

June 2003

## CORRECTIONAL AND MENTAL HEALTH FACILITIES AND SERVICES

Section 6 of House Bill No. 1506 and House Concurrent Resolution No. 3037 (attached as Appendices A and B) direct the Legislative Council to study the:

1. Long-term prison needs, including a review of:
  - a. Whether the Department of Corrections and Rehabilitation should continue to contract to house state female inmates with county jails or the state should expand the prison system.
  - b. The east cell block of the State Penitentiary.
  - c. The future needs for maximum security prisoners.
  - d. The female population and related treatment, programming, and training needs.
  - e. The state's criminal justice process from arrest to release.
  - f. Alternatives to incarceration.
  - g. The effectiveness of incarceration and treatment.
  - h. Whether the Department of Corrections and Rehabilitation should continue to expand its facilities on the State Hospital grounds.
2. Needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including a review of:
  - a. Mental health services of the State Hospital.
  - b. Individuals with multiple needs and how the state responds to those needs.
  - c. Whether patients at the State Hospital with mental health needs should be served in other locations.
  - d. The long-term plans for the State Hospital, the Developmental Center at Westwood Park, and other state facilities and the relationships among those facilities.
  - e. The impact and availability of community services.

### CORRECTIONAL FACILITIES AND SERVICES BACKGROUND

The Department of Corrections and Rehabilitation includes two major programs--Juvenile Services and Adult Services. Within each of the two programs is an institutional division and a community division. Therefore, the four major areas of the department are the Field Services Division (adult parole and probation across the state), the Prisons Division (State Penitentiary, Missouri River Correctional Center (MRCC), and James River Correctional Center (JRCC)), the Juvenile Community Services, and the North Dakota Youth Correctional Center (YCC).

The North Dakota State Penitentiary in east Bismarck is the main prison complex, consisting of 550 prison beds, and houses maximum security inmates as well as some medium security inmates. The JRCC at Jamestown, which has 385 prison beds, is designated to hold medium security male inmates and has housed the bulk of the women inmates. The MRCC in southwest Bismarck, which has 150 prison beds, houses minimum security male and female inmates. The 2003 Legislative Assembly provided funding for contract housing of all the state's female inmates in county facilities, with the continuation of the contracting subject to the results of this study. Other inmates may be held in local correctional centers, on the community placement program, and in other states through the interstate compact program.

The Revocation Center, located at the Stutsman County Corrections Center, is managed through the department's Field Services Division and houses both inmates and noninmates. The Legislative Assembly did not change the executive recommendation to establish the Tompkins Rehabilitation Correctional Center (TRCC), a new combined program to be located in the nurses' building on the campus of the State Hospital. The TRCC is the combination of the Tompkins Rehabilitation and Corrections Unit (TRCU) from the Stutsman County Corrections Center, the Corrections Rehabilitation and Recovery Center (DUI Center), and a new 30-bed assessment program. The TRCC can have up to 90 offenders in the program and is projected to save 76 prison beds a day.

The 2003-05 biennium appropriation for the Department of Corrections and Rehabilitation is \$114.3 million, of which \$81.7 million is from the general fund. Of the \$114.3 million, the appropriation for Adult Services is \$93.1 million, of which \$68.5 million is from the general fund, and the 2003-05 appropriation for Juvenile Services is \$21.2 million, of which \$13.2 million is from the general fund. There are 644.18 full-time equivalent (FTE) positions authorized for the 2003-05 biennium, an increase of 29 FTE positions from the 2001-03 appropriation. The 29 new FTE positions include 23 FTE positions for JRCC Phase II, 1 FTE correctional caseworker, 1 FTE administrative assistant, 2 FTE parole and probation officer II, and 2 FTE transportation officers.

The following table summarizes 2003-05 biennium inmate population projections used to develop the executive recommendation, the revised Department of Corrections and Rehabilitation female population projections, and the female population projections used for the legislative appropriation:

	Estimated Inmate Population - Executive Recommendation		Revised Female Inmate Population - Department of Corrections and Rehabilitation	Estimated Inmate Population Used for Legislative Appropriation - Contract to House Female Inmates at County Facilities
	Male	Female	Female	Female
<b>Fiscal Year 2004</b>				
July	1,013	137	124	104
August	1,017	140	125	105
September	1,020	143	126	106
October	1,023	145	127	107
November	1,027	148	129	109
December	1,030	151	131	111
January	1,034	154	132	112
February	1,037	157	133	113
March	1,040	160	134	114
April	1,044	163	136	116
May	1,047	166	137	117
June	1,051	169	139	119
<b>Fiscal Year 2005</b>				
July	1,054	172	140	120
August	1,058	175	142	122
September	1,061	177	143	123
October	1,064	180	144	124
November	1,068	183	145	125
December	1,071	186	146	126
January	1,075	189	148	128
February	1,078	192	149	129
March	1,081	195	151	131
April	1,085	198	152	132
May	1,088	201	154	134
June	1,092	204	156	136

The following table shows actual male and female inmate population counts as of the first day of each month from July 1, 2001, to June 1, 2003:

Date	Male	Female	Total
July 1, 2001	1,011	93	1,104
August 1, 2001	994	90	1,084
September 1, 2001	999	95	1,094
October 1, 2001	999	93	1,092
November 1, 2001	1,015	106	1,121
December 1, 2001	1,019	108	1,127
January 1, 2002	1,010	113	1,123
February 1, 2002	1,020	111	1,131
March 1, 2002	1,045	115	1,160
April 1, 2002	1,045	117	1,162
May 1, 2002	1,064	122	1,186
June 1, 2002	1,059	130	1,189
July 1, 2002	1,056	128	1,184
August 1, 2002	1,041	117	1,158
September 1, 2002	1,047	116	1,163
October 1, 2002	1,033	113	1,146
November 1, 2002	1,045	111	1,156
December 1, 2002	1,027	107	1,134
January 1, 2003	1,044	104	1,148
February 1, 2003	1,059	102	1,161
March 1, 2003	1,079	102	1,181
April 1, 2003	1,074	104	1,178
May 1, 2003	1,077	109	1,186
June 1, 2003	1,065	110	1,175

As of June 17, 2003, the total inmate population was 1,189, of which 1,082 were males and 107 were females.

### State Penitentiary

North Dakota Century Code (NDCC) Section 12-47-01 provides for the establishment of the State Penitentiary. The State Penitentiary, which was founded in 1885, is located in Bismarck and is the general penitentiary and prison of the state for the punishment and reformation of offenders against the laws of the state. In 1997 Section 12-47-01 was amended to permit the director of the Department of Corrections and Rehabilitation to establish affiliated

facilities at other locations throughout the state within the limits of legislative appropriations. The Penitentiary and the immediate surrounding property occupy approximately 200 acres on the eastern outskirts of Bismarck. In addition, the Penitentiary owns or leases approximately 4,400 acres, which include the MRCC and other lands used for farming purposes.

The Penitentiary facility is composed of seven units that are used to house male inmates. Those seven units consist of the north unit (orientation unit), the overflow unit, the east cellhouse, the west cellhouse, the south unit, the treatment unit, and the administrative segregation unit. Of the seven units, five are maximum security units and two are medium security units. The maximum security units are the north unit, the east cellhouse, the west cellhouse, the south unit, and the administrative segregation unit. As of June 17, 2003, the State Penitentiary housed 547 inmates.

Pursuant to NDCC Section 12-47-11, the warden, under the direction of the director of the Adult Services Division, is responsible for the custody and control of the Penitentiary, its lands, its property, and its inmates. The warden is responsible for the policing of the Penitentiary and the discipline of the inmates.

### James River Correctional Center

The JRCC, which is located on the grounds of the State Hospital in Jamestown, was completed for use as a correctional facility in 1998. The JRCC contains three units for its inmate population. As of June 17, 2003, there were 280 male inmates and 82 female inmates housed at the JRCC. The JRCC also includes a newly constructed building for Roughrider Industries. The JRCC uses the building previously

called the forensic unit to house mentally ill inmates and those requiring segregation from the male population for safety reasons.

The 2003 Legislative Assembly provided funding for contracting to house all state female inmates at county facilities for the 2003-05 biennium. As a result, there will be additional beds available for male inmates and only male inmates will be housed at the JRCC.

The Legislative Assembly did not change the executive recommendation to provide for the expansion of the JRCC to include the operations of the State Hospital's food service and laundry facilities (Phase II), including the addition of 23 new FTE positions, 15 FTE positions of which will be transferred from the State Hospital. Construction costs for JRCC Phase II are \$2,662,890, which will be financed through the issuance of bonds authorized in House Bill No. 1023.

### **Missouri River Correctional Center**

The MRCC is located eight miles south of Bismarck near the Missouri River. The MRCC has no walls or barriers to contain the inmates and is located in a wooded setting. The institution houses male and female inmates whose sentences are not less than 30 days nor more than one year. The inmate housing facilities at the MRCC include a minimum security, dormitory-style housing unit for male inmates which has a capacity of 136. There is also a minimum security, dormitory-style housing unit for female inmates with a capacity of 14. As of June 17, 2003, there were 132 males and 14 females at the MRCC. Since the 2003 Legislative Assembly has provided funding to house all state female inmates in county facilities, there will no longer be women inmates at the MRCC and therefore will provide more beds for male inmates.

Among the education programs offered to the inmates at the MRCC are a high school equivalency program, a resident tutoring program, a business education class, welding and automotive programs, carpentry classes, and prerelease and education release programs.

### **Field Services Division**

The Field Services Division has offices across the state staffed by parole and probation officers. The division manages offenders sentenced to supervision by a court, released to parole by the Parole Board, sent to community placement by the director, and placed at the Revocation Center. The division staff supervise offender compliance with the supervision conditions and provide cognitive behavioral and other forms of counseling services. The division also manages the victims services program to help mitigate the suffering of crime victims by providing fiscal support and services to crime victims.

### **Division of Juvenile Services**

The Community Services Division of the Division of Juvenile Services has nine satellite offices serving the eight human service regions across the state and is staffed to provide supervision to juveniles committed by the courts. The division's case managers supervise about 500 juveniles per day.

The Division of Juvenile Services also oversees the YCC. The YCC, located south of Mandan, is the state's secure juvenile correctional institution. The YCC serves as a secure detention and rehabilitation facility for adjudicated juveniles who require the most restrictive placement and maximum staff supervision and provides appropriate programming to address delinquent behavior. Juvenile programming at the YCC includes drug and alcohol programming, child psychiatric and psychological services, a pretreatment program for juveniles who are difficult to manage, and a security intervention group program to inform, educate, and provide juveniles with alternatives to gang activity and gang affiliation. The YCC provides adjudicated adolescents an opportunity to complete or progress toward completing their education coursework while in residence.

## **PREVIOUS STUDIES**

### **1977-78 Interim**

During the 1977-78 interim, the Legislative Council's Corrections Committee, pursuant to Senate Concurrent Resolution No. 4060, was directed to study the entire criminal justice system. As a result of its study, the Corrections Committee recommended a more detailed study be conducted of community corrections than was possible during the 1977-78 interim. The committee recommended a study of community corrections also include a study of the Penitentiary to determine whether changes need to be made concerning that facility. The committee cited the age of the Penitentiary and the expansion of the city of Bismarck around the Penitentiary area as raising questions concerning the suitability of the Penitentiary's location. The committee concluded that since these conditions exist at the Penitentiary, and community corrections programs would be interrelated with state-level corrections, a dual interim study of community corrections programs and the State Penitentiary should be conducted.

### **1979-80 Interim**

During the 1979-80 interim, the Legislative Council's State and Federal Government "B" Committee, pursuant to Senate Concurrent Resolution No. 4019, was directed to conduct a comprehensive study and evaluation of the adult correctional facility needs throughout the state. Because the study resolution called for an extensive evaluation of the State Penitentiary and adult correctional facility needs throughout the state and would require extensive data gathering and criminal justice and correctional

expertise, the committee obtained the services of a consultant to aid in the committee study. Based upon the consultant's recommendations, the committee recommended three bills. The first bill, Senate Bill No. 2086, would have appropriated funds to the Combined Law Enforcement Council for the purpose of a matching grant program for county and city jails. The second bill, Senate Bill No. 2087, would have appropriated funds for the construction, renovation, and equipping of facilities at the State Penitentiary and for constructing new facilities at the State Farm. Both bills failed to pass. A third bill, House Bill No. 1085, relating to sentencing alternatives, was passed by the 1981 Legislative Assembly.

#### **1987-88 Interim**

During the 1987-88 interim, the Legislative Council's Judiciary Committee, pursuant to Senate Concurrent Resolution No. 4022, studied the criminal sentencing statutes in misdemeanor and felony cases. The committee recommended House Bill No. 1052 to consolidate NDCC Chapter 12-53, relating to suspended execution of sentences, with Chapter 12.1-32, which provides for the classification of offenses, penalties, and a broad array of sentencing alternatives available to the court. According to the committee's final report, the bill was intended to clarify a court's authority to impose a sentence if conditions of probation are violated following the suspended execution of a sentence and to clarify the status of a person receiving a deferred imposition of sentence. The bill was also intended to address conflicts and inconsistencies existing in the sentencing statutes. The bill was passed by the 1989 Legislative Assembly.

#### **1993-94 Interim**

During the 1993-94 interim, the Legislative Council's Budget Committee on Government Finance, pursuant to Senate Concurrent Resolution No. 4063, studied the feasibility and desirability of establishing a women's correctional facility off the State Penitentiary grounds. The committee recommended that a separate women's correctional facility not be constructed. The committee determined, based on the cost estimates of constructing a new female correctional facility or renovating an existing facility into a women's correctional facility, it was not feasible to proceed with a separate women's correctional facility at the time. The committee recommended House Bill No. 1027, which was passed by the 1995 Legislative Assembly. The bill required judges to sentence inmates to the Department of Corrections and Rehabilitation rather than to the State Penitentiary or the MRCC. The bill also changed the name of the State Industrial School to the State Youth Correctional Center. The committee, pursuant to Senate Concurrent Resolution No. 4073, also studied the cost-effectiveness and economic impact of permitting Roughrider Industries

to manufacture and sell products that may be produced and sold by the private sector. The committee recommended a bill to allow Roughrider Industries to participate in the workers' compensation program and provide workers' compensation coverage of Penitentiary inmates employed in the private sector and prison industry enhancement program. The bill was passed by the 1995 Legislative Assembly.

#### **1995-96 Interim**

During the 1995-96 interim, the Legislative Council's Legislative Audit and Fiscal Review Committee received a report from the State Auditor's office on the cost of 1993 House Bill No. 1062 regarding mandatory sentencing for drug offenders. The State Auditor reported, based on the fiscal year 1994 cost per day to house an inmate of \$51.68 and the average projected inmate increase of 1,195 days per year, the cost to taxpayers was approximately \$61,758 per year.

#### **1999-2000 Interim**

During the 1999-2000 interim, the Legislative Council's Criminal Justice Committee, pursuant to Senate Concurrent Resolution No. 4015, studied the adult correctional system. The committee's considerations centered on four issues--prison facilities and inmate population; interstate transfer of convicted felons; inmate records; and the Revocation Center.

With respect to the interstate transfer of convicted felons, the committee concluded the notification process protocol of a prisoner escape is an administrative issue best handled by policy and legislative involvement is not needed. The committee also concluded the Governor's task force handled the Kyle Bell situation well, the Department of Corrections and Rehabilitation was not at fault, and whether a private company should be used for the transporting of prisoners was not an issue within the scope of the committee's assignments.

With respect to the Revocation Center program, the committee expressed concerns that the program does not appear to be working as the Legislative Assembly recommended. The committee recommended the department work with the state's attorneys and judges to address the concerns.

The committee also recommended House Bill No. 1044 to provide for a new classification of inmate records, known as case history records, that would be considered exempt; to provide that medical, psychological, and social records are confidential; and that records with respect to the person's identity, location, criminal convictions, or projected date of release, except for the records of a person who is under protective management, are open records. The bill also provided that parole records of the department are confidential. The bill was passed by the 2001 Legislative Assembly.

### 2001-02 Interim

During the 2001-02 interim, the Legislative Council's Corrections Committee, pursuant to Section 5 of Senate Bill No. 2016, was directed to study the facilities and operations of the Department of Corrections and Rehabilitation. Section 6 of Senate Bill No. 2016 provided an appropriation of \$200,000 for the purpose of contracting with a consultant to conduct the study of the facilities and operations of the Department of Corrections and Rehabilitation. The consultant's report included findings and recommendations of the study of the Department of Corrections and Rehabilitation as well as the response of the department to those recommendations in the areas of population and capacity management, physical plant, operations, and programs. A copy of the Executive Summary from the consultant's report, which includes the key findings and recommendations for the above-mentioned areas, is attached as Appendix C.

The consultant's report key findings and recommendations are as follows:

1. Population and capacity management.
  - a. Key findings:
    - (1) The North Dakota correctional system is operating at near the limit of its current capacity.
    - (2) The inmate population will continue to grow.
  - b. Recommendations:
    - (1) Expand the corrections rehabilitation and recovery program by an additional 25 beds for female offenders.
    - (2) Increase contracting with county jails and Appleton, Minnesota, as needed over the next year.
    - (3) Accelerate parole reviews of eligible offenders.
    - (4) Build a new housing unit for female inmates at the JRCC.
2. Physical plant.
  - a. Key findings:
    - (1) The primary facilities at the department's four major institutions, the State Penitentiary, JRCC, MRCC, and YCC are largely in sound condition.
    - (2) Each institution's physical plant currently has or can be expected to develop issues which will need to be addressed.
  - b. Recommendations:
    - (1) The department needs to invest an estimated \$42 million to \$62 million in major capital repairs to these four facilities over the next 10 years.
    - (2) The department needs to invest \$14 million to \$21 million in facility maintenance over the next 10 years.
3. Operations.

- a. Key findings:
    - (1) The department does not use a formal roster management system to determine staffing needs.
  - b. Recommendations:
    - (1) The department requires additional staff to assure security and to operate in an effective manner.
    - (2) The position of director of prisons should be separated from the position of warden of the State Penitentiary.
    - (3) The department needs to develop or acquire an information system for Field Services that can communicate with the Prisons Division's ITAG system.
    - (4) The department should integrate the policies and procedures of its various divisions into one policy manual for the department and formalize an audit system to test policy compliance.
4. Programs.
    - a. Key findings:
      - (1) The department lacks minimally adequate vocational training programs.
      - (2) The classification instrument utilized by the department was developed in 1983 and has not been validated since its inception.
      - (3) The present intake process at the State Penitentiary is completed in five weeks from the time of admission.
      - (4) Female offenders do not have adequate access to programs.
    - b. Recommendations:
      - (1) Increase educational programming at the JRCC.
      - (2) Expand vocational training programs.
      - (3) Accelerate the processing of offenders through classification.
      - (4) Review and validate the classification instrument.
      - (5) The department should explore expansion of the community placement program.

Upon the receipt of the consultant's final report, the Corrections Committee commended the Department of Corrections and Rehabilitation for its cooperation with the consultant and the efforts made by the department to respond to the recommendations of the final report. The committee concluded the state's corrections budget has reached the saturation point and the state needs to be more creative and inventive in the area of corrections. The committee also commended the efforts of the Department of Corrections and Rehabilitation and the State Hospital for

working together to provide more cost-effective and efficient services.

### 2003 LEGISLATION

Two bills relating to the housing of state female inmates were passed by the 2003 Legislative Assembly.

**House Bill No. 1506** provided that a grade 1 correctional facility that has a contract with the Department of Corrections and Rehabilitation to confine female inmates who have been sentenced to the physical and legal custody of the department may confine the female inmate for more than one year in accordance with the terms of the contract. The bill also provided that a female inmate confined in the county jail under this section is entitled to the same rights to sentence reduction for good and meritorious conduct and to pardon and parole as an inmate confined to a facility of the department.

**House Bill No. 1271** provided that if no qualified state facility is available, the director of the Department of Corrections and Rehabilitation is required to contract with a county for the housing of female inmates in a county jail. The bill requires that the county with which the department contracts must have available and must provide the female inmates access to educational and vocational programs, chemical dependency treatment programs, mental health programs, medical services, and adequate recreational facilities.

### NEW CORRECTIONAL PROGRAMS

North Dakota Century Code Section 54-23.3-09 requires the director of the Department of Corrections and Rehabilitation to report to the Legislative Assembly or, if the Legislative Assembly is not in session, the Budget Section, prior to the implementation of any new program that serves adult or juvenile offenders, including alternatives to conventional incarceration and programs operated on a contract basis if the program is anticipated to cost in excess of \$100,000 during the biennium.

### MENTAL HEALTH FACILITIES AND SERVICES BACKGROUND

#### State Hospital Services and Funding

The State Hospital provides mental illness services, substance abuse and addiction services, and services to children with serious emotional disorders. The 2003-05 appropriation for the State Hospital totals \$41.9 million, \$25.5 million of which is from the general fund. The State Hospital is authorized 416.9 FTE positions, and its 2003-05 budget is based on an average patient population of 135. The following schedule presents the average daily population of the State Hospital in recent years:

Fiscal Year	Average Daily Population
1996	229
1997	223
1998	221
1999	179
2000	154
2001	160
2002	160

### Developmental Center Services and Funding

The Developmental Center is a certified intermediate care facility for the mentally retarded. The center's 2003-05 appropriation totals \$40.8 million, \$8.8 million of which is from the general fund. The Developmental Center is authorized 458.04 FTE positions, and its 2003-05 biennium budget is based on an average population of 161. The schedule below presents the average daily population of the Developmental Center in recent years:

Fiscal Year	Average Daily Population
1996	148
1997	150
1998	145
1999	140
2000	149
2001	149
2002	148

Major program areas of the Developmental Center include:

1. Day/residential - Provides training and assistance with daily living activities.
2. Health/clinical - Provides assessment therapy, training, and supportive services.
3. Administration - Provides leadership, training, support, resources, and maintenance of the center's programs and infrastructure.
4. Safety net - Provides specialized evaluation treatment or crisis management services.

### Constitutional Provisions

Constitutional provisions that require the State Hospital to be located in Jamestown and the Developmental Center in Grafton include:

1. Article IX, Section 12, provides that certain public institutions of the state "are permanently located at the places hereinafter named" and further provides that a portion of the grant lands made available by an Act of Congress, "the Enabling Act," are to be allocated to these institutions. Two of the public institutions named are a "state hospital for the insane at the city of Jamestown, in the county of Stutsman" and "located at or near the city of Grafton, in the county of Walsh, an institution for the feeble-minded."

2. Article IX, Section 13, provides a grant of lands for a "state hospital for the mentally ill at such place within this state as shall be selected by the legislative assembly."

## **PREVIOUS STUDIES**

### **1977-78 Interim**

During the 1977-78 interim, the Legislative Council's Committee on Criminal Justice System was directed to study the Uniform Controlled Substances Act and drug laws in general, the potential penalties that may be imposed for violation of the drug laws, and the actual sentencing procedures and practices followed in North Dakota to determine whether the state's drug laws and sentencing procedures required revision in order to combat the increasing drug problem. The committee recommended House Bill No. 1048, which provided for the establishment of a drug enforcement unit under the Attorney General to enforce all drug laws. The committee also recommended House Bill No. 1049, which allowed a state, county, or city law enforcement agency to seize a conveyance used for transporting drugs and allowed the conveyance to be forfeited and sold with proceeds remaining after forfeiture expense to go to the appropriate state, county, or city general fund. Both bills were passed by the 1979 Legislative Assembly.

### **1985-86 Interim**

As part of its human service delivery system study during the 1985-86 interim, the Legislative Council's Budget Committee on Human Services reviewed the mental health services in the state. The testimony received by the committee included recommendations for the development of a community-based mental health delivery system with the human service center as the single portal of entry into the system and changing the role of state government from delivering mental health service to assuring that the services are provided with the use of private providers. The committee recommended a bill to develop an integrated, multidisciplinary continuum of services for chronically mentally ill individuals. The bill was passed by the 1987 Legislative Assembly.

### **1987-88 Interim**

During the 1987-88 interim, the Legislative Council's Budget Committee on Human Services, as part of its study of the role and function of the State Hospital in the provision of services to the mentally ill and chemically dependent, reviewed the law that provided for a 72-hour emergency detention before a preliminary hearing for persons who are believed to be suffering from mental illness, alcoholism, or drug addiction. The law provided that detention was to be in a treatment facility and not in a jail unless no other secure facility was available. The committee expressed concerns regarding the holding of persons in jail facilities before their commitment hearings. The

committee received testimony that jail facility operators were being trained and provided information on the handling of mentally ill individuals. The committee made no recommendations regarding this issue. A bill passed during the 1989 legislative session which amended NDCC Section 25-03.1-25 increased the maximum time period for detention before a preliminary hearing from 72 hours to seven days.

### **1993-94 Interim**

During the 1993-94 interim, the Legislative Council's Legislative Audit and Fiscal Review Committee received a report from the State Auditor's office on the cost of 1993 House Bill No. 1062 regarding mandatory sentencing for drug offenders. The review indicated that based on the fiscal year 1994 cost per day to house an inmate of \$51.68 and the average projected inmate increase of 1,195 days per year, the cost to taxpayers was approximately \$61,700 per year.

### **1991-98 Interims**

During the 1991-92, 1993-94, 1995-96, and 1997-98 interims, the Legislative Council's Budget Committee on Government Services monitored the continued development of a continuum of services to the mentally ill and chemically dependent. The committee also studied the change in the role of the State Hospital and the expansion of community services. The committee reviewed programs and enhancements to existing programs identified by each regional human service center which may be needed to provide a comprehensive system of services to seriously mentally ill and chemically dependent individuals in need of services in each region.

The 1991-92 Budget Committee on Government Services expressed its support for a proposed program that enabled individuals with the dual diagnosis of severe mental illness and chemical dependency to live in individual apartments while services are being provided to them at the regional human service center. The committee also expressed its support for proposed meetings between the Department of Human Services and private alcohol and drug abuse treatment providers to develop and organize a partnership for providing treatment services in the state.

The 1993-94 Budget Committee on Government Services recommended the Legislative Assembly continue the clubhouse projects at Minot and Grand Forks for sufficient time to allow for a fair test of the adequate implementation of the clubhouse model in North Dakota and provide proper and adequate funding for the clubhouse projects and psychosocial rehabilitation center.

The 1995-96 Budget Committee on Government Services reviewed services and programs of psychosocial rehabilitation centers and clubhouse projects. The committee also reviewed the mental health and

chemical dependency commitment procedures but did not make any recommendations regarding changes to the procedures.

The 1997-98 Budget Committee on Government Services reviewed the funding and operations of the State Hospital and the impact of welfare reform on mental health services. The committee also received recommendations regarding the expansion of clubhouse projects and a plan for the downsizing of the number of patients at the State Hospital. The committee did not make any recommendations as a result of its monitoring of mental health services during that interim.

### 1999-2000 Interim

During the 1999-2000 interim, the Legislative Council's Budget Committee on Institutional Services was directed to study the feasibility and desirability of collocating the Developmental Center and the State Hospital at one location and the feasibility and desirability of transferring additional buildings on the State Hospital grounds to the Department of Corrections and Rehabilitation.

The committee received testimony and reviewed the following potential **benefits** of collocating the State Hospital and the Developmental Center:

1. Administrative and support department costs may be reduced.
2. Professional and medical resources may be consolidated that could result in cost-savings and sharing of expertise.
3. The number of buildings to be maintained may be reduced and the existing physical plants could be better utilized.
4. Improved efficiencies could be gained by no longer operating two separate facilities.
5. The central location of Jamestown could reduce travel.
6. The newer buildings at Grafton could reduce maintenance costs.
7. Both the Developmental Center and the State Hospital have buildings available for housing patients; however, program space at either location is an issue and extensive remodeling would be required.
8. The vacated buildings at either Jamestown or Grafton could be used by other state agencies.
9. The Department of Corrections and Rehabilitation could expand its prison facilities at Jamestown if the State Hospital was collocated with the Developmental Center.

The committee received testimony and reviewed the following **concerns and issues** related to collocating the State Hospital and Developmental Center:

1. Remodeling or building at either location to meet the needs of the two diverse population groups would require substantial funding.

2. There are financial and morale issues associated with uprooting employees and their families to move to another location.
3. The reduction in force and the associated implications would need attention.
4. Economic issues for the city that loses its institution would need to be considered.
5. The constitution would need to be amended.
6. Advocates and families would have concerns regarding the mixing of the two populations.
7. The Developmental Center is already renting out space on its campus and planning for retirement housing.
8. Future prison expansion on the State Hospital campus would be limited.
9. There would be a potential impact on the accreditation status of both institutions. Housing in either city for an influx of employees may not be adequate.
10. State Hospital wards are arranged for short-term stays while the Developmental Center has homelike living units for long-term stays.
11. Recruitment of professional staff is a concern.
12. Perceptions associated with the location of three diverse populations at the Jamestown campus would require attention.

The committee reviewed the estimated costs of collocating the State Hospital and Developmental Center. The committee learned that both campuses have space available to locate the residents of the other facility; however, the space at either site would need to be remodeled. The State Hospital had two buildings--No. 15 and No. 8--that could serve a population of 140 residents from the Developmental Center. The estimated cost of remodeling these two buildings was approximately \$7.2 million. The Developmental Center had three possible buildings (Prairie View, Pleasant View, and Midway) available to house the 165 patients from the State Hospital. The estimated remodeling cost for these buildings would total approximately \$8.1 million.

The committee also reviewed information prepared by the Department of Human Services of the estimated fiscal effect of collocating the State Hospital at the Developmental Center in Grafton, which resulted in a total net general fund **savings per biennium** of \$1.8 million, and the estimated fiscal effect of collocating the Developmental Center at the State Hospital in Jamestown, which resulted in total net general fund **costs per biennium** of \$3.6 million.

The committee reviewed the possibilities of reducing total costs as a result of the State Hospital and Developmental Center sharing services as an alternative to collocation. The committee learned the institutions began sharing the following services during the 1999-2000 interim:

1. Superintendent's position - With the resignation of the Developmental Center

superintendent during the interim, the Department of Human Services named the State Hospital superintendent as superintendent of both institutions.

2. Psychology contract.
3. Combined information systems department.
4. Joint strategic planning.

The State Hospital and Developmental Center also began sharing finance staff, human resource staff, and dietary staff during the 2001-03 biennium.

Although the committee did not make a specific recommendation regarding the collocation of the Developmental Center and the State Hospital, committee members expressed their support for the cooperation and collaboration that has occurred between the two institutions and the resulting cost-savings.

### **SUGGESTED STUDY APPROACH**

The committee, in its study of the state's long-term prison needs, the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, may wish to approach this study as follows:

1. Long-term prison needs:
  - a. Receive testimony from representatives of the Department of Corrections and Rehabilitation and from the county facilities that the state contracts with to house female inmates regarding contract housing of state female inmates at county facilities.
  - b. Receive information from the Department of Corrections and Rehabilitation regarding the condition of the east cell block of the State Penitentiary; the effectiveness of incarceration and treatment, including recidivism rates; the future facility needs for maximum security prisoners; and the female inmate population and related treatment, programming, and training needs.
  - c. Receive information from the judicial branch, the Attorney General's office, and the Department of Corrections and Rehabilitation regarding the state's criminal justice process from arrest to release.
  - d. Receive information from the Department of Corrections and Rehabilitation and the judicial branch regarding the effectiveness of alternatives to incarceration.
  - e. Receive information from the Department of Corrections and Rehabilitation providing a list of its property and values by location.
2. Needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities:
  - a. Receive information from the State Hospital on the mental health and addiction services of the State Hospital.
  - b. Receive testimony from a representative of the Department of Human Services regarding the services provided individuals with multiple needs.
  - c. Receive information from the State Hospital and the Developmental Center on the long-term plans for the State Hospital and the Developmental Center and other state facilities and the relationships among those facilities, and the status of shared administrative functions.
  - d. Receive testimony from representatives of the State Hospital and the Developmental Center on whether patients at the State Hospital with mental needs should be served in other locations.
  - e. Receive information from the State Hospital and the Developmental Center on which buildings are being used at each location, the capacity at each location, and potential costs and benefits of collaborating services.
  - f. Receive information from the Department of Human Services on the impact and availability of community mental health, addiction, and developmental disability services.
  - g. Visit the State Hospital and the Developmental Center.
  - h. Develop recommendations and prepare legislation necessary to implement the recommendations.
- f. Receive testimony from representatives of the Department of Corrections and Rehabilitation, the State Hospital, and the public regarding whether the Department of Corrections and Rehabilitation should continue to expand its facilities on the State Hospital grounds.
- g. Visit correctional facilities, including the State Penitentiary, the JRCC, and the Southwest Multi-County Correction Center.
- h. Develop recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:3

**SECTION 6. LEGISLATIVE COUNCIL STUDY - CONTRACT HOUSING - FEMALE INMATES.** The legislative council shall consider studying, during the 2003-04 interim, the long-term needs of all state inmates and if the department of corrections and rehabilitation should continue to contract to house state female inmates with county jails or if the state should expand the prison system. If selected, the study must include a review of the east cell block of the North Dakota state penitentiary and future needs for maximum security prisoners; the female population and related treatment, programming, and training needs; and the mental health services of the state hospital, including if the department of corrections and rehabilitation should continue to expand its facilities on the state hospital grounds and if patients at the state hospital with mental health needs should be served in other locations. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE CONCURRENT RESOLUTION NO. 3037  
(Representatives Grande, Belter, Wald)  
(Senators Lyson, Stenehjem, Trenbeath)

A concurrent resolution directing the Legislative Council to study the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including individuals with multiple needs, and how the state responds to those needs; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, Grafton, state and county correctional facilities, and other state facilities and the relationships among those facilities; the impact and availability of community services; the state's criminal justice process from arrest to release; alternatives to incarceration; and the effectiveness of incarceration and treatment.

**WHEREAS**, changes in clinical practices and service delivery systems have created a need for new and different responses in caring for individuals with mental illness and drug and alcohol addictions; and

**WHEREAS**, community-based mental health treatment, service, and support options have been developed to support an individual's recovery in or near the individual's family and community; and

**WHEREAS**, a 2002 study of the operations and facilities of the Department of Corrections and Rehabilitation projected that the number of inmates in the state's prison system will continue to grow by approximately three percent annually; and

**WHEREAS**, the 2002 study indicated that the Department of Corrections and Rehabilitation will need additional bed space to avoid a critical prison capacity shortfall, especially for the female offenders; and

**WHEREAS**, consideration has been given to whether colocation of patients and prisoners is appropriate; and

**WHEREAS**, treatment and other programs that provide alternatives to incarceration may reduce the number of inmates and reduce recidivism;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Legislative Council study the needs of individuals with mental illness, drug and alcohol addictions, and physical or developmental disabilities, including individuals with multiple needs, and how the state responds to those needs; the long-term plans for the State Hospital, the Developmental Center at Westwood Park, Grafton, state and county correctional facilities, and other state facilities and the relationships among those facilities; the impact and availability of community services; the state's criminal justice process from arrest to release; alternatives to incarceration; and the effectiveness of incarceration and treatment; and

**BE IT FURTHER RESOLVED**, that in conducting the study, the Legislative Council solicit testimony from interested parties, including individuals receiving services, the individuals' families, administrators and staff at state and community facilities, the Department of Human Services, the Department of Corrections and Rehabilitation, advocacy groups, and the governing boards of state facilities providing services to those individuals; and

**BE IT FURTHER RESOLVED**, that in conducting the study, the Legislative Council study the cost-effectiveness and efficiency of incarcerating large numbers of inmates in a large facility; and

**BE IT FURTHER RESOLVED**, that the Legislative Council may contract with an independent party to conduct the study; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-ninth Legislative Assembly.

## EXECUTIVE SUMMARY

All correctional systems continually face issues that present significant management challenges to policymakers and administrators. The complexity of the issues associated with the long-term management of incarcerated felons is daunting. Assuring effective security, establishing an environment for effective rehabilitation, providing a wide range of constitutionally mandated services, and maintaining aging institutions are just a few of the primary tasks required of correctional systems. Correctional administrators are expected to manage these issues with limited resources while meeting increased public expectations for accountability.

Responding effectively to these issues requires careful planning and objective analysis of the problems specific to each system. Too often states neglect to confront long-developing problems in correctional systems until a crisis erupts or the court system forces them to address the problems. Unfortunately, by this time, the problems have grown both more difficult and more expensive to address in any meaningful manner, resulting in the depressingly familiar pattern of belated calls for system reform amidst skyrocketing budgets and finger pointing attempts to assign blame.

North Dakota has chosen a different path. During its last session, the North Dakota Legislature approved in Section 5 of Senate Bill 2016, a measure requiring the Legislative Council to study the facilities and operations of the North Dakota Department of Corrections and Rehabilitation (DOCR). The DOCR manages a correctional system that while small relative to most states, is beginning to exhibit stresses as population levels continue to grow. Senate Bill 2016 mandated an independent study by qualified experts to evaluate the Department's current facilities, assess its future capacity needs, examine its current operations, and analyze its programs. Such a study would provide a basis for the development of a long-term plan to effectively address system issues before they reach the crisis stage.

In September, the Legislative Council's Interim Corrections Committee issued a Request for Proposals that outlined the specific objectives of the study. Security Response Technologies, Inc. (SRT) presented its proposal at a meeting of the Interim Corrections Committee on October 25<sup>th</sup>, 2001 and was subsequently selected as contractor for the project. We commenced work on the project in December and have since made multiple inspections of each facility, reviewed hundreds of documents, and conducted numerous interviews of DOCR staff.

Our analysis of the Department addresses issues in four categories, Population and Capacity Management, Physical Plant, Operations, and Programs. Major findings and recommendations are summarized beginning on the next page.

## POPULATION AND CAPACITY MANAGEMENT

### Key Findings:

- **The North Dakota correctional system is operating at near the limit of its current capacity.** With only 971 readily available prison beds, the Department is currently managing over 1,100 inmates, forcing it to rely upon contracted beds in county jails and the privately operated Corrections Corporation of America facility located in Appleton, Minnesota. Available capacity to house female offenders is a particularly critical issue.
- **The inmate population will continue to grow.** Our projections indicate that the number of inmates in the North Dakota prison system will continue to grow by approximately 3.0% annually, resulting in an additional 415 offenders by the year 2012. The female offender population will grow even faster, adding 84 inmates over the next ten years, a 67% increase over the current population.

In order to avoid a critical prison capacity shortfall, the Department requires both a short-term and a long-term strategy.

### Recommendations:

- **Expand the CRRP program by an additional 25 beds for female offenders.** This initiative is currently under negotiation with the State Hospital and will provide badly needed additional capacity for the female population.
- **Increase contracting with county jails and Appleton as needed over the next year.** While expensive, these contractual beds will provide additional capacity to manage short-term population growth.
- **Accelerate parole reviews of eligible offenders.** North Dakota paroles offenders later in their prison term than virtually any other state. By following the same pattern in the timing of parole decisions found nationally, projected prison population growth would be reduced by 45% over the next ten years.
- **Build a new housing unit for female inmates at James River.** Construction of a 180-bed unit would provide sufficient capacity to manage the female population for the foreseeable future and provide an effective solution to many of the current problems experienced by the Department in managing female offenders. The construction of such a facility would also free up 114 beds currently utilized by females for males, providing significant additional capacity to address projected male population growth.

Implementation of these recommendations will allow the Department to address its current capacity problems and manage projected prison population growth in a responsible, cost-effective manner.

## **PHYSICAL PLANT**

### **Key Findings:**

**The primary facilities at the Department's four major institutions, the State Penitentiary, James River CC, Missouri River CC, and the Youth Correctional Center are largely in sound condition.** With a reasonable investment in maintenance, each of these facilities can continue to be used effectively for the foreseeable future.

**Each institution's physical plant currently has or can be expected to develop issues which will need to be addressed.** In order to assure the efficient use of these facilities, the Department, the Executive and the Legislative, need to prioritize and fund work to address these issues.

### **Recommendations:**

- **The Department needs to invest an estimated \$42-\$62 million in major capital repairs to these four facilities over the next ten years.** Major projects that need to be pursued during this time period include:
  - New Missouri River Dietary Building
  - New Female Housing Unit at James River
  - State Penitentiary Gatehouse
  - Fire Alarm System at Youth Correctional Center
  - Replacement of State Penitentiary East Cellhouse
  - Roofing and Infrastructure Rehabs
  
- **The Department needs to invest \$14-\$21 million in facility maintenance over the next ten years.** This amount is based on the replacement value of the facilities and includes routine maintenance, minor capital repair, and the costs of contracts and salaries of maintenance staff.

## OPERATIONS

### Key Findings:

- **The Department does not use a formal roster management system to determine staffing needs.** Lack of such a system makes it difficult for the Department to objectively quantify its staffing needs.

### Recommendations:

- **The Department requires additional staff to assure security and to operate in an effective manner.** Our analysis of staffing indicates the following headcount increases are necessary:

▪ State Penitentiary	15.5 FTE's
▪ James River	30.7 FTE's
▪ Missouri River	4.0 FTE's
▪ Central Office	1.0 FTE

- **The position of Director of Prisons should be separated from the position of Warden of the State Penitentiary.**
- **The Department needs to develop or acquire an information system for Field Services that can communicate with the Prison Division's ITAG system.** Such a system would dramatically improve processing of offenders from prison to community services programs.
- **The Department should integrate the policies and procedures of its various divisions into one policy manual for the Department and formalize an audit system to test policy compliance.**

## PROGRAMS

### Key Findings:

- **The Department lacks minimally adequate vocational training programs.** Elimination of federal funding has resulted in a severe deterioration of the Department's vocational training programs.
- **The classification instrument utilized by the DOCR was developed in 1983 and has not been validated since its inception.** The classification system has evolved considerably since its inception, changing in response to the types of issues facing the Department.
- **The present intake process at NDSP is completed in five weeks from the time of admission.** This represents an extremely long amount of time to complete the classification process.
- **Female offenders do not have adequate access to programs.** The co-ed housing system and general lack of program opportunities at James River have had the effect of diminishing access of female offenders to program opportunities relative to male offenders in the system.

### Recommendations:

- **Increase educational programming at James River.** Two additional instructors and improved facilities are needed to increase access to educational programming. This is a particularly critical issue for the female inmates at James River.
- **Expand vocational training programs.** This will aid in rehabilitation of offenders. The development of vocational programming for females is essential in order to assure equal access to programs.
- **Accelerate the processing of offenders through classification.** More timely processing will speed the assignment of offenders into programs, shortening the amount of time they must wait before their parole hearing.
- **Review and validate the classification instrument.** It is essential that any classification instrument be valid and reliable, in order to assure the appropriate placement of offenders into housing and programs. A classification system specifically designed for females should be developed or acquired.
- **The Department should explore expansion of the CPP program.** Relative to other states, North Dakota underutilizes supervised management of inmates placed in the community. Based on the size and composition of the inmate population, the Department should have no difficulty identifying additional low-risk inmates for this program.

## **CONCLUSION**

Our final impression of the North Dakota correctional system is of a fundamentally stable, well-managed system. The state's Legislature and Executive will need to confront some significant challenges as it looks to current and projected correctional system needs. These challenges, as documented in this report, will require some changes in current operations and careful planning to address future needs. However, the state's initiative and continued willingness to assess these issues in terms of objective analysis and established professional standards should place it in good stead to continue to manage the correctional system in a responsible, effective manner.