr. Peterson said PTSD is classified as an anxiety disorder but has varying levels of functional impairment, ranging from mild to severe.

LEGAL ANALYSIS ON CONSTITUTIONAL ISSUES RELATED TO HANDLING MENTALLY ILL INDIVIDUALS IN THE ADULT CORRECTIONS SYSTEM

00:44:33 **David Niss, Staff Attorney, LSD,** discussed his September 14, 2007, legal analysis (EXHIBIT #4). Key points discussed by Mr. Niss included the following:

- Montana courts have not been the source of many judicial opinions on the subject of the Eighth Amendment or comparable provision in the Montana Constitution regarding physical or mental health care in Montana prisons or jails;
- because of the lack of legal basis, the legal analysis is based on many federal cases and case law from other jurisdictions;
- the Eighth Amendment Standard for mental health care in prisons;
- the importance of the Estelle v. Gamble, 429 U.S. 97 (1976) in applying this standard;

- the scope of the requirement for treatment of convicted persons, specifically the six requirements that must be met in providing treatment;
- related topics within the purview of the Eighth Amendment;
- federal statutory law;
- Montana Constitutional law; and
- a conclusion.

Mr. Niss also explained the chronological history of litigation in Montana. He began his discussion with an explanation of the stipulated agreement that resolved a civil legal action in federal court against Montana by United States Department of Justice in 1994 (*United States of America v. Montana* (EXHIBIT #5). This case focused directly on providing mental health care to inmates at Montana State Prison (MSP). He said that the cases have been settled and that only one issue remains to be worked out involving the American with Disabilities Act.

1:06:03 Mr. Niss reported that in 2000, a performance audit of mental health services at MSP was conducted by the Legislative Audit Division (LAD). He noted that copies of the audit are available upon request. Mr. Niss said the audit report included a discussion of the "dual supervision program", which is a system in which both the custodial staff and mental health staff of the prison are responsible for inmates with mental health issues. The performance audit report pointed out that there was a lack of clarity in who controls and supervises inmates with mental health issues. Mr. Niss discussed an example of an inmate who banged his head and yelled all night at MSP, saying that the question was if the inmate should be punished for a voluntary act of disruption (custodial staff responsibility) or recognized as having a mental health disorder (mental health staff responsibility). The performance audit made recommendations to the Department of Corrections (DOC) staff, which agreed that clarification was needed. About the same time, Mark Edward Walker filed suit against the State of Montana. (Mr. Niss said that Mr. Walker was the prisoner in the example he had just discussed. Mr. Niss explained Mr. Walker's background and the basis for his case against the State.

1:13:23 Mr. Niss discussed several specific points of Mr. Walker's case, as presented to the Montana Supreme Court. He said that the Court carefully reviewed the case and issued an opinion which ruled that the Eighth Amendment of the United States does apply to MSP but also that Montana's Constitution provides an even greater protection from cruel and unusual punishment than does United States federal courts.

1:18:14 Mr. Niss discussed the settlement agreement reached between Mr. Walker and the State (*State of Montana v. Mark Edward Walker, 2004* EXHIBIT #6), saying that the agreement contains the very latest unbiased assessment and recommendations for a mental health treatment program at MSP and the most recent standards of what the state prison system needs to be doing to provide mental health treatment. Mr. Niss said he has prepared recommendations for the Committee, largely taken from EXHIBITS #5 and #6 and will present them at a later time.

01:21:19 SEN. MCGEE said Mr. Niss's recommendations would be presented after LJIC members have had time to study the documents provided by Mr. Niss (EXHIBITS # 5 and #6).

01:22:18 SEN. SHOCKLEY referred to comments made by Joyce DeCunzo earlier in the meeting regarding the state definition of mental illness not matching the DSM-IV definition and asked and if the definitions should match. Mr. Niss said before this could be done, the State would have to clarify the purpose for which the definition would be used.

01:25:07 REP. KOTTEL asked Mr. Niss to outline the requirements and where and how mental health services are being provided at the many facilities throughout Montana, if the issue affects contracted facilities, and if the State has oversight of inmates incarcerated outside of the state. Mr. Niss said the judgments (pages 4 and 5 of his legal analysis EXHIBIT #4) do apply to incarceration of both adults and juveniles, as well as to private prisons.

01:28:07 SEN. MCGEE introduced Ms. Deb Mattuecci as the moderator for the panel presentations and discussion of the Sequential Intercept Model.

DEB MATTEUCCI, BEHAVIORAL HEALTH PROGRAM FACILITATOR, DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AND DEPARTMENT OF CORRECTIONS

01:28:39 Ms. Matteucci discussed a diagram of the Sequential Intercept Model and the different levels of each intercept approach (EXHIBIT #7). She explained that the purpose of the presentations and discussion would be to provide an overview of system and the challenges and gaps that exist in the system. Ms. Matteucci pointed out that services are restricted as the "funnel" (intercept model) narrows and that each layer will be discussed. She said the panelists will identify the challenges and barriers faced at that level and also offer their perspectives on simple to moderate changes that could be made, as well as more detailed and complicated changes. Ms. Matteucci said the goal is to end up with a blueprint of identified alternative sentencing options, potential solutions for secure custody issues, and a plan that will increase the success rate for those re-entering society. She said Ms. Heffelfinger would record each panel's discussion points for the Committee's use later in the meeting.

Intercept 1 -- Community Services/Crisis Intervention/Local Law Enforcement Panel

01:35:51 Cheryl Liedle, Dan Tronrud, and Joyce DeCunzo introduced themselves as the panelists. **Sheriff Cheryl Liedle** began the discussion by explaining how mental health issues have been handled for the last several years in Lewis & Clark County. She said that the closure of the psychiatric ward at St. Peter's Hospital placed a great deal of pressure on her department and that it became clear that changes would have to be made in order to adequately respond. Individuals, who in the past could be treated in Helena, had to first be taken into protective custody and held until an evaluation could be done by a local mental health professional. If the doctor diagnosed the individual as having a serious mental illness, the county attorney would issue an emergency commit order to Warm Springs and the person was then transported to Warm Springs. Lewis & Clark County would then transport the patient back and forth between Warm Springs

and the county detention center for his or her court appearances until a sentence or commitment was made by the judge.

Sheriff Liedle said the beginning of a call was often the most difficult part of the call for her officers to deal with. They were responding as if it was a safety issue only and did not have the training to recognize and react appropriately to cases involving mental illness. To better assist officers, crisis management teams were formed with community mental health people three years ago and intensive training was provided on assessing and handling of mentally ill individuals. The training provided officers with a better understanding of mental illness and initial contact procedures were developed.

Sheriff Liedle said Lewis & Clark County began offering a 40-hour training course on the crisis intervention team model and techniques to law enforcement officers around the state. Sheriff Liedle said it still an issue of what to do with these people once they have been determined to be mentally ill. Helena has developed a crisis response team of mental health individuals that respond to a scene or meet the officers at the hospital to assist the mentally ill individual. While this measure has helped considerably, the Sheriff's Department is still transporting a tremendous number of people to Warm Springs at a significant cost to the local government because there is not a secure mental health facility in Helena, at a cost of approximately $30 - $40,000 in officer time alone.

01:44:48 **Dan Tronrud, Sheriff, Sweetgrass County,** said Sweetgrass County has experienced problems very similar to those of Lewis & Clark County. There are only six officers to cover 1800 miles and a growing population. Sweetgrass County has responded to the situation by forming two boards - an addictive disorder board and a mental health board - made up of medical and family service professionals, county commissioners, attorneys, law enforcement personnel, and individuals who have used these services. Sweetgrass County also formed a crisis intervention team and has contracted with Yellowstone County Detention Center to house mental health patients at a tremendous cost to Sweetgrass County.

Sheriff Tronrud said that many of the individuals taken into protective custody have not committed a crime but are in an emotional crisis, such as severe depression, family crisis, attempted suicide, or otherwise been deemed a threat to themselves or to others. He said it is critical that law enforcement have a place to take these types of cases and that the lack of mental health case workers is one of the biggest obstacle facing rural law enforcement agencies. He discussed scenarios in which his staff has transported individuals from Big Timber to Billings to Warm Springs and back to Big Timber. He said his officers also provide transport for patients needing transportation to and from crisis centers on a voluntary basis and that his officers followup with these individuals to make sure they have received the services they needed. Sheriff Tronrud said it is critical that the county commissioners, local medical providers, and community members all support providing these types of services.

01:53:17 Joyce DeCunzo discussed prevention, saying that the diagnosis and treatment of children with mental health disorders at the earliest possible time would help decrease the work load discussed by Sheriff Liedle and Sheriff Tronrud. Ms. DeCunzo said best practices must be established that include strategies to identify mental and substance abuses, and education for families, and schools. Ms. DeCunzo emphasized that education for families and schools is critical because children spend the majority of their time in these settings.

Ms. DeCunzo explained that mental illness in children is usually identified through behaviors and that the earlier a diagnosis is made and treatment begins, the better. Suicide prevention, in particular, should be focused on because it is such a difficult issue to deal with. Substance abuse programs and education must also be increased. Most schools have substance abuse programs in place but additional resources are needed to further develop and expand the programs. Grants are available but sustainability is the biggest impediment. This may an area in which the legislature could provide assistance.

Ms. DeCunzo said diversion programs are clearly needed and that it would be much more effective, humane, and cost effective to keep people from reaching the bottom of the "funnel". The barriers to this approach are income eligibility criteria, diagnostic criteria, lack of available services, and lack of mental health professionals. If the definitions for public mental health services were changed, those in need could be much better served. Also, financial barriers exist in which people can't afford services but don't meet the income criteria for public assistance. These are the people who often end up in the criminal justice system instead of the mental health system.

02:02:35 Ms. Mattuecci reviewed the list of barriers and challenges as recorded by Ms. Heffelfinger:

- lack of crisis services in small and rural communities;
- transportation issues and related costs;
- local detention issues, such as capacity and services available at the center;
- how to involve the medical field more in order to cross train local doctors to help provide mental health services;
- workforce shortages;
- eligibility criteria;
- financial barriers, such as insurance issues and those who fall above the poverty threshold; and
- early intervention and suicide prevention.

Ms. DeCunzo asked to add the transition of youth into the adult mental health and substance abuse services.

02:05:12 SEN. SHOCKLEY asked if the practice of taking medications away from prisoners is still in effect. Sheriff Liedle said it depends on the situation and what the medication is. The individual's family is usually asked to bring the medication to the detention center and medical staff makes an analysis of if the medication prescribed matches the diagnosis. If it is appropriate, medication is continued.

02:06:21 SEN. SHOCKLEY asked about the credentials of the mental health professionals making the assessments of prisoners. Sheriff Liedle said Lewis & Clark County has a contract with the Golden Triangle Mental Health Center, the Center's staff include a vast array of professionals with varying degrees of training, and that the staff has the credentials needed to make a true assessment of mental illness. SEN. SHOCKLEY asked if a psychiatrist is available to prescribe and administer medications. Sheriff Liedle said yes.

02:07:21 SEN. SHOCKLEY said that his local jail recently experienced four suicides in six months. He asked both sheriffs how their departments have addressed this issue. Sheriff Liedle said Lewis & Clark County also experienced a rash of suicides and refit its jails to help prevent suicide. Improving initial assessment of inmates and meeting standards of care have also contributed to a significant reduction in the number of suicides. Prisoners are physically observed on camera and by very frequent in-person checks. Sheriff Liedle agreed that early intervention is the very best deterrent. Sheriff Tronrud said his jail is very old, so his dispatchers and jailers provide constant observation. The arresting officer and inmate supervisor have to make a judgment call on each situation and decide how much monitoring is necessary. The staff also tries to talk to family and community members and that contracted services are also pulled int to provide additional care.

02:10:16 REP. STOKER asked for a description of a secure bed mental health facility and if handcuffs and/or shackles are used during transport. Sheriff Liedle said that for example, the Tennessee model is what her agency would most like to have in place. In that model, the officer transports the individual to the front door of the secure facility and the facility staff takes over from there. She said that could happen in Montana but that the current lack of mental health staff would make it difficult.

REP. STOKER asked about the use of padded cells for mentally ill individuals. Sheriff Liedle said they may be necessary for short-term holding purposes but are not appropriate for long-term care. Sheriff Tronrud said that in the Yellowstone County facility, constant supervision is provided, clothing has been modified for patient safety, and that a minimum of furniture and fixtures are allowed in the cell. Regarding the use of handcuff and shackles, Sheriff Tronrud said his staff does not use these restraints on any one who has voluntarily requested transport to a facility. If the individual has been taken into protective custody and have been deemed a threat to self or others, he or she is transported in cuffs and/or leg irons. He said it depends on the situation and the individual.

REP. STOKER asked if drugs are used to calm or sedate a prisoner. Sheriff Liedle said her department is not authorized to administer any drugs for that purpose but that if an individual is extremely violent, drugs can be administered by the proper medical professional. She said that restraints are sometimes necessary for the safety of the individual, officer, and the public. She related a recent situation in which a female prisoner kicked out the window of a patrol car and resisted the officer's attempt to put leg irons on her. A truck driver stopped

to assist the officer and had to be hospitalized due to the injuries he received while assisting the deputy.

02:15:57 Regarding previous discussion regarding prisoners being given their prescription medication, REP. KOTTEL asked Sheriff Liedle on what basis her department makes a decision on whether or not an individual's medication is administered or denied and if it is her decision as the Sheriff. Sheriff Liedle said a decision on medications is never based on her judgment and that qualified medical personnel evaluates the prisoner and the medication to make certain that the medication is appropriate for the condition and that the medication is what the prisoner says it is. Sheriff Tronrud said in many instances, a person has been off their prescribed medications and that is the reason for the incident that brought them to the attention of the Sheriff's office.

Intercept 2 -- Court Processes Panel

02:18:22 Ms. Matteucci explained that the Intercept 2 panel covers the post-arrest time period and would help identify alternative sentencing and initial diversion opportunities available at the court level. Pamphlets from *Missoula's Mental Health Court Program* (EXHIBIT #8) were provided by Brenda Desmond. Dr. Laura Wendlandt, Brenda Desmond, and Leslie Halligan introduced themselves as panelists. Ms. Heffelfinger asked Committee members to refer to the pink Power Point presentation (EXHIBIT #9) provided in the meeting materials.

Dr. Laura Wendlandt, Consultant, Office of the State Public Defender, explained some the semantics of the mental health system. She said mental illness is a general term that is broken down into certain behaviors and components that are classified as a mental disorder. The mental disorder is then broken down into even finer components and classified as a specific and identifiable mental illness, as defined in the DSM-IV. Dr. Wendlandt discussed several acronyms and definitions used by the court system in dealing with mental health issues, listed on page 1 of EXHIBIT #9. Dr. Wendlandt said that the common goal is to provide services to the client that are in the best interest of the client and that the services are provided in the most efficient, effective, and financially supportive manner possible.

02:25:40 **Brenda Desmond, J.D., Standing Master, 4th Judicial District Court, Missoula,** explained the duties and activities of her position as Standing Master, which includes civil commitment. She said she has seen many instances of people with mental disorders being arraigned on charges that should have been diverted out of the criminal justice system. Ms. Desmond noted that well over half of the people moving through her office have a co-occurring drug or alcohol abuse problem.

Ms. Desmond said that planning for the diversion program began over four years ago and was set up for people who were charged with crimes, who have a serious mental disorder, and whose crime is linked to the mental disorder. Missoula County set up mental health courts in Municipal Court (city misdemeanors), Justice Court (county misdemeanors), and in District Court (felonies) to take people out of jail and diverts them to mental health and

chemical dependency treatment. She said this approach has resulted in a lower recidivism rate.

02:31:05 Ms. Desmond said that Missoula County applied to the GAIN Center to test drive a community planning tool for handling jail diversion for those with mental illness, from the beginning to end of the process. The project has been underway for nine months and a wonderful committee of mental health professionals, criminal justice professionals, and individuals in the system are working together on the project design. The committee is trying to figure out how to reduce the number of people in jail who, if connected with services, would not be in jail. The committee has worked to identify the challenges and barriers in the current court system (page 2, EXHIBIT #9). One is a need for intermittent crisis intervention. The current system doesn't have a smooth way to deal with those who go into crisis while in the criminal justice system, which has difficulty providing the kinds of services these people need. Issues such as poverty and homelessness also present very big challenges, as does the lack of family support.

SEN. MCGEE asked for a definition of "go into crisis" Ms. Desmond said the individual becomes psychotic and can't be maintained in the jail setting, usually as the result of going off prescribed medications or using drugs with the medications. Dr. Wendlandt said the person is to the point where he or she is so functionally impaired that they are a harm to self or others, cannot function in every day life or take care of themselves; and that intervention is needed in order for them to maintain the lowest level of everyday living. They will yell, scream, and scratch, not eat or sleep, and be extremely agitated and combative.

02:36:02 Ms. Desmond discussed the systemic challenges as listed on page 2 of EXHIBIT #9, bottom slide, such as the need for better strategies, more qualified professionals, more programs and facilities, and better education. She said the goal is to keep the person in the community whenever possible, such as in a Behavioral Health Inpatient Facility (BHIF). Very few of these facilities are in operation and are difficult to get into because of the great demand. Ms. Desmond noted that accountability is a part of the process and that community safety is always a concern.

Ms. Matteucci asked the panelists to discuss eligibility criteria and how it may or may not allow access to services as the person moves through the court system. Ms. Desmond said the criteria for accepting someone into the mental health court is that the individual has been charged with a misdemeanor and has a serious mental illness connected to their crime, or is a nonviolent felony offender. The majority of people in the mental health court are on probation and may access to services based on that, but the chief eligibility indicator is income. Most of these people are very low income but not low enough to qualify for Medicaid and do not have private health insurance. Some may qualify for the mental health services plan and approximately one-third could qualify for social security disability income.

02:41:10 **Laura Halligan, Deputy County Attorney, Missoula County,** discussed people who are not in the system but want and need mental health treatment. She said

the lack of income is the biggest challenge to these people, as is the availability of mental health professionals.

Ms. Halligan said she also sees a lot of people who need treatment but who won't accept it, which is why they end up in mental health court. For example, a typical case could be a young person, between 18 and 25 years of age, very bright, and with an undiagnosed mental condition, such as bipolar disorder. The person becomes psychotic, acts out, and is arrested for a crime, such as stealing a car. The family doesn't understand what is happening and is in crisis. The mental health court often becomes involved at this point. A determination has to be made if the young adult should be charged with a felony for stealing the car or if a civil commitment should be made in order to treat the mental illness. Current state statute does not allow for diversion if a felony has been committed, so if the person is charged with the felony, he or she goes to jail. Not only does the person not get the mental health treatment they need so badly, but he or she sits in jail at great expense to the tax payers. There is little to no access to a psychiatrist at a detention facility, unless the person is already under the care of a psychiatrist. Safe diversion alternatives are sought whenever possible, such as release for treatment purposes only or a deferred prosecution, but many of these people suffer from life-long illnesses and end up in the correctional system because there is not enough places to send them for treatment. This is a problem at the juvenile level also.

02:47:02 Ms. Matteucci summarized the main challenges identified at Intercept Level 2:

- getting people diverted from the criminal justice system to treatment courts sooner in the process;
- that the presence of co-occurring substance abuse and mental illness is extremely high;
- there is a need for more intermittent crisis stabilization;
- housing and maintaining the offenders in the community in a diverted setting;
- the lack of family support and resources;
- individuals who want treatment but don't meet eligibility criteria;
- individuals who need treatment but refuse it;
- stigma issues;
- state statute that does not allow diversion for felony offenses;
- many individuals suffer from life long illness so there will be repeated contact;
- some mentally ill individuals may need to be detained in facility because of the severity of their crime; and
- crisis evaluators are not trained in criminal justice issues.

Ms. Halligan also discussed an issue affecting the elderly, saying that the population of elderly people experiencing dementia is quickly rising and are difficult for nursing homes to care for. These patients are being committed to MSH or the state nursing home. These people are often violent and unable to care for themselves and are placing additional stress on state facilities.

02:50:40 REP. KOTTEL referred to the Walker case (pages 10 and 11, EXHIBIT #6) and asked if medical information is routinely passed along with the prisoner from entity to entity. Ms. Halligan said it is her understanding that whatever information is available is forwarded to DOC but that it doesn't always happen for a variety of reasons. REP. KOTTEL said she thought legislation was passed to eliminate the requirement of providing medical records for prisoners and that this could negatively impact treatment. She asked if it was a money issue. Ms. Halligan said that the detention facilities would have to address that.

02:54:07 In response to a question from REP. STOKER, Dr. Wendlandt said an individual may come into contact with the mental health court because of a crime or mental health issue, or if the person is deemed indigent. In civil commitment cases, the person automatically gets a public defender. In criminal cases, a public defender will not be appointed until after charges are filed, which can take up to 24 hours.

02:56:10 SEN. SHOCKLEY said, in reference to REP. KOTTEL's question regarding medical records staying with prisoners, that the scenario sounds like a presentence investigation (PSI). He said a PSI goes with the prisoner and that a judgment can't be signed by the court until the court has the PSI. He said it is a money issue because once the person is convicted, the State starts paying but the person can't be sent to Deer Lodge until the judgment is signed and that the judgment can't be signed until a PSI is done.

02:57:30 Ms. Halligan added a comment regarding funding and said the counties with regional medical centers are the hardest hit financially because it is the medical centers that make the commitments to the state hospital and that state statute requires that civil commitment costs be born by the county making the commitment. The regional medical centers get many patients from outside the county and there is a need for a more seamless funding method to eliminate this burden on these counties. The cost of treatment is very expensive and can reach $20,000 per week.

Intercept 3 -- Community Services/Community Corrections Panel

02:59:55 Ms. Matteucci said the third panel would discuss diversion alternatives available through the DOC, treatment programs operating in the state, for example WATCH or meth treatment programs. Kelly Speer and Kim Christianson introduced themselves as the panelists. **Kelly Speer, Corrections Manager, Community Corrections Division, DOC,** gave an overview of the nine community corrections programs currently operating in Montana (EXHIBIT #10).

Kim Christianson, Probation and Parole Officer, DOC, said she works with offenders who have pled guilty or who have convicted by jury. She explained the process followed post conviction, which includes a pre-sentence investigation conducted by a parole officer. The investigation covers employment history, school history, relevant family issues, chemical and substance abuse issues, and mental health history. Because much of this information is self-reported, the probation officer tries to verify and document as much of this information as possible. If mental health issues are reported by the offender, the probation officer documents this and tries to gather more detailed information, and an

attempt is made to continue treatment and/or medication. The pre-sentence investigation report follows the prisoner everywhere he/she goes within DOC and outside of the judgment and is usually first document that is read by DOC staff. When staff reads that an individual has reported mental illness issues, they will followup on that. It is up to staff to determine if they need an evaluation. It is fairly standard in the mental health court for an evaluation to be ordered, particularly if the offense was lined to a mental illness.

Ms. Christianson said a challenge faced by probation and parole officers is that typically, an offender doesn't exhibit the extreme behaviors indicative of mental illness. Because the symptoms are more subtle and manifest over time, they are difficult for an officer to detect. If an offender starts to violate the terms of probation, the mental health issue is not always the first thing addressed. Providing more education and training on mental illness is paramount for probation and parole officers because they would be able to more quickly and accurately connect a behavior with mental illness, rather than making the assumption that the behavior is simply one of non-compliance. Ms. Christianson said the University of Montana recently conducted a very beneficial mental health training for probation and parole officers.

Ms. Christianson said another challenge is to maintain consistency of services for offenders with mental health issues and that communication between providers is essential. As an offender transitions through the system, it is difficult to make sure the offender continues to receive services and to make sure there is communication between the officer and the therapist. An offender typically spends more time with the therapist than the parole or probation officer, so an officer may miss early signs that the offender having trouble. An offender usually checks in with the probation or parole officer once or twice a month. This is adequate for some offenders but for an offender with a mental health issue, it is not enough contact. It would be beneficial to this type of offender if more structured community support was available. Missoula is fortunate in that is has a homeless shelter, three outpatient programs, and other programs that rural areas don't have. However, the waiting list for these programs is six to eight weeks, which creates another huge challenge of what to do with them until a spot is available. It is very difficult for an offender with mental health issues to hold it together for that length of time. Right now, Missoula is experiencing demands for services that stretch way beyond availability.

Ms. Christianson said another challenge is finding housing for offenders with mental health issues and that sex offenders, are particularly difficult to house.

Ms. Christianson said keeping an offender with mental health issues on their medication is a key factor in their success in probation and parole programs. Reducing an officer's case management load would also help because it would allow them more time to supervise each offender more effectively .

Ms. Christianson said probation and parole officers often have to make very difficult decisions involving offenders with mental health issues because they have to delineate between behaviors in order to decide if it is a criminal or mental

illness behavior. If the person is detained due to a criminal behavior such as resisting arrest or disorderly conduct, their medications may be interrupted, throwing the offender into chaos. The primary concern is always public safety, even though the offender may not intentionally be acting out.

03:16:47 Ms. Speer said for Intercept 3, most of the offenders are nonviolent offenders who come in at the lowest level, usually a deferred sentence, a suspended sentence. A violation occurs and they need more supervision an/or services, and build up until they eventually end up in the next intercept level. There are many options within community corrections to divert an offender from prison and many choices and combinations of programming that offender can go to if they are not doing will in probation supervision. It depends on the offenders case and their status, and there is a variety of options that can be used. For example, if prerelease doesn't work, another program may be tried before being sent to prison.

Ms. Christianson said before a mentally ill or chemically dependent offenders is admitted into pre-release, an intake process is completed and issues such as chemical dependence and mental health are taken into consideration. Most of this information is taken from the referring source, which is usually probation and parole. Ms. Christianson said that Dr. Tim Conley, Ph.D. University of Montana, did an interesting study in November, 2006, which reported that 46% of the prerelease population has been diagnosed with a mental illness, with females significantly higher at 69%. Dr. Conley also found that most of those offenders have a substance abuse diagnosis as well. His statistics indicate that 93% of offenders have been diagnosed to be chemically dependent, which presents enormous challenges to prerelease programs. Another challenge in prerelease programs is lack of training and understanding of mental health issues. Prerelease centers are reluctant to accept a mental health offender unless there is a guarantee of stability and that the offender will maintain that level throughout prerelease. Lack of money and services are crucial because a prerelease center may not have the funding to take on an offender with the needs of a mental health offender.

If an offender is in prerelease and behaviors and characteristics of mental illness are identified, a referral may be made for an evaluation but often times the center has to either cover the cost or charge the offender. The center may or may not ever be paid by the offender.

Ms. Speer reported that there is $50,000 in prerelease and START for special needs offenders. The funding is spread across seven programs, is for an offender identified as needing services or medication, and is allocated on a case-by-case basis. Most chemically dependent offenders in prerelease centers have intensive out-patient programs and many have onsite support, such as through AA meetings. The prerelease center also coordinates with outside AA meetings and encourages attendance. A problem with that is some prerelease centers contract for mental health or chemical dependency services or they have their own counseling staff. When a prerelease contracts with an outside facility, the offenders are competing with people in the community who also need that

treatment. The result is that offenders either don't get treatment or there is a large delay in services and the offender relapses.

Ms. Speer discussed several programs listed in the Overview of CCD Programs (EXHIBIT #10). She said that biggest challenges facing all of the programs are lack of staff training, lack of continuum of care, lack of communication, the reluctance of programs to accept offenders with mental health issues, size of facility and number of staff, and length of stay differences between programs. She said the sanction centers evaluate each offender on intake and get a lot of information from the referring source. Staff also evaluates the offender's behavior and determines what services the offender needs and where they should be referred for placement. Ms. Speer said prerelease programs and treatment are always preferable to prison.

Ms. Matteucci reviewed the challenges of Intercept Level 3:

- too infrequent contact with offender;
- waiting lists for services;
- housing challenges;
- ability to access services,
- medication: paying for it, keeping it secure, taking it as prescribed;
- the presence of a co-occurring disorder;
- case management issues;
- accessing treatment services because of the presence of criminal behavior;
- need for community education;
- limited staff training;
- reluctant to accept mental health offenders at facilities;
- continuum of care and how to connect treatment;
- length of stay and staff resources;
- differing recommendations from multiple programs; and
- inability of a mentally ill offender to follow rules may push them further into the funnel.

03:36:24 SEN. MCGEE asked Ms. Christianson how many offenders she deals with. Ms. Christianson said she provides intensive supervision and can have no more than 22 offenders but that a typical officer has 90-95 to manage. SEN. MCGEE asked how many offenders are chemically addicted. Ms. Christianson estimated the number would be in the high 90th percentile. SEN. MCGEE asked how many of that number are also mentally ill. Ms. Christianson said that of the approximately 90 inmates she previously supervised, she had 15 offenders who had been diagnosed as seriously mentally ill, and had several others that were borderline and likely in need of treatment.

SEN. MCGEE said the Committee would take a 15-minute lunch break. He announced that the Committee will meet twice in November to continue gathering data. Work sessions will begin in January, giving the Committee members time to read and digest the information.

PUBLIC COMMENT

03:55:07 **Bill Kennedy, Yellowstone County Commissioner,** said another resource in Billings that had not been discussed yet is the drop-in center hub. He said that statistics from the last two years indicate that a diversion of over 300 people to the MSH through workings of the hub. Mr. Kennedy provided several details about the hub, saying it is a drop-in center in downtown Billings, is a safe place for people with mental illness to come, and is a good way to get people into services. He said that the Crisis Center has opened up and operates under a cooperative agreement between the Yellowstone County Health Department, the Mental Health Center, the Billings Clinic, and St. Vincent's Hospital. He said the majority of the funding is provided by the hospitals and it is anticipated that rates for emergency room services will decrease due to the Crisis Center. The Crisis Center operates 24 hours a day, 7 days a week, and covers an 11-county region.

Mr. Kennedy said that because the larger urban areas have the most facilities and services, that is where most people go when they need services and that current services are stretched in all of the larger communities. One of the biggest obstacles facing larger facilities is recruiting providers to Montana. Work is underway to secure grants for telecommunications between rural communities and to increase resources for hubs.

Mr. Kennedy said he serves on the Board for the National Association of Counties and said that a top priority of the Association is jail diversion. He said he will provide materials to Ms. Heffelfinger for distribution to the members. He said he toured the diversion program in Miami-Dade County in Florida, modeled after the Memphis, Tennessee, project, and that the program has been very successful but is expensive to operate. Mr. Kennedy said he also toured a mental health court and the Lighthouse program in San Francisco, California and that both programs are successful but very expensive and are funded by a half-cent share of a regional sales tax. Mr. Kennedy said there are many good programs in place throughout the nation that Montana can use as models for new programs. He concluded his remarks by thanking the Committee for the dollars allocated in the 2007 Legislature to address mental health issues in Montana but said the continuing lack of resources is the most critical issue.

Representative Roger Goodman, Washington State Representative

04:01:12 SEN. MCGEE introduced **Representative Roger Goodman, Washington State**. Rep. Goodman said he is the Vice Chair of the Judiciary Committee in the Washington State House of Representatives and is also a consultant in the area of substance abuse and mental health treatment policy for the King County Bar Association in Seattle. He said that the Association is a part of a large professional coalition that has worked to influence the state legislature, city councils, and county commissioners to take a different view of how best to treat chemically dependent and to a smaller degree, mentally ill offenders.

Rep. Goodman said that in 2002, the Washington Legislature made drastic changes to its sentencing requirements for nonviolent drug offenders by creating a treatment oriented sentencing grid. The new system has a detailed tracking mechanism built in to track the expenses and savings of using this approach, rather than the traditional corrections approach. The goal was to move toward

the decriminalization of addiction and of mental illness and yet hold people accountable for their behavior, particularly if it has harmed others. Lower and mid level offenses are diverted into drug court and treatment programs. More serious drug offenses, such as selling drugs to children or using force or a weapon, are considered criminal offenses and Washington actually increased penalties for these offenders.

Rep. Goodman said the Washington Legislature identified the amount of money previously spent on correctional costs for nonviolent drug offenders and shifted it into a Criminal Justice Treatment Account in the State Treasurer's Office. The fund has accrued to tens of millions of dollars that is now distributed to counties for use in local drug treatment courts. Each county has to apply for funds and is required to submit a detailed outline of its plan. The funding is being used in a much more proactive and productive manner because it averts criminal justice costs and minimizes mental health costs because treatment is being received as a part of the drug court treatment. Currently there are no waiting lists and housing is provided, if needed, for anyone undergoing treatment.

Rep. Goodman discussed how the program has been implemented on the state, county, and city levels, saying that drug offender levels in the criminal system have been reduced significantly. An offender who is picked up by an officer is still brought into jail, but instead of booking them, an assessment is conducted. The offender is given a treatment voucher and referred to the appropriate treatment program, unless it is a serious offense. Rep. Goodman said this approach requires commitment from the Executive and Legislative Branches, and local governments, in order to implement such a major shift in policy.

Rep. Goodman said Montana is to be commended on its recent successful efforts to fight methamphetamine. Early intervention is the key to keeping drug offenders out of the criminal justice system but in order to implement new programs that could provide early intervention, Montana has to first identify which offenders could be diverted and what the costs and savings would be to treat them through a drug or mental health court versus the cost of leaving them in the correctional system. Only then can Montana make decisions on how to move its resources around to maximize use of its funding. Rep. Goodman noted that Montana has taken the first step by creating drug courts and would be wise to invest much more in them. He closed his remarks by offering his services to the Committee, should they be needed.

04:15:01 In response to a question from REP. STOKER, Rep. Goodman said that having accurate data is essential before decisions can be made and that he is troubled by the lack of data in Montana. He said that Washington State even collects data on the children of the incarcerated in order to provide those families with early childhood education in order to avoid criminal justice expenses later.

PUBLIC COMMENT, continued

04:17:08 **Diana Koch, Chief Legal Counsel, DOC,** addressed issues raised by Mr. Niss in his discussion regarding two lawsuits (1992 and 1994) against DOC. Ms. Koch said the cases were combined and that DOC voluntarily entered into a

stipulated agreement to address the issues contained in the lawsuits. She said the DOC has complied with every provision of the agreement, with the exception of the provision involving the American with Disabilities Act and that action is being taken to comply with this provision as well.

Ms. Koch said she also wanted to discuss DOC's desire to improve mental health conditions for inmates of Montana DOC. SEN. MCGEE said the DOC will have another opportunity to address the Committee at the November meeting.

04:19:50 **Patti Jacques, Helena,** discussed her family's experience with a mentally ill family member who has made it to Intercept Level 4. She said the individual is currently in treatment at MSH and is receiving excellent care. She explained the time line and events from December 25, 2005 through May 5, 2006. Due to his mental disorder, the individual was very disruptive and uncooperative regarding psychiatric treatment. On February 6, 2006, the individual's attorney filed a motion and a memorandum of competency evaluation and on Feb. 28, 2006, the court ordered that the individual be committed to MSH for evaluation, then amended the order to allow the evaluation to be done locally. The report was not actually done until April 4, of 2006. Ms. Jacques said her point was to show what happens when a mentally ill person gets into the criminal justice system and sits in isolation in jail with no treatment. She stressed the need for getting the mentally ill into treatment as soon as possible.

04:23:10 **Colette Gray, Community Advocate, Opportunities Inc., Great Falls,** said her organization covers a six-county area and serves people from all generations, many of whom suffer with mental health issues. Ms. Gray said that methamphetamine addictions have resulted in an increasing number of grandparents having to raise their grandchildren and that homelessness is an ever-growing problem. She said her organization recently received grant money for a pilot project to help some inmates with housing and phone service as a part of a re-entry program but that many inmates coming out of prison fall through the cracks. Ms. Gray said veterans are also a population in need of help. She said she recently spend a day at the veteran's center in Great Falls and found that many were homeless and in need of services. On-site screenings revealed a high frequency of depression and PTSD issues and on-site counseling was available.

Ms. Gray also discussed her son's personal experience with a mental illness and said early intervention was a key element in his recovery and later success in life. She said he was able to get an education and now owns his own business. Ms. Gray said another essential element in her son's success was the support he received from his family and community.

04:27:16 **Bonnie Girdwood, Sand Coulee, Montana,** related her personal experience with mental illness and that she enrolled in a RAP class as a way to treat her illness. She explained that the class works with individuals to set up their own program and to help them identify what they can do to help themselves. Ms. Girdwood said this approach gave her the power to take care of herself. and that for the past year, she has been able to work and is a tax-paying, productive

member of her community. She said she is also providing peer support to others suffering from mental illness and is working with children with mental health issues in an effort to reduce the stigma often associated with mental illness.

04:31:16 **Arthur Girdwood, Sand Coulee, Montana,** related his experience as a mentally ill person who became involved in the criminal justice system. Mr. Girdwood said he had been diagnosed with severe depression and PTSD and that he reacted badly to medication. He said he became irrational and argumentative with a neighbor, which resulted in his arrest. He said his local law enforcement agency had little training on mental illness and that he was treated as a criminal, rather than mentally ill. Mr. Girdwood said a compounding factor was that the judge set a very high bail, which he couldn't meet. He said he experienced a panic attack, became distraught, and became combative with the law enforcement staff. He described his treatment while incarcerated as so traumatic that he attempted suicide three times and said that even though his wife had brought medications to the jail, he was not allowed to have them for a period of time. Mr. Girdwood stressed the need for officers to be trained in initial assessment and intervention of mental illness. He was also critical of his local law enforcement officers, saying that he felt that they provoked him in several instances.

04:39:09 **Robert Benton, Four Nations Warrior Down, Great Falls,** said the Four Nations Warrior Down program is a pilot program structured to reflect the culture of Native Americans. The program has been in operation in Great Falls for 16 months and focuses on assisting Native Americans inmates released from prisons, in pre-release programs, treatment centers, mental institutions, and the homeless. He agreed that mental health issues are a very wide spread problem in the area but said that other issues, such as criminal behavior and homelessness, are also very prevalent. He said the board of Four Nations Warrior Down works with other organizations to gain assistance for those in need and that while acceptance of his new program has been slow, he and others will continue their commitment to help those in need.

04:43:30 In response to statements made by Diana Koch, Mr. Niss asked to clarify several points he had made earlier in the meeting regarding the DOC. He said that he had cut his presentation short and may have left the impression that DOC has not worked to resolve the issues in the lawsuits, when in fact DOC has made a great deal of progress in implementing the requirements of the lawsuit settlements/judgments.

Intercept 4 -- Incarceration/Prison/Secure Treatment

04:45:59 Ms. Mattuecci said that Intercept 4 deals with offenders who have moved deeper into the system because of the severity of their crimes and/or degree of mental illness and who have been remanded to a secure care setting. Ms. Matteucci said the panelists would discuss the challenges and barriers of serving an offender with a mental illness or co-occurring substance use disorder within the institution. An example of such an inmate would one who has been convicted of a crime but determined to be mentally ill and sentenced to the custody of DPHHS. This type of sentence is carried out at MSH, rather than MSP.

04:47:42 **Mike Mahoney, Warden, Montana State Prison (MSP), Deer Lodge,** gave an overview of his 28 years of service with DOC. He said it is important to recognize that the individuals in the prison system have failed all other remedies, so the prognosis for this population is challenging from the beginning. He said he is in support of mental health courts and agreed that more people could be diverted from the correctional system. He discussed the challenges he faces as a part of the correctional system and said that getting reliable and accurate information is difficult to obtain. He explained that once an individual reaches the county jail level, they are already distrustful of the system and may not be very forthcoming with information about their history. Another serious challenge is the difference between the DOC and county drug formularies, which sometimes results in changes in prescription medication for the offender. The inmate may not like that a new medication and claim that his medication has been taken away, which is not the case.

Regarding previous discussion regarding past lawsuits against DOC, Warden Mahoney said his opinion is that DOC has made remarkable progress in its efforts to improve, not just mental health treatment, but all of the issues in the lawsuits. He asked to have it noted in the meeting record that in Walker v. Montana, DOC prevailed in District Court regarding the claim that prisoners were living in squalor and that it is personally unacceptable to him to have prisoners living in dirty cells. He reported that DOC also prevailed in the federal case of Watson v. State of Montana, which implied that if DOC was taken to court on a mental illness case, it would be in big trouble. Warden Mahoney said that DOC is working diligently to come up with good systems and methods to deal with mentally ill offenders. This issue is a challenge to correctional systems on a national level because the state prison systems have become the caretakers for many mentally ill people.

Warden Mahoney said the lack of resources within the prison system is always a challenge, specifically for the Axis I and Axis II disorders. He said DOC uses a behavior management plan and asked that it be noted on the record that the behavior management plan was not created by DOC, but by experts who had monitored MSP. He noted that the behavior plan was modified as the result of the *Walker v. Montana* case in terms of the clothing allowed at MSP. Warden Mahoney explained that at one time, taking clothing away from prisoners was considered acceptable for an inmate engaging in self-harm behavior. Since the Walker case, security gowns and blankets have been developed that meet requirements for clothing and comfort but minimize the opportunity for self-harm.

Warden Mahoney explained that the behavior management plan is administered by a team and that each team has a mental health professional. He said that the safe and orderly operation of the prison is the first consideration and that while no inmate or staff is ever allowed to compromise that, that the prison does not minimize a prisoner's mental health needs.

Regarding substance abuse, Warden Mahoney said that individuals with mental health challenges have a tendency to self-medicate, which is challenging because both mental health services and chemical dependency treatment are

necessary. He referred to an individual in MSP whose mental health needs exceeded the ability of the prison to care for him. The prisoner was transferred to MSH for mental health treatment and after after completing the treatment plan, was referred back to MSP. In spite of treatment, the individual committed suicide within a short time. Warden Mahoney said that having duel treatment programs may be the missing link to preventing similar situations.

Warden Mahoney closed by saying that the key pieces are: more mental health services in the community, more resources in the institution, particularly staff, and serious consideration of funding either a STEP program or something similar in the 2009 Legislature.

04:59:57 **Dr. David Schaefer, Psychiatrist, Mental Health Services Unit Manager, MSP,** explained the mental health services that are available at MSP:

- mental illness screening services are offered to prisoners upon arrival;
- followup care is available for those who test positive;
- psychiatric nursing services to oversee medications and to monitor the prisoners who are taking them;
- a 16-bed Mental Health Treatment Unit for more seriously mentally ill, such as schizophrenia;
- available therapy staff 24 hours a day, 7 days a week, including a Master's level therapist;
- a discharge planner who works with inmates to plan for their care after release;
- weekly mental health rounds in the lock down units;
- three mental health technicians in the mental health unit who conduct wellness checks in the general population; and
- a mental health professional who attends administrative review hearings to have input and who works with the National Commission on Correctional Health Care (NCCHC).

Regarding changes he would like to have made, Dr. Schaefer said that while prisoner records are supposed to travel with the prisoner, MSP rarely gets records from the county facilities. He said it would be very helpful to have a prisoner's information. He said other changes that would be beneficial are:

- a STEP program or something similar;
- more training for probation and parole officers and law enforcement agencies; and
- more opportunities for community placement, such as group homes and adult foster care.

05:07:59 **Dawn DeVor, Mental Health Counselor , Montana Women's Prison (MWP),** said that MWP is increasing mental health care and asked members to look at the *Montana Women's Prison Program Handbook* (EXHIBIT #11). She reviewed the admission process and the steps taken to minimize risks associated with mental health issues. She said all incoming prisoners are screened for suicidal tendencies and are referred to the mental health director if in need of treatment. A more complete assessment is done and referrals are made for any and all services needed. Any woman entering the prison on psychotropic medication is

automatically referred to the contract psychiatrist, who works with a psychiatric nurse practitioner. A clinic is offered once a week, so that the inmate is monitored and able to continue her medication. Women who are not on medication but are experiencing symptoms of depression are able to self refer for assessment, diagnosis, and treatment.

Ms. DeVor said within two weeks of arrival, a comprehensive biopsychosocial mental health evaluation is done which provides clinical information and recommendations for mental health care. The inmate is assigned to a program team which creates a holistic individual treatment plan involving mental health care, chemical dependency treatment, and educational and vocational issues.

Ms. DeVor reported that currently MSP is operating under a therapeutic community model, which has been adjustment for the inmates. She agreed with Warden Mahoney that prisons must operate under a dual mission of public safety and rehabilitation but that the therapeutic community model really reinforces the idea of rehabilitation. Each inmate is given the opportunity to make the choice to recover and to change past behaviors.

05:13:48 **Jo Acton, Warden, MWP,** said that an aspect sometimes overlooked is the denial by the person to accept that they have a problem. Warden Acton discussed several different scenarios of how women end up at MWP and said that the goal is to provide the care and rehabilitation needed to allow them to be successful members of their community. She said the programs in the prison try to identify the behaviors that are stopping that person from being a successful and law-abiding citizen and address those behaviors, which may be due to mental illness, chemical dependency, or other factors. She said the challenge is to determine the cause of the behavior and treat it accordingly. She said her staff deals with some very difficult behaviors and provided several examples, such as an inmate eating razor blades or cutting themselves. Warden Acton said she has seen an increase in inmates with emotional problems and said it was likely that they ended up in prison because they weren't able to access services that may have helped keep them functioning as a law abiding citizen. She said while they did eventually commit a crime, she doesn't think this type of inmate necessarily belongs in prison and that increasing services to provide earlier intervention would result in fewer incarcerations.

05:23:09 Ms. Matteucci asked for information of challenges they have experienced. Warden Acton said that a mentally ill inmate is very vulnerable to others in the prison population and that staff has to watch out to made sure that the vulnerable inmates are taken advantage of. She said that inmates are often afraid of a mentally ill inmate, which can result in an altercation in which someone is harmed. Isolation is not a preferred practice at MWP but is sometimes necessary for an inmate's own safety. Crisis situations require more staff time and effort so staff tries to monitor the population in order to avoid such situations.

05:26:23 **Ed Amburg, Director, Montana State Hospital, Warm Springs,** said he has worked at MSH for 29 years and offered his expertise and knowledge to the Committee. He discussed the current population at MSH, saying that there are

currently 210 patients at MSH. He pointed out that 58 patients are forensic commitments and that the forensic unit was built to house only 32 patients.

Mr. Amburg explained that a forensic patient is one who has been sent to MSH to be evaluated for competency or is there because the person has been found unfit to proceed and the court needs treatment recommendations before disposing of the charges. Forty-one patients have been found guilty but mentally ill and placed in the custody of DPHHS. These patients may be sentenced to either a mental health or a correctional facility. MSH has nine patients who cannot be sent to prison because they have determined to be not guilty by reason of mental illness. Many of the civil commitment population are on probation or parole or have been referred by local detention facilities. Mr. Amburg noted that of the 58 people on forensic commitments, over 40 will have to register as a violent or sexual offender when released.

Mr. Amberg said he is most concerned about capacity, security, and community followup. Capacity includes staffing, funding, and providing services to a very difficult and expensive population. Security is a factor because MSH is a minimum security facility and the potential for dangerous patients walking away is very real. Finally, community followup is an enormous challenge because it is very difficult to place MSH patients in communities. He said other states are addressing this issue through community programs and suggested consideration of dedicated community services for the offender population. He said that MSH has a great deal of data on its patients and can provide it to the Committee, if needed.

5:35: 58 Ms. Matteucci summarized the concerns and challenges of Intercept Level 4:

- offenders are difficult to deal with because they have already failed other diversion opportunities;
- there is a need for more mental health and diversion courts;
- offenders at this level don't trust the system to help them;
- inconsistent drug formulary programs between counties, prisons, and hospitals, resulting in medication issues and complications for inmates;
- misinformation in the public sector;
- management of Axis I and Axis II populations;
- self medicating behaviors;
- need for a STEP or similar program that will provide higher levels of treatment and security;
- additional screening programs;
- the need for a statewide mental health coordinator;
- better records management for offenders;
- additional mental health and addiction training for probation and parole, correctional, and law enforcement officers;
- more options for community placement;
- refusal of care;
- people who are between levels of care;
- how to determine if the mental illness is the cause of a behavior;
- those who are either vulnerable in a prison setting or who act as the victimizer;

- staffing challenges, such as having to lock down other units when a mentally ill inmate is in crisis in order to maintain order, which stresses the entire inmate population;
- capacity issues;
- security issues; and
- community followup and dedicated community services for released offenders.

05:39:30 SEN. SHOCKLEY asked if a prisoner's PSI report is being provided to the prison when the prisoner arrives. Warden Mahoney said the PSI is provided to MSP most of the time and that as warden, he requires a certified copy of the court order ordering the institution to admit the individual. SEN. SHOCKLEY said in his experience, there could not be a judgment until the PSI is received and that the judge would not hand down a sentence until he sees the PSI. Warden Mahoney said a presentence investigation has to be done before the judge will proceed with the sentencing but that the prison doesn't always get the report with the prisoner and that other documents pertaining to inmates are not consistently forwarded. SEN. SHOCKLEY asked if the Director of DOC is aware of the situation. Warden Mahoney said yes.

05:42:57 **Mike Ferriter, Director, DOC,** clarified that a PSI is not mandatory for all felony sentences in Montana, which has created problems for DOC and that DOC policy now calls for a post sentencing investigation. SEN. SHOCKLEY said in his experience, he has never seen a person sentenced without a PSI because judges, defense counsel, and prosecutors all think it is very helpful. He asked Mr. Ferriter if he thought PSI should be statutorily required. Mr. Ferriter said that has been considered but that it would require more FTE. He said approximately 3,500 PSI are received every year and that a study of the issues revealed that one probation and parole officer would be needed for every 17 PSIs. He said he would be willing to discuss the issue further.

05:45:36 REP. KOTTEL asked if MSH is considered a correctional facility. Mr. Amberg said no, it is a licensed hospital and mental health facility. REP. KOTTEL asked if the forensics unit in MSH is considered a correctional facility. Mr. Amberg said no, it is a mental health facility and in fact was cited by federal surveyors recently for using law enforcement restraint devices to secure patients when off the unit. He said that since then, recertification has occurred and the use of restraints has been modified.

05:46:37 REP. KOTTEL asked Warden Mahoney about prisoners' lack of trust of prison staff and to discuss the impact of HB 467, which took away jurisdiction of the Montana Medical Legal Panel to look at claims of medical malpractice if health services were provided at a correctional facility. Warden Mahoney said HB 467 was introduced in an attempt to minimize the detrimental effects on professional health care providers and it was not intended in any way to minimize an offender's right to proper care. He said it is extremely difficult to recruit healthcare staff for the prison and the legislation was intended to mitigate the problem. Regarding his comment about inmates not trusting the system, Warden Mahoney said it is natural for an inmates to be frightened at the unknown of

entering the corrections system and that an inmate who has already had a bad experience in the system is not likely to cooperate and is more likely to lie about past treatment or medications.

05:49:47 REP. KOTTEL asked if there is an effective system in place to allow for an unbiased grievance process for inmates to follow, specifically one that is nonpunitive. Warden Mahoney said he believes so, but cautioned that it is difficult to provide fair representation for an inmate who is uncooperative and unwilling to work with prison staff.

05:51:23 REP. MCGILLVRAY asked Warden Acton is she could supply specific data regarding the inmates she referred to as not necessarily belonging in prison. Warden Acton said she is not tracking them at this time but could review records to find cases that probably could have been diverted.

05:52:57 REP. MCGILLVRAY asked Warden Mahoney to comment on if this situation has occurred at MSP and if he could provide a percentage number of inmates who could have been diverted. Warden Mahoney said there are over 300 inmates on psychotropic medications and estimated that approximately 30 of them could have been diverted into a more appropriate environment. Dr. Schaefer said he has not seen many inmates who should have been diverted and that from his perspective, an inmate has to work pretty hard to get into prison. He did note that there has been instances of a severely mentally ill inmate being placed in prison rather than MSH. He estimated that approximately 40 inmates could have been diverted and said the remaining inmates on psychiatric medications suffer from relatively minor cases which would not necessitate diversion.

Intercept 5 -- Re-entry/Transition Services

05:55:49 Ms. Matteucci said Intercept Level Five would discuss the re-entry of offenders back into the community and what planning and coordination takes place to assist mentally ill offenders with re-entry.

05:56:51 **Craig Thomas, Executive Director, Board of Pardons and Parole,** said that the Board is attached to DOC for administrative purposes only and has seven citizen members appointed by the governor. Mr. Thomas said the Board's primary responsibility is to thoroughly review parole applications. He briefly discussed criteria for parole and said the Board does not release an inmate unless they have an appropriate plan. Mr. Thomas then discussed the challenges from the Board's point of view, saying that clarification is needed of what offenders qualify for services outside the prison and who does not. The STEP program would be very valuable to the Parole Board in its decision making and would also be beneficial to released offenders. The offender group of 18 - 25 year olds with mental health issues is another difficult group to work with because they don't fit well with either the juvenile or adult systems. Housing is a big challenge because public housing is denied to certain offenders, particularly sex offenders. He supported earlier statements made regarding the need for increased adult foster care and group homes, noting that only two group homes accept sex offenders.

Mr. Thomas said The Board struggles with an information gap because there are certain counties that do not complete PSIs or provide supporting documents, which affects the Board's ability to decide if an inmate is appropriate for release. He noted there is some special needs money for pre-release center placements for MWP inmates who are considered to be difficult to place and said that expanding this type of program would be helpful.

06:05:50 **Ed Foley, Institutional Probation and Parole Officer, MSP,** said the biggest challenge at this intercept level is finding appropriate housing. Many of these offenders, due to their incarceration or illness, have lost ties to their families and don't even know where their families are. Some families have rejected the inmate and will not provide support for the inmate. Many of these offenders, due to their crime, are not eligible for public housing. The biggest resource that is lacking is money for setting up an apartment and telephone. This is particularly difficult for offenders trying to transfer to a high cost of living community, such as Gallatin or Flathead County.

Mr. Foley said that it is very difficult for some offenders to function independently on their own outside of prison and would function better in a group home or foster home placement. Finding those placements and convincing the home to take these offenders on is a difficult task. Additionally, these group and foster homes have long waiting lists, making placement even more difficult.

Mr. Foley agreed that the 19 -25 year age group is a challenging one to work with and many have co-occurring issues. Many of them need the structured environment and the providers are usually reluctant to take them. Ms. Foley said as an institutional parole officer, he is requesting that housing issues be addressed.

06:09:30 **Louise Goss, Community Mental Health Liaison, MWP & Probation and Parole, DOC,** said she works with offenders from both facilities who have mental health issues and also takes referrals from parole officers for individuals with mental health issues who have not been incarcerated but have been sent to treatment directly from jail. She agreed that housing is the major challenge. She said there is a lack of funding for placement in residential homes for individuals with mental health issues, whether they had been incarcerated or not. A decision has to be made on who can be helped in the shortest period of time and the reality is that the people are moved in, stabilized, and moved out. Ms. Goss listed other challenges such as finding enough staff to help with court-ordered programming, a need for family counseling, and access to medication and/or psychiatric services. She explained that MWP gives inmates a 30-day supply upon discharge but there is a year-long waiting list to get into see a psychiatrist. Ms. Goss noted that only 41 doctors graduated with a degree in psychiatry nationwide in the last year. Ms. Goss said she sees many individuals on a frequent basis until they can get into the psychiatrist and that these people often don't qualify for the MHSP program.

06:14:03 Ms. Goss said Billings has the luxury of having the hub but that people are still set up for failure because of the lack of funding. She said her case load is

incredible and that she also does outreach, referral, intervention hearings assistance, and crisis interventions. She said if she could identify one thing that would help keep people in the community, it would be to have staff such as herself placed in the Probation and Parole Office to work with individuals directly. Ms. Goss closed her statement by saying that just the term "felon" presents many obstacles to newly released inmates.

06:16:44 **Kelly Speer, Community Corrections Division, DOC,** explained issues and challenges of inmates coming out of prisons and said the ideal situation is a step down transition, which provides an intermediate step of pre-release or intensive supervision before probation. Once the offender reaches probation, a risks and needs assessment is done to help with the transition. Ms. Speer said the sheer number of inmates being released to community corrections is a challenge and communications between departments, programs, facilities, and the prison are not as tight as they should be. She said eligibility requirements and waiting periods present great difficulty for offenders because this group is already struggling with employment and housing issues, as well as drug and alcohol issues.

06:18:42 Ms. Matteucci said Dr. Conley's report was mailed to LJIC members (EXHIBIT #12).

06:19:51 **Dr. Tim Conley, Associate Professor of Social Work, University of Montana,** said he would discuss each of the three questions listed on the agenda, the first of which is how, at this level of the sequential intercept model, are mentally ill offenders identified and handled. Dr. Conley said that screening is an effective tool and that DOC uses it well at all levels, but it is not standardized. He suggested that there should be a standardized screening protocol across all DOC facilities. He said he used three criteria to conservatively identify prevalence rate of mental illness in this retrospective report: prior state hospital commitment or equivalent, use of major psychiatric medication, or a diagnostic mental health report by mental health professional (page 10, *Predicting and Reducing Recidivism: Factors Contributing to Recidivism in the State of Montana Pre-release Center Population & the Issue of Measurement* -EXHIBIT #12). Dr. Conley said that his research indicates that at the pre-release center point of the intercept, approximately 45.8% of the population is mentally ill. Dr. Conley broke this down further, saying that 69% of the women and 69% of the men are mentally ill and that 93% of this population have a substance abuse disorder. Dr. Conley said that the criteria for that is also in his report and noted that it was difficult to find an inmate file that did not contain substance abuse issues. Dr. Conley went on to say that he could not break down the mental illnesses into diagnostic categories any further and could not tell the Committee what percentage of the population was bipolar, for example. His suggestion was to standardize the diagnostic and screening protocols.

Dr. Conley explained that establishing the prevalence rate entailed a thorough review of extensive paper records and was very time consuming. He said at this level of the intercept, all usable factors considered, being mentally ill does not significantly predict recidivism and attributed that to the pre-release centers doing

a good enough job in procuring mental health services for offenders. He noted that an exception to this is the Native American population and that mental illness does impact their recidivism rates.

Dr. Conley said of the almost 49% of offenders in pre-release centers who do have a mental illness, 93% also have a substance use disorder and that DPHHS is aware of this.

Dr. Conley moved on to the second question, which was should there be diversional alternatives for nonviolent substance abuse offenders at this level (Intercept 5). Dr. Conley said yes and noted that they vary by pre-release center. He pointed out that there is a growing shortage of licensed addiction counselors and mental health counselors across the state and said that the U of M and DOC are undertaking efforts to train sufficient work force to staff current and additional programs. Dr. Conley said he supports Ms. Goss's request to have mental health professionals within probation and parole offices and said they should be in the pre-release centers also, due to the large population of mentally ill offenders in the centers.

Dr. Conley discussed what changes and improvements he would like to see occur for mentally ill offenders and nonviolent substance abuse offenders. He said his most important recommendation would be to invest in a quality electronic medical and mental health record-keeping system to generate the data necessary to form good policy research. He said he is currently communicating with DOC staff to determine what the needs of such a system would be. He said that an offenders mental health records should arrive in advance of the offender but at the very least, with the offender.

Dr. Conley referred to Mr. Niss' September 14, 2007, legal review (EXHIBIT #4) and said he concurred with his recommendation for standardized mental health care in prisons, particularly a systemized screening program for inmates in order to identify those in need of treatment for a serious mental disorder. He said that screening should be in place from the very first entry point in the system and that this information should precede and follow the offender wherever they move, particularly when it is into a community.

06:26:58 Ms. Matteucci recapped the Intercept Level 5 challenges and barriers discussed by the panelists:

- a significant portion offenders don't qualify for services;
- the need for a special needs unit, such as STEP, step down facilities, foster and group homes, and community-based homes dedicated to this population;
- housing for the 18-25 year old population;
- an information gap and how to improve the process for keeping inmate records with the inmate as he or she moves through the system;
- financial resources for housing and telephone, as offenders transition;
- significant waiting lists for community services;
- limited resources for court-ordered treatment;
- access to medications - both paying for them and to a prescriber;

- work force shortage;
- family reunification and how to assist transition back when the relationships have been damaged;
- benefit enrollment issues and how to support offender until enrolled;
- case management in probation and parole and pre-release centers;
- a need for better communication and transition between programs as an offender steps down out of institution into community services;
- creating a more structured environment through out the process for those offenders who need more stable housing and environment;
- standardized screenings;
- the shortage of chemical and mental health providers; and
- the need for an electronic medical and mental health data system.

06:29:54 REP. STOKER said he suspected that the federal Health Information Portability and Accountability Act (HIPPA) requirements would not mesh with an electronic medical records system and asked Dr. Conley to comment. Dr. Conley said that Gary Hamel, Healthcare Manager, DOC, has looked into this issue and could provide better information than he could.

PUBLIC COMMENT

06:32:06 Mr. Girdwood asked to add to his previous testimony that all of his charges, other than disorderly conduct, were dismissed after two weeks in solitary confinement.

06:32:51 **John Garcis, Sacred Heart Coalition, Four Nations Warrior Down,** said that he helps people coming out of prison and pre-release and agreed that housing is a critical issue. He discussed his program, saying it is a nonprofit organization geared to help with recovery issues, is a peer-to-peer program, is a spiritually-based program, offers 12-step programs, and is self-supporting. Mr. Garcis provided a pamphlet to the Committee (EXHIBIT #13). Mr. Garcis said that he has been both a state and federal prisoner and is now a treatment assistant at Rocky Mountain Treatment Center, proving that the rehabilitation does work. He said the Four Nations Warrior Down is willing to help anyone, regardless of income, in spite of the program's limited funding.

06:34:48 **Kandi Matthew-Jenkins, Missoula,** said much of the day's discussion dealt more with management issues for mental illnesses or disorders, rather than why these problems are occurring. She asked that the study group focus on why so many are experiencing mental illness and disorders. She said she would like to learn more about the sources of the addiction and mental health problems. Ms. Matthew-Jenkins distributed information on use of behavioral drugs, short-term and long-term effects, articles about the safety of childhood vaccines, the effects of drugs on the human brain, and other related information. Ms. Matthew-Jenkins read a definition of "psychopolitics" into the record and discussed how, in her opinion, governmental influence in people's lives may be a contributing factor to the high instance of mental illness and mental disorders (EXHIBIT #14). She read several small articles regarding mental illness aloud to the Committee and said that many situations that result in a person becoming mentally ill could be prevented if outside influences from government intervention into people's lives

were not allowed. She said to stop the cycle before it gets to the point where it needs to be funded by public money.

06:46:01 **Brett Linneweber, Park County County Attorney & Montana County Attorney's Association,** provided an brief explanation of a county attorney's role in the mental health arena and said that when he first started as a county attorney, he had no idea of the severity of the problem. After personally dealing with approximately 175-200 involuntary commitments, Mr. Linneweber said he has a very clear idea of the problems. He said the model is fairly accurate and wanted to emphasize that under the current system, counties are bearing the biggest part of the burden because it is the county of residence that pays the commitment costs. Mr. Linneweber suggested that there needs to be some type of less restrictive crisis center, which would allow many of these cases to avoid the criminal justice system. Mr. Linneweber said precommitment costs to counties can be staggering, citing as an example, a $60,000 bill that Hill County had to pay. He said the legislation passed in the 2007 session was a great first step but more needs to be done.

06:51:01 Mr. Linneweber said he was also speaking on behalf of the Montana County Attorney Association (MCAA) and he invited the Committee to use the Association's resources when considering these issues. He said the members have specific knowledge of case law and experience and would like to be of assistance in drafting proposed legislation for the 2009 session. Regarding discussion of changing the definition of mentally ill, Mr. Linneweber said the current definition already states that mental illness should not be used to determine criminal intent. He said MCAA is very strong organization with decades of experience and encouraged Committee to use it as a resource.

06:53:45 **Scott Crighton, Executive Director, American Civil Liberties Union (ACLU),** commended the legislators for making this a priority and study issue, saying mental health issues have been problematic for decades. He said he would gladly assist the Committee however he could in order to arrive at the most judicious recommendations. Regarding the lawsuits brought against DOC, he said certain portions are still ongoing but agreed that much progress has been made and that most of the concerns have been resolved. He noted that the ACLU continues to receive substantial and serious medical complaints from prison and county jail inmates regarding mental health treatment and medical health treatment issues. In terms of county jails, said he said there is little uniformity in the state guidelines to allow for prescription medication for inmates.

06:57:18 **Jim Smith, Montana County Attorneys Association, Helena,** echoed Mr. Linneweber's comments. He said he also represents the Sheriff and Peace Officers' Association and said that both groups are available to the Committee as resources. Mr. Smith requested that some time is spent looking at how various levels of service are funded. He suggested inverting the funnel, noting that the least amount of money appears to be available to those who haven't entered into the system and that is backwards from how it should be, in his opinion.

06:59:15 **Robert Benton, Four Nations Warrior Down,** said, regarding the Intercept Level 4 discussion on medication, that inmates become dependent on their medications while in prison and in treatment centers. When they are discharged or released, they are not given medications and have difficulty obtaining their medications. He said that some have to quit their medications cold turkey, which often has a detrimental effect on both the inmate and the community.

07:01:09 Patti Jacques asked the law could be changed to allow private insurance be used instead of public funding and suggested that this be looked into.

07:01:45 Ms. Heffelfinger said the Montana Psychological Association submitted comments on HJR 50 for the public record (EXHIBIT #15).

ADVOCATE COMMENTS

07:03:10 Ms. Matteucci asked the advocate panelists to identify challenges they see and what intercept they appear in.

07:05:51 **Dr. Gary Mihelish, Montana President, National Alliance for the Mentally Ill (NAMI),** said NAMI is a family organization that educates, advocates, and supports families with members dealing with severe and disabling mental illness. He commended LJIC for dealing with this issue and recalled a time when the occurrence of mental illness in the correction system was denied. Dr. Mihelish said the Committee can't solve all of the problems but can take one step at a time to make the lives of people who live with mental illness better. Intercept Level 1 is the gate keeper to the mental health system and NAMI has long supported crisis intervention training for law enforcement officers. There are training programs in Helena and Billings and the goal is to have three regional training centers across Montana that would provide crisis intervention training to officers several times a year.

Dr. Mihelish said there is no way to prevent mental illness but that early treatment is the key to minimizing the effect. NAMI has educated over 1,000 families on living and dealing with a mentally ill family member. NAMI has also worked with schools and workplaces to provide education on mental illness.

Regarding incarceration (Level Four), Dr. Mihelish said community services are the best deterrent to incarceration. He pointed out that both Missoula County and Lewis and Clark County make a great effort to divert mentally ill people from the criminal system, but both counties are denigrated for having such high commitment rates.

Dr. Mihelish said a mental health crisis can happen to anyone, particularly when a person goes off medication, but also occurs if the person is under proper treatment because mental illness is cyclical in nature.

Regarding Intercept Level 3, Dr. Mihelish said probation and parole officers absolutely need education and training to prevent recidivism. In his experience, they do not understand mental illness and are a key an inmate's success in these programs. He discussed a specific inmate who is eligible for parole but is still in

prison because the parole office can't find a place for him. He agreed that data collection in Montana is sorely lacking and with the discussion that medication is an issue. He said implementing a STEP program would be an integral part of a comprehensive mental health treatment system and that it is helpful, useful, and necessary. He said a bill failed in the 2007 session because it was presented without proper preparation and was misunderstood. Dr. Mihelish noted the high percentage of prisoners with a severe mental illness and said that over 300 prisoners are on psychotropic medications. He said the 16 beds for mentally ill inmates is not nearly enough to serve the needs of the prison population.

He concluded his statements by saying that communities are able to provide much better treatment than a prison. He also said that approximately 50% of those with mental illness deny they are mentally ill, which presents problems. He said the key to stability is appropriate housing and gave the example of the "red ghetto" housing in Helena. He said people would be astonished at how people have to live when they have little to no access to services. He offered the use of a video produced by PBS on the Ohio State Mental Health Treatment System.

07:17:37 **Anita Roessman, Attorney, Montana Advocacy Program (MAP),** said there was an overwhelming amount of information presented at the meeting and that it would take time to process it all but was grateful that so much was presented. She said she agreed with much of what was presented and that there were many solutions for the issues faced by MAP. She said the MAP has prioritized correctional and mental health issues and for first time, will be conducting investigations of complaints regarding the corrections system. Ms. Roessman said it was obvious that the corrections panelists are very compassionate and care a great deal about the well-bing of the inmates, but agreed that there is a need for more education and training for all levels of the intercept. She said she was especially impressed by the training that Ms. Christianson took at the U of M and that type of training should be replicated throughout the system.

Ms. Roessman said the number one issue is access to services. People have to be able to get services when they need them or their lives quickly deteriorate. Services also must be rich enough to meet the client's needs.

Ms. Roessman also discussed the ambivalence towards mental illness in America and said it is present at many different levels in the country and is frequently viewed as a sign of weakness. The human brain is viewed as sacred and there is a great reluctance to accept that some may need chemicals or medications to function properly. Patients are ambivalent about taking medications and try to prove that they can make it on own.

Ms. Roessman said if people are given the proper medication, education, and tools to cope with their illness, most are able to function. She said our unwillingness to acknowledge mental illness has to be overcome and we have to trust the medical community to diagnose and we to trust that diagnosis, or little will change. She suggested that changes be made to the statutory definition of mental illness and that there is a need more legislative guidance.

07:25:28 **Tracy Velazquez, Executive Director, Montana Mental Health Association (MMHA), Bozeman,** said MHHA educates and advocates for mental health for all Montanans and that it is receiving more and more calls from people looking for help. She said there is a need at the most basic level of people who simply want to help a family member deal with a mental illness in the correctional system. Ms. Velazquez related several specific situations in which people have contacted MHHA for assistance in dealing with mentally ill friends or family member in the corrections system. She said these calls highlight the holes in the safety net and asked that work be done to tighten the system to avoid people falling through the cracks. She said she supports the creation of an electronic medical records program to keep better information on people in the system and thought that HIPAA guidelines would allow for such a system.

Ms. Velazquez suggested gathering information starting with the primary sources - prisoners and people in the system, families with members in the system, and those who have made it through the system - saying that their input is essential and be a good way to find out what really is happening in the system. Service Area Authorities and local Advisory Groups would also be good sources of information. Ms. Velazquez cautioned the Committee to be wary of quick fixes and said funding must be spent wisely to create a cost efficient system.

07:32:37 **Eve Franklin, Mental Health Ombudsman,** said she has personally been involved in community mental health issues for over 25 years and that the Ombudsman office was created in 1999 as a way to deal with the managed care debacle. The managed care system was dissolved but the legislature decided there were enough remaining issues to warrant keeping the position. The role of the Ombudsman is to collect information and to present it to policy makers. Ms. Franklin said as Ombudsman, the two major issues of concern are access to services in community and helping people with eligibility issues and that she deals with from all of the intercept levels.

Ms. Franklin discussed several anecdotal instances of individuals whose imprisonment was a direct result of their mental illness. She said a STEP program would be part of a positive addition to a treatment model but is not the only answer, that the immediate crisis issues have to be dealt with, as well as the long-term issues. She noted that Mr. Amburg's comments regarding the high number of forensic patients at MSH and the fact that the hospital can't use correctional methods that may be effective treatment highlights the crisis at MSH.

Regarding medication, Ms. Franklin said that inmates are currently now receiving 60 days worth of medication upon discharge from MSP. She agreed that the safety net has holes and provided two examples of families struggling with severely mentally ill family members and said the examples illustrate the need for access to services in order to provide stability for the severely mentally ill.

07:42:06 **Robert Benton, Vice President, Sacred Wind Recovery Unit, White Bison Group, Four Nation Warrior Down,** said his group is a pilot program in Great Falls, has been in operation for 16 months, is planning to expand to Billings, Missoula, Fort Belknap, and Rocky Boy. The plan is structured for Native

Americans and provides support to those in prison, prerelease programs, or mental institutions and is a recovery and aftercare program.

Mr. Benton said the program is a structured program and works. He related his personal experiences of being in juvenile homes, jails, mental institutions, and three prisons in three different states. He said he is clean and sober today and has been for quite some time. He said he has been through many of the programs discussed today and that it was the Four Nation Warrior Down program that finally helped him to change in his life.

Mr. Benson provided a meeting schedule (EXHIBIT #16) and said the program is set up to assist with the reentry of inmates into society and starts with Intercept Level 5 prisoners while they are still in prison or in pre-release or treatment centers. The program provides continued aftercare for one year after release at no cost to the individual. The program asks for dotations and asks the individual to pay half of the cost of the three books used by the program, which is refunded to the individual upon completion of the program. He explained how the program is administered and said that anyone who asks for help will be given assistance.

Ms. Matteucci asked him to identify challenges unique to Native Americans in the corrections system. Mr. Benton said see people, especially natives that don't know where to go or what to do. Indian Health center funds were cut. The lack of identification and issues in obtaining a tribal number are huge challenges. He said communication and community acceptance is also challenges..

07:52:35 Ms. Matteucci recapped the advocate comments and listed the following challenges:

- the need for more education and training for law enforcement officers;
- the need for regional training centers for crisis intervention teams;
- workforce development;
- community services serve as strong deterrent to incarceration;
- concern that MSH census drives the system;
- the cyclical nature of mental illness;
- the presence of co-occurring disorders;
- the need for data collection;
- access issues for medication;
- STEP program at institutional level;
- the need for more beds for forensic patients at MSH;
- refusal of individuals to recognize or acknowledge their mental illness;
- a critical need for appropriate housing;
- access to services and services at adequate level;
- reduce the stigma of mental illness/decrease ambivalence;
- variance in definitions of mental illness;
- standardize record keeping;
- difficulty in navigating the system;
- no single point of entry for those seeking help;
- need for records to follow individual through system;
- more consumer input;
- to be wary of quick fixes;

- to look at reallocation of existing funds;
- financial eligibility acting as a barrier to services;
- considering that offenders with mental illnesses have very different faces:
- the safety net is not big enough and people fall through the cracks;
- the need to develop and expand programs for re-entry for Native Americans;
- spiritual programs in prisons being administered by untrained people;
- budget cuts to Indian Heath Service causing problems in Native American's access to services;
- obtaining tribal identification;
- education for probation and parole officers and correctional officers in justice system; and
- drug formulary issues - expanding and allowing greater flexibility in access to drugs to minimize problems for prisoners.

PUBLIC COMMENT

No public comment was given.

UPDATE ON HJR 50 SURVEY

07:57:23 Ms. Heffelfinger said that the survey was not completed and would update the Committee in November.

UPDATE ON RULE REVIEW

07:57:05 Ms. Heffelfinger said that an update on rule review would be given at the November meeting but that in the meantime, noted that two memos were mailed to members as part of the meeting materials.

COMMITTEE DISCUSSION & INSTRUCTION TO STAFF

07:58:05 REP. STOKER asked where the intercept model originated. Ms. Heffelfinger said the model was developed in the early 2000s by the GAINS Center.

07:59:16 SEN. MCGEE said Ms. Heffelfinger will prepare a summary of each panel and of each topic in order to identify overlapping issues.

08:00:35 Ms. Matteucci offered to arrange facility tours as part of the November meeting, saying that tours could help frame some of the comments and information presented at the day's meeting.

SEN. MCGEE thanked Ms. Matteucci for her assistance as the panel moderator.

08:01:15 SEN. MCGEE said the November, 2007, LJIC meeting will be a continuation of adult issues and that juvenile issues will commence at the end of November. He announced that the Committee will meet again on Friday, November 30, 2007, in Helena.

ADJOURNMENT

With no further business before the Committee, SEN. MCGEE adjourned the meeting at 4:14 p.m. The next Law and Justice Interim Committee meeting is scheduled for Friday, November 9, 2007, in Butte.

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