



# Law, Justice, and Indian Affairs Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## 56th Montana Legislature

### SENATE MEMBERS

LORENTS GROSFIELD, PRESIDING OFFICER  
SUE BARTLETT  
JOHN BOHLINGER  
DUANE GRIMES  
MIKE HALLIGAN  
LINDA J. NELSON

### HOUSE MEMBERS

CAROL C. JUNEAU, VICE PRESIDING OFFICER  
GAIL GUTSCHE  
GARY MATTHEWS  
DANIEL W. "DAN" MCGEE  
JIM SHOCKLEY  
JAY STOVALL

### COMMITTEE STAFF

LEANNE KURTZ, RESEARCH ANALYST  
VALENCIA LANE, STAFF ATTORNEY  
JOHN MACMASTER, STAFF ATTORNEY  
LOIS O'CONNOR, SECRETARY

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file in the offices of the Legislative Services Division.

Second Meeting of Interim  
Tempest Room, Third Floor  
Sheraton Hotel, Billings MT  
September 17, 1999

### COMMITTEE MEMBERS PRESENT

Sen. Lorents Grosfield, Presiding Officer  
Rep. Carol C. Juneau, Vice Presiding Officer  
Sen. Sue Bartlett  
Sen. John Bohlinger  
Sen. Linda J. Nelson  
Rep. Gary Matthews  
Rep. Daniel W. "Dan" McGee  
Rep. Jim Shockley  
Rep. Jay Stovall

### COMMITTEE MEMBERS EXCUSED

Sen. Grimes  
Sen. Halligan  
Rep. Gutsche

### STAFF PRESENT

Leanne Kurtz, Research Analyst  
Valencia Lane, Staff Attorney  
Susan Fox, Research Analyst  
Connie Erickson, Research Analyst  
Lois O'Connor, Secretary

## **VISITORS**

Visitors' list (ATTACHMENT #1)

## **COMMITTEE ACTION**

- adopted the Study Plan for House Joint Resolution No. 12: To Study a Proposal to Create a State Commission on Indian Affairs
- adopted the proposed sentencing study plan for Senate Joint Resolution No. 14

## **CALL TO ORDER AND ROLL CALL**

The meeting was called to order by Sen. Grosfield, Chair, at 8:35 a.m. Roll call was noted, Senators Grimes and Halligan and Representative Gutsche were excused. (ATTACHMENT #2)

Sen. Bartlett requested information about whether the MWP conducted vocational or aptitude assessments upon intake to help inmates select an area that would give them a better chance of finding gainful employment once they are released from prison.

## **CROW WATER COMPACT FOLLOW-UP**

**Leanne Kurtz, Research Analyst, Legislative Services Division**, presented an update on the Crow Water Compact. She said that:

- the Reserved Water Rights Compact Commission is beginning work on a stream flow management plan and it has asked the Governor to appoint the state's negotiating team;
- no official negotiating session has been scheduled to date but that the management plan must be completed by June, 2000;
- issues currently being discussed with the federal government are hydropower revenue and the federal government's cost share for the coal tax settlement;
- the Crow tribe and the federal government must make significant progress on Section 2 before moving on with the Compact but the Compact Commission is urging the continuation of the Compact process even though the Section 2 issues are not settled;
- the federal government and the Crow Tribe will meet to discuss the issues surrounding Section 2 by the end of the month;
- the Fort Belknap water compact is the next compact to be negotiated;
- a draft compact has been circulated to all interest parties and the Compact Commission will meet at Fort Belknap on September 22;
- the Compact Commission hopes to bring the Fort Belknap Water Compact before the 2001 Legislature;
- an irrigation study is currently being conducted on People's Creek which is one of the major areas of conflict;
- the Compact Commission is currently conducting technical work by way of aerial photos and digitizing irrigation information; and

- technical work is being done on the Blackfeet Compact, but it will be several years before it can be brought to the Legislature.

A preview of the Fort Belknap Water Compact was scheduled for the February meeting.

### **MEET WITH MONTANA-WYOMING TRIBAL LEADERS' COUNCIL**

Members of the MT-Wy Tribal Leaders' Council in attendance were as follows:

Gordon Belcourt, Executive Director, Montana-Wyoming Tribal Leaders' Council  
Richard Sangray, Chippewa Cree Tribe, Rocky Boy Reservation  
Tim Zimmerman, First Vice Chairman, Little Shell Tribe  
Joe Fox, Fort Belknap Community Council  
Ray Eder, Fort Peck Tribes

Joe Fox said that the Fort Belknap Water Compact is moving forward but it has been difficult to find the source of water on People's Creek because it originates in the Bear Paw Mountains

Sen. Grosfield asked about the Fort Peck Water Compact and how it has worked over the past several years. Mr. Eder said that currently the Fort Peck Tribes are involved in a proposal to build a water pipeline from the Fort Peck Reservoir into the Fort Peck Reservation. Also involved in the project are a number of nonIndian people who own water deeds and live on the exterior boundary of the reservation. It is the tribes hope that the project can be brought before the 2001 Legislature. The Fort Peck Tribes are also involved in a couple of irrigation projects.

### **Commission on Indian Affairs study plan**

**Connie Erickson, Research Analyst, Legislative Services Division**, provided a copy and overview of the Study Plan for House Joint Resolution No. 12: To Study a Proposal to Create a State Commission on Indian Affairs. (EXHIBIT #1) She said that the study resolution is a blueprint to try to find a better way to address state/tribal relations in Montana other than going through the current Office of the Coordinator of Indian Affairs.

Rep. Juneau said that the study resolution came at the request of the Blackfeet Tribal Business Council who preferred a study resolution rather than going forward with legislation to create the commission because it was not prepared to give its full endorsement for a commission without more information on what the interaction between the state and the tribes would be. She said that the people and tribal nations of Montana are beginning to interact on many issues. She hoped that the study resolution would develop strategies to strengthen economic development in Montana communities, particularly on the reservations, and would review welfare and education issues.

Sen. Grosfield asked for background information on the former Committee on Indian Affairs. Ms. Erickson provided the following information:

- the first Committee on Indian Affairs was established in the 1970s and it dealt strictly with state/tribal jurisdiction issues;
- the Committee was recreated every legislative session and was made a permanent interim committee in the late 1980s
- the Committee functioned like most other interim committees and began studying many different topics such as alcoholism on Indian reservations, welfare, economic development, and Indian education in Montana and it would propose legislation;
- the State/Tribal Cooperative Agreements Act in Montana was a product of the Committee on Indian Affairs, as was the Tribal Nations of Montana Handbook for legislators;
- the Handbook has been requested by many different entities across the nation and was created to eliminate the many misconceptions that people had about the tribes of Montana;
- the Committee began traveling to the various Indian reservations--Fort Belknap, Fort Peck, Northern Cheyenne, and Crow Reservations;
- the first day would be spent touring the reservation and meeting with tribal people and the second day would be spent for meeting purposes and was primarily devoted to issues that the particular tribe wanted to bring to the Committee;
- the Committee studied education and the implementation of Article X, section 1, subsection 2 of the Montana Constitution which states that the state recognizes the cultural heritage of American Indians and will include it in the educational systems--postsecondary, elementary, and secondary schools; and
- the Committee on Indian Affairs was instrumental in developing many different liaisons between the state and the tribes.

**Wyman McDonald, Coordinator of Indian Affairs, Governor's Office**, said that the Coordinator's position must talk in two different worlds. With only two staff people in the Coordinator's Office, it is very difficult to address the many Indian affairs issues in Montana. He said that often times, his points of view are not in agreement with the Governor and the Legislature and he then becomes caught up in partisan politics. He said that in the early 1970s, there was not much in the way of state business to be done. However, because of the process of devolution, relationships between the state and the tribes are ever increasing in that many of the tribal programs that used to come from the federal government are now coming to the reservations through the state. As a result, there needs to be greater Indian involvement in the state programs and two people in an office cannot effectively do the work that needs to be done. He felt that a Commission on Indian Affairs, which includes state, tribal, private, and Supreme Court entities, could elevate the focus of state/tribal issues and perhaps settle many of the contentious issues at the commission meetings rather than through the court systems.

Mr. McDonald said that a Commission could review the social problem syndrome to find out why, for example, the Indian population in the corrections system is disproportionately larger than the entire Indian

population in Montana. He said that the situation is not improving; it is getting worse because of the misconceptions, separation, misunderstanding, and the inability to work together and communicate. The proposed commission could also review why 40% of the children in foster care are Native American and review welfare costs. He said that Indian people and the state are in trouble and it will not help to let the problems continue. Ways must be found to improve state/tribal relationships which is the purpose of the proposed commission.

Mr. Belcourt said that in a cultural context, Native Americans relate to federal and tribal issues very keenly and the process of doing business rests on definitions. He said that the concept of a Commission must be defined in terms of authority and power, and the tribes need to see where all of the entities (Legislature, tribal, and judicial) fit within the structure of the Commission from a statutory and legal point of view. As an example, Mr. Belcourt said that when Native Americans discuss the definition of tribal leaders, they mean elected tribal officials. However, there are many Native American people on various committees and advisory groups who are professionals and have experience and training but they are not necessarily representative of the reservations. Because these individuals are not elected to those offices, in reality, they should be the individuals who should sit on the proposed Commission. In addition, the Tribal Leader's Council wanted to know how the proposed Commission would fit in relation to other committees and advisory groups, such as the DPHHS Advisory Council. He said that a clear delineation needs to be drawn between the Commission's authority and tribal relationships with other committees and advisory groups.

Mr. McDonald said that members of the Commission would be appointed by the entities participating on the Commission. The Commission itself will elect its own officers and it should not infringe upon any relationship with other committees and advisory boards. The makeup of the Commission calls for two majority and two minority members of each legislative house, two executive staff appointments by the Governor, representatives from each of the seven tribes, an appointed representative from an agreement of the five off-reservation Indian alliances, a representative from the Supreme Court, and two representatives from the private sector, either academic or business. In addition, the Commission would be advisory only.

Sen. Grosfield said that legislative action is needed in order for the Commission to be formed, in order for it to have authority, and in order for it to have a budget. He said that the slate is wide open and the legislation can be written in any way the Committee and tribal representatives want it to be written. He added that he would not support any legislation that did not have tribal input or satisfaction.

Joe Fox said that the foundation of the proposed Commission must be what exactly is the government-to-government relationship between each of the separate tribes and the state. His concern was that the Coordinator of Indian Affairs position plays a major role in Indian affairs on a day-to-day basis whereas a Commission would not.

Rep. Stovall said that as the Committee goes forward with the proposed Commission, it must keep in mind that Indians living on the reservations have a dual citizenship and that there are both Indian and nonIndian people living on the reservations which create gray areas in the law.

Rep. Shockley suggested that instead of establishing an expensive Commission, the Coordinator of Indian Affairs could be appointed by the tribes rather than the Governor. Mr. McDonald said that the suggestion had merit as long as the office is properly staffed, properly funded, and the position is given an increase in salary.

Rep. McGee asked the Committee and Tribal Leaders' Council members to consider a congress type body, like that of the original 13 independent colonies, to be elected from the state and each of the seven sovereign tribes. The congress would be given power and would bring forth legislation that would be voted on by the congress and the Legislature. Mr. McDonald said that the proposed Commission is much like the concept of a congress without the authority to make law and take action. He said that the reason a congress cannot be done is because there is no organic law to give the Commission that kind of authority and the tribes will never give up or waiver their sovereign authority to another body.

Ms. Erickson said that she recognized the tribes' authority to appoint whomever they want to the Commission. However, in talking with several different people who had input into the study plan, they preferred that if the Commission was going to be voting on issues, they wanted those representatives to have the authority to vote through their appointing agencies. She said that the idea was to prevent a situation whereby a representative, who is not an elected tribal official, may not have the authority to vote on issues and the tribal council does not agree to the representative's position on a particular issue.

Mr. Belcourt said that the Tribal Leaders' Council meets 2 or 3 times a month and it needed to discuss the Commission issue and arrive at a consensus. It will try to articulate the various conditions and contingencies that it sees to the Committee.

Sen. Grosfield requested a synopsis of other states' Commissions to be presented at the Committee's next meeting and he requested a presentation on devolution as they relate to tribal programs.

Sen. Nelson **moved** the adoption of the Study Plan for House Joint Resolution No. 12: To Study a Proposal to Create a State Commission on Indian Affairs. Motion carried unanimously.

Mr. Belcourt said that gestures of government-to-government relationships, such as a tribal chairman invitation to attend the Western Governors' Conference, would be a beginning of building trust between the tribes and the state. He said that trust needed to be nurtured. Mr. Belcourt added that he would speak to William Old Chief, Chairman, Blackfeet Tribal Business Council about a possible Committee visit to the Blackfeet Reservation and he extended an invitation to the Committee on behalf of the Tribal Leaders' Council to attend a joint project to address the needs of Indians in the prison systems. Mr. Zimmerman invited the Committee to Great Falls on behalf of the Little Shell Tribe and Mr. Fox suggested that the Committee visit with all of the tribal leaders because they would receive a variety of view points.

### **PRESENTATION FROM DISTRICT JUDGES**

Ms. Kurtz provided a copy of a letter she sent to all District Court Judges that informed them that the Committee was required by statute to be a liaison with the state's Judiciary. (EXHIBIT #2)

**District Court Judge Russell Fagg, 13th Judicial District, Billings**, thanked the Legislature for providing the necessary resources to bring back inmates placed out of state and for three additional District Court Judges. He said that as a judge and Montana citizen, he was concerned about the many Montana prisoners housed out of state. He said that it was emotionally difficult on the offender and the offender's family and he felt it inappropriate that Montana's tax dollars were being spent on out-of-state institutions. He added that the additional judges would help with the scheduling of cases. He said that because of the enormous caseload, there were too many court delays which resulted in a great disservice to those awaiting trial.

Judge Fagg said that the proposed sentencing study could be the total focus of the Committee. He said that the federal crime seriousness ranking identified that 6% of the criminal population are violent offenders and that nothing could be done with them except to lock them up for as long as they could be locked up. The difficulty arises in identifying those offenders who would fit into the 6%. He said that judges review an offender's criminal history and social background to alleviate some of that difficulty. Judge Fagg's major concern with the current judicial system was the disparate sentences statewide. He felt that the sentencing guidelines should be voluntary and suggested reviewing some of the work that was done by the former Sentencing Study Commission. He said that he was convinced that a person sentenced in a rural area was often sentenced differently than a person sentenced in an urban area, with

those from the urban areas being given a lighter sentence for the same crime. He requested that the Committee review this issue while keeping in mind the goal of having a blind justice system.

Sen. Nelson asked why offenders in rural areas receive harsher sentences. Judge Fagg said that judges in rural areas know the offender and know that the offender has been a problem in the community for a long time, in addition to the fact that communities know the offender and they want the judge to put the offender away. He said that part of the problem is also that each judge thinks that sentencing is their prerogative and they will do what they think is right.

Sen. Bartlett asked for an evaluation of the Sentencing Review Board and if the Board could address some of the sentencing disparities. Judge Fagg said that the Sentencing Review Board takes care of the inordinately high sentences and the inordinately low sentences but, it does not take care of the 80% discretionary sentences in the middle. Sen. Bartlett asked about mandatory-minimum sentences. Judge Fagg said that he was opposed to mandatory-minimum sentences because there are always exceptions. If a prosecutor, attorney, or judge wants to get around mandatory-minimum sentences, they can. He preferred voluntary guidelines with the probation office performing the presentence investigation report (PSI). Sen. Bartlett said that the current sentencing statutes were so convoluted because the Legislature has amended them in a piecemeal fashion and added a variety of types of crimes within a single section of the code. She said that she was hopeful that the Committee would review the statutes that provide the sentencing ranges to see if they could be improved. Judge Fagg said that most generally, the statutes are not bad to work with but there are times when judges are forced to pick through the statutes to figure out what the law is.

Rep. Shockley said that the judicial system can be made more complicated but it cannot be made more just. He preferred giving judges more discretion to avoid adding another layer to an already complicated system.

Rep. Stovall asked why the percentage of Native Americans in the prison system was disproportionately higher than the total Native American population in Montana. Judge Fagg said that some of the reasons are low self esteem based on the lack of job opportunities and alcoholism and drugs. He said that judges, as a whole, do not sentence Native Americans to harsher prison sentence simply because they are Native American. There is a greater number of Native Americans in the criminal justice system because of their acts.

Rep. McGee recommended that the Committee have continued interaction with the judges by approaching the Judges' Association and requesting that the Committee be a part of its agenda.

### **SENTENCING STUDY PLAN/JUDICIAL REDISTRICTING STUDY PLAN**

**Susan Fox, Research Analyst, Legislative Services Division**, said that she has been in contact with Pat Chenovick, Supreme Court Administrator, regarding the judicial redistricting study plan and she has asked that she be put on the Judges' Conference May agenda. She suggested that the Committee participate in conjunction with the different studies and bring a legislative package to the Conference. She said that the judicial redistricting study has been assigned to the Legislative Council. She will be working with Mr. Chenovick on how the Judiciary came up with the proposal for three new judges to find what data it based its proposal on and what may the next step of the redistricting study plan be. Her contact person will be Judge Warner and, to date, she has not decided whether to survey the judges to find the different issues that are involved with judicial redistricting. Ms. Fox added that the Committee may want to ask the Supreme Court about its data base development and ask about any issue that the Supreme Court may have at its December meeting.

Ms. Fox said that she was also staff for the Children, Families, Health, and Human Services Committee that monitors the DPHHS. She said the Department has a Foster Care Review Committee counterpart to the Supreme Court Citizen Review Board. She said that she would coordinate with Committee staff to share information on foster care review and tribal issues under DPHHS.

Ms. Fox provided a copy and overview of Senate Joint Resolution No. 14 - A Study of Sentencing Statutes, Data Information Collection and Management, and Related Issues. (EXHIBIT #3) Ms. Fox stated the following:

- Part of the complication of sentencing and why there never seems to be resolution is that sentencing deals with all three branches of government and all levels of government.
- Sentencing policy is set by the Legislature, administered by the Executive Branch, and interpreted and enforced by the Judicial Branch. There is also enforcement at different levels of local and state government in the form of law enforcement.
- Sentencing laws are adjudicated by the District Courts which are funded by the counties. After all processes happen at the District Court level, inmates are transferred to the Department of Corrections which is an administrative agency.
- There is an issue of trust between the three branches of government (i.e., does the Legislature trust the Department to properly administer the correctional and punishment end of the system or does the Legislature trust the judges to have discretion over what kinds of sentences inmates receive).
- Titles 45 and 46 include sentencing and criminal procedures for adults. Title 41, the Youth Court Act, contains criminal procedures for juveniles.

- There are provision to transfer juveniles under 18 years of age into the District Court and all sentences under Titles 45 and 46 will apply to the juvenile.
- Presentence investigations (PSI) are conducted by probation and parole officers to be used as a tool before sentencing. PSIs are supposed to be conducted in all cases but, because of workload, they are not. More work means more people, which leads directly to the DOC budget in the form of more FTEs.
- National academic research indicates that judges often times do not pay attention to probation and parole officers which leads to more tension and mistrust between the government branches.
- Various entity reviews over the years have found that a single interim is not sufficient time to address the many issues that needed to be addressed and the common theme among all the studies has been the lack of sufficient data.
- There is no seamless system to gather data because each level of adjudication, from arrest to sentence, has a different database and each branch of government has a different database.
- The data study can be a separate study component because the state of the data is such that the Committee cannot rely on it for some issues that need to be addressed.
- Montana's sentencing structure is an indeterminate structure that has discretion built into it. Discretionary sentencing was established on purpose so that each offender could be dealt with on an individual basis based on type of crime and criminal history.
- Montana is coming out of extreme prison overcrowding and extreme duress. There has been two sessions that have seen significant DOC budget increases, significant facility building, and a whole shift in correctional policy by the use of out-of-state facilities and private corrections.

In summary, Ms. Fox requested that the Committee keep the following in mind in its deliberations regarding the sentencing study:

- to think of the criminal justice system as a tube of toothpaste. If the tube is squeezed, how and where will the toothpaste come out;
- that Montana has basic constitutional and statutory principles embedded in its criminal justice system. The principles did not receive sufficient attention and were changed in different steps along the way. The understanding of the originations of the constitutional principles did not necessarily follow to the ballot. The Committee should review this as a preliminary issue to the study;
- that public policy issues should be on its agenda for the sentencing study. The Committee must feel comfortable with what the Constitution and statutes say as the sentencing policy of the state--are they appropriate and do they reflect legislative wishes and those of their constituents;
- that the DOC has a mission statement that parallels the Constitution and the statutes. The Committee should question which one came first and who is suppose to set the policy of the state;
- that there are four basic purposes to sentencing: punishment, deterrence, incapacitation, and rehabilitation. All four purposes are "mish-mashed" throughout the statutes and sometimes they are consistent and sometimes they are not. Therefore, the Committee should question if an offender is incarcerated for a life sentence, is rehabilitation still important or, if the state puts all of its money into building prisons, is it spending a sufficient amount of money on prevention to keep people out of the correctional system;
- that the Committee should review and assess the crime seriousness raking. Sometimes the latest crime committed that has outraged communities and affected its residents deeply results in passage of a new law and a new crime range. If a new law is passed every session, the criminal

justice system becomes a patchwork quilt and it not known what it looks like until later on down the road;

- consider updating and assessing the crime serious ranking to reflect any statutory changes made and whether it accurately reflects the public's and Legislature's views. Updating the ranking would involve an analysis of the current sentencing and criminal procedure statutes;
- when discussing costs per day, are all factors related to those costs included so that the Committee is talking "apples to apples" (i.e. medical costs, travel costs, taxes, personnel, etc.) and are those costs per day based on length of stay which has a direct impact on those costs;
- that there are suspicions that different sentences are given to rural and urban offenders and there are suspicions that sentencing differences exist between races, particularly those of mixed race. It is difficult to address discrimination issues when it cannot be proven because of the lack of sufficient data. The Committee should continue to review all information databases among the agencies for what data elements are available and how the integration of these systems is progressing; and
- to keep in mind the "big picture" perspective--when the Legislature appropriates money to the different entities that administer state policy, is it mindful of where the money is coming from and where the money is going.

Ms. Fox said that the Committee can choose to study all four parts (five including public policy issues) of the sentencing study plan; it can choose to study one part; or it can choose to study a combination of parts.

Sen. Bartlett said that as the sentencing resolution was being written, she knew that it was going to be beyond the scope of a single interim because it is an area that needs serious attention. She said that sentencing has a direct impact on the resources the state has to spend on incarceration or any type of sanctioning. While attending a national conference on sentencing and while talking with people about reviewing sentencing statutes, they all said that before anything can be done, there needs to be sufficient data. She said that Montana has no data that is usable in the sentencing context and identifying what types of data elements Montana has should be the first step in the sentencing study. She also requested a list of other states' data elements existing in their databases in order to review the impact on resources and requested data on what type of impact changing a sentence or instituting a new crime would have on the number of people the state has in prison or under any state supervision. She recommended that the data elements required to answer these questions should be a part of any agencies data system. Sen. Bartlett said that there may also be Legislative Services Division staff who might assist the Committee in understanding the technical issues that take place when integrating data systems.

Rep. Shockley asked why the data systems have not been modified so that the Legislature can receive the information that it needs. Ms. Fox said that every agency has its own responsibilities and its own duties. The human element is also a problem in the sense that Legislatures change as does the Executive

Branch. She said that it has just been in recent years that technology has allowed one computer to talk to another computer.

Committee staff developed the sentencing study within the Committee's work plan chart and it encapsulates Parts 1 and 2 of the proposed study (criminal justice data and statutory analysis). Part 3 (postsentencing issues) has not been incorporated into the Committee's interim work plan but can be deferred as part of the Committee's monitoring activities and the Committee could use its presentation from the Board of Pardons and Parole to understand the issue. In addition, the four goals listed on Page 16 of Exhibit 3 could be used for future study, but yet, manageable goals for this interim.

Following a thorough discussion of whether to form a subcommittee, the Committee decided that all members needed to be involved in the sentencing study and that contract work or panel discussions with perhaps a facilitator on some of the elements of the study should be considered.

Rep. McGee **moved** the adoption of the proposed sentencing study plan for Senate Joint Resolution No. 14. Motion carried unanimously.

#### **PUBLIC COMMENT**

**Silvers Ziebarth, Laurel**, said that he was concerned about the need to rehabilitate offenders through spiritual growth within the women's prison population (MWP). Although there have been attempts to incorporate religious activity within the MWP, such as spiritual renewal, Homeward Bound, or the Cursillo movement; what is really needed is an in-house chaplain, if only part time. Mr. Zeibarth said that it was his experience, while spending three years at MSP, that there was no rehabilitation, except for drugs and alcohol treatment programs. However, he was convinced that inmates who encountered a chaplain went home rehabilitated and they wanted to do some good in their communities for the wrongs that they had done. He asked that the Committee help provide the resources necessary for chaplains and for whatever else was needed in the correctional system to help with the spiritual growth of inmates.

Sen. Nelson asked what programs currently existed in both prison campuses for spiritual renewal. **Mike Cronin, Victim and Information Specialist, Department of Corrections**, said that MSP has a religious activities center, three state employees who are chaplains, and a sweat lodge and smudge pot for Native Americans. He said that MSP has 80 to 90 religious denominations that are self-reported by the inmates and, by policy, the Department refuses to recognize Satanism and related faiths. Inmates are also permitted to worship and participate in extracurricular activities such as the Cursillo movement. He said MWP has no religious activity center building to date and it has no state employees who are hired as

chaplains. It has 24 DOC-recognized religions and religious activities are conducted by volunteers from the Billings community. However, the DOC is concerned about Native American religious activities. Mr. Cronin said that the DOC does not force an inmate to choose a religion or participate in religious activities. Inmates who choose to participate in extracurricular religious activities, such as the choir or Cursillo movement, may temporarily lose those privileges through bad institutional behavior. He added that the reality of the issue is that many inmates participate in religious activities because they believe in it and it is helping them make progress. However, there are others who are not sincere, are not genuine, and are using those activities as a game to manipulate the system.

Sen. Grosfield asked why the MWP had no chaplain. Mr. Cronin said that the lack of a chaplain could be economy of scale with only 70 inmates and he was unsure whether the Department had actually submitted a request for one. Sen. Grosfield said that economy of scale could justify not having a full-time chaplain, but it did not speak to the part-time issue.

Although Sen. Bohlinger asked the Committee to make a recommendation to the DOC to provide a part-time chaplain for the MWP, the Committee decided postponing a recommendation and requested that the Department discuss the issue in-house and update the Committee at its next meeting. Rep. Juneau also suggested that the chaplain issue be discussed by the Women's Prison Advisory Council.

Sen. Grosfield said that part of the issue also is that Mr. Zeibarth is a convicted felon. Because he is a convicted felon, he has a very hard time entering a prison facility. He said that he could understand the security issue from a correctional perspective, but on the other hand, Mr. Zeibarth has "been there and done that" and with that type of background and qualification, he may be uniquely qualified to have an impact on the inmate population. He urged the DOC to be more open to having these types of qualified people participate in the religious programs and he requested a report on the issue.

**Betty Waddell, Montana Association of Churches**, said that the Association has long supported chaplains in any prison atmosphere including the private prisons and urged the Committee's support. She added that MWP policy indicates that community volunteers do not make connections with the women after they leave prison. The Association does not agree with that policy because they feel those connections are needed for support and mentorships.

Rep. McGee requested a copy of the DOC policies, rules, and regulations regarding religious activities and security issues and Sen. Grosfield requested a short overview of the policies at a future meeting.

Sen. Bohlinger said that although he would be out of the country for the next meeting, he would write a letter to the Committee requesting that it consider the recommendation of hiring a part time chaplain at the MWP.

There being no further business, the Committee adjourned at 1:50 p.m.

CI2255 9277loxa.