

CORRECTIONAL FACILITY NEEDS - BACKGROUND MEMORANDUM

Section 10 of House Bill No. 1015 (Appendix A) directs the Legislative Council to appoint a Correctional Facility Review Committee to address the immediate and future needs of the State Penitentiary. Section 10 provides the following guidelines for the committee:

1. The membership of the committee must include six members of the Legislative Assembly selected by the Legislative Council of which:
 - a. Three members are from the House of Representatives, two of whom must represent the majority faction of the House of Representatives and one of whom must represent the minority faction of the House of Representatives; and
 - b. Three members are from the Senate, two of whom must represent the majority faction of the Senate and one of whom must represent the minority faction of the Senate.
2. The Legislative Council chairman shall designate the committee chairman and vice chairman.
3. The committee shall operate according to the statutes and procedures governing the operation of other Legislative Council interim committees.
4. The committee shall engage consultant and architectural services, subject to Legislative Council approval, for the development of the following three correctional facility concepts:
 - a. The construction of a new correctional facility on the existing State Penitentiary site;
 - b. The construction of a new correctional facility at a site other than the State Penitentiary site; and
 - c. The remodeling of the existing State Penitentiary facility.
5. Each of the three correctional facility concepts developed by the consultant and architect must:
 - a. Include a master plan, staffing plan, a cost-benefit analysis, and project cost estimate;
 - b. Be based upon housing a population of approximately 990 to 1,000 inmates;
 - c. Include options for expansion;
 - d. Take into consideration the transfer of the inmates at the Missouri River Correctional Center to the new or remodeled facility; and
 - e. Take into consideration the facility and staffing needs of the James River Correctional Center.
6. In developing the concepts, the committee shall seek the input of the Department of Corrections and Rehabilitation.

7. Before June 1, 2008, the committee shall forward the three concepts along with a recommendation for one of the three concepts to the Emergency Commission for the commission's consideration and authorization.
8. If the Emergency Commission authorizes one of the three concepts, the Emergency Commission shall forward the authorized concept to the Budget Section of the Legislative Council. The Budget Section may approve or reject the concept as authorized by the Emergency Commission. (The Legislative Council at its June 6, 2007, meeting directed that any recommendation from the Emergency Commission regarding facility concepts be received by the Budget Section for informational purposes only rather than for approval or rejection under this section.)

Section 18 of House Bill No. 1015 (Appendix B) provides that the correctional facility concepts to be developed must not include any consideration of closure of the James River Correctional Center in Jamestown or the Dakota Women's Correctional and Rehabilitation Center (DWCRC) in New England.

DEPARTMENT OF CORRECTIONS AND REHABILITATION SERVICES

The State Penitentiary in east Bismarck is the main prison complex consisting of 550 prison beds and houses maximum security male inmates as well as some medium security male inmates. The James River Correctional Center in Jamestown has 405 prison beds and is designated to hold medium security male inmates. The Missouri River Correctional Center (MRCC) in southwest Bismarck has 150 prison beds and houses minimum security male inmates. Other male inmates may be held in local correctional centers, in the community placement program, and in other states' facilities through the interstate compact program.

The 2007 Legislative Assembly provided \$9,588,597 for inmate contract housing. This amount includes \$9,528,597 from the general fund and \$60,000 of federal funds. This funding is to be used to house female inmates at the Dakota Women's Correctional and Rehabilitation Center in New England (\$7,955,877) and to house excess male inmates at county jails and private facilities (\$1,632,720).

The Tompkins Rehabilitation and Correction Center, a combined program located on the campus of the State Hospital in Jamestown, is managed through the department's Field Services Division and houses both inmates and noninmates. The Tompkins Rehabilitation and Correction Center is the combination of the former Tompkins Rehabilitation and Corrections Unit at the Stutsman County

Corrections Center and the Corrections Rehabilitation and Recovery Center (DUI Center). The Tompkins Rehabilitation and Correction Center consists of three 30-bed wards--one ward (30 beds) for females and two wards (60 beds) for males.

The Juvenile Services Division is responsible for the Youth Correctional Center (YCC). The center, located west of Mandan, is the state's secure juvenile correctional institution.

STATE PENITENTIARY

North Dakota Century Code (NDCC) Section 12-47-01 provides for the establishment of the State Penitentiary, which is to be located at the city of Bismarck in Burleigh County. The State Penitentiary, which was founded in 1885, 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 Department of Corrections and Rehabilitation owns approximately 2,500 acres, which include the State Penitentiary site, MRCC, and 1,200 acres used for farming purposes at Sunny Farm.

The Penitentiary is the state's maximum security housing facility and 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. As of June 1, 2007, the State Penitentiary housed 530 male inmates.

Pursuant to NDCC Section 12-47-11, the warden, under the direction of the director of the Department of Corrections and Rehabilitation, 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 James River Correctional Center (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 is classified as a medium security housing facility and contains three units for its inmate population. As of June 1, 2007, there were 403 male inmates housed at the JRCC.

The 2005 Legislative Assembly provided \$980,000 for ET building improvements and \$584,000 for code improvements in the Building 18A (programs building) at the JRCC. The ET building improvements included security improvements, energy efficiency improvements, and an increase in bed space by converting four existing pantry areas to five-bed dormitories, for a total increase in bed capacity of

20 beds. The code improvements to Building 18A included improvements to restrooms, roof replacement, and improvements to the elevator and stairwell for accessibility by disabled individuals. Construction costs for JRCC ET building and Building 18A improvements, which totaled \$1,564,000, were financed through the issuance of bonds authorized in 2005 Senate Bill No. 2023.

The 2007 Legislative Assembly provided \$596,075 for extraordinary repairs at JRCC, including roof repairs for the kitchen and administrative building and installing fire suppression systems in the kitchen, laundry, and administration building.

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 inmates whose sentences are not less than 30 days nor more than one year. The inmate housing facilities at the MRCC consist of a minimum security, dormitory-style housing unit for male inmates which has a capacity of 150 inmates. As of June 1, 2007, there were 142 male inmates at the MRCC.

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, automotive mechanics program, carpentry classes, computer skills training, 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 Tompkins Rehabilitation and Correction 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 eight regional 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 400 juveniles per day.

The Division of Juvenile Services also oversees the YCC. The YCC, located west 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, sex offender programming, 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.

DAKOTA WOMEN'S CORRECTIONAL AND REHABILITATION CENTER

During the 2003-05 biennium, the Department of Corrections and Rehabilitation began to contract with the DWCRC to house its female inmates. The DWCRC is located in New England and is owned and operated by the Southwest Multi-County Correction Center Board, which consists of one member from each of the six counties represented in the Southwest Multi-County Correction Center. The six counties include Stark, Slope, Billings, Bowman, Dunn, and Hettinger.

On November 17, 2003, the first 14 minimum security female inmates were transferred from the JRCC to the DWCRC, and within two weeks, the DWCRC had received 68 minimum security female inmates. Upon the completion of additional facility renovations, including the installation of a sprinkler system, the remaining 31 higher security female inmates were transferred from the JRCC to the DWCRC on August 11-12, 2004. As of June 1, 2007, there were 101 female inmates at the DWCRC.

The prison facilities at the DWCRC, which is the former St. Mary's boarding school, consist of the administration building and Haven Hall. The administration building contains Horizon Hall (the

medium security dormitory), the cafeteria, two gymnasiums (one for minimum security inmates and one for higher security inmates), the infirmary, auditorium, library, visitation room, classrooms, and the industries room. Haven Hall is the minimum security dormitory and contains the chapel.

Renovation and capital improvements at the Dakota Women's Correctional and Rehabilitation Center since its establishment include renovation of a dormitory at Horizon Hall into a 16-bed unit for new arrivals and construction of a bathroom for the new orientation unit, a new control center for Horizon Hall, a new five-bed administrative segregation unit, a day room, renovation of the band room for the industries program, secured front entrance, a segregated recreation yard, and removal of asbestos from the convent building for future use.

DEPARTMENT OF CORRECTIONS AND REHABILITATION - FUNDING AND FULL-TIME EQUIVALENT POSITIONS

The 2007-09 biennium appropriation for the Department of Corrections and Rehabilitation is \$195.6 million, of which \$171.6 million is from the general fund. Included in the general fund appropriation is \$41 million to be transferred from the general fund to the State Penitentiary land fund for correctional facility needs. Of the \$195.6 million, the appropriation for the Adult Services Division is \$172.1 million, of which \$153.7 million is from the general fund, and the 2007-09 appropriation for the Youth Services Division is \$23.5 million, of which \$17.9 million is from the general fund. There are 711.29 full-time equivalent (FTE) positions authorized for the 2007-09 biennium, an increase of 34.01 FTE positions from the 2005-07 appropriation. The 34.01 new FTE positions, which include 5 FTE positions for youth services and 29.01 FTE positions for adult services, are listed in the following table:

| Position | FTE Changes Included in Legislative Appropriation |
|--|--|
| Youth Services Division | |
| Security officer (converted from temporary) | 1.00 |
| Institution residential specialist (converted from temporary) | 4.00 |
| Adult Services Division | |
| Parole and probation officer II | 6.00 |
| Parole and probation officer III (drug court) | 3.00 |
| Corrections agent | 1.00 |
| Treatment director | 1.00 |
| Chaplain | 2.00 |
| Correctional officer | 5.00 |
| Registered nurse | 1.00 |
| Instructor | 0.25 |
| Account technician | 1.51 |
| Administrative assistant | 1.25 |
| Office assistant | 1.50 |
| Business manager | 1.00 |
| Community commitment supervision | (1.00) |
| Program manager (drug treatment pilot project) | (0.50) |
| Classification pending (to reduce adult services caseload) | 5.00 |
| Classification pending (training related to interagency agreement with the Department of Human Services) | 1.00 |
| Total | 34.01 |

**DEPARTMENT OF CORRECTIONS AND
REHABILITATION - INMATE
POPULATIONS**

The following table summarizes 2007-09 biennium inmate population projections used for developing the legislative appropriation:

| | Male | Female | Total |
|-------------------------|-------|--------|-------|
| Fiscal year 2008 | | | |
| July | 1,230 | 190 | 1,420 |
| August | 1,234 | 192 | 1,426 |
| September | 1,238 | 193 | 1,431 |
| October | 1,242 | 194 | 1,436 |
| November | 1,245 | 196 | 1,441 |
| December | 1,249 | 197 | 1,446 |
| January | 1,252 | 199 | 1,451 |
| February | 1,256 | 201 | 1,457 |
| March | 1,260 | 202 | 1,462 |
| April | 1,264 | 204 | 1,468 |
| May | 1,268 | 205 | 1,473 |
| June | 1,272 | 207 | 1,479 |
| Fiscal year 2009 | | | |
| July | 1,274 | 208 | 1,482 |
| August | 1,278 | 210 | 1,488 |
| September | 1,281 | 211 | 1,492 |
| October | 1,285 | 213 | 1,498 |
| November | 1,289 | 215 | 1,504 |
| December | 1,293 | 216 | 1,509 |
| January | 1,296 | 218 | 1,514 |
| February | 1,300 | 220 | 1,520 |
| March | 1,304 | 221 | 1,525 |
| April | 1,308 | 223 | 1,531 |
| May | 1,312 | 225 | 1,537 |
| June | 1,316 | 226 | 1,542 |

The following table shows actual average male and female inmate populations for July 2005 through May 2007 as compared to the legislative population estimates for the 2005-07 biennium:

| | Male Inmate Population Estimated v. Actual | | | Female Inmate Population Estimated v. Actual | | |
|-------------------------|--|-------------------|-------------------------------|--|-------------------|-------------------------------|
| | Legislative Estimated Population | Actual Population | Actual Above (Below) Estimate | Legislative Estimated Population | Actual Population | Actual Above (Below) Estimate |
| Fiscal year 2006 | | | | | | |
| July | 1,198 | 1,212 | 14 | 134 | 149 | 15 |
| August | 1,201 | 1,221 | 20 | 135 | 154 | 19 |
| September | 1,204 | 1,231 | 27 | 136 | 155 | 19 |
| October | 1,207 | 1,237 | 30 | 136 | 148 | 12 |
| November | 1,211 | 1,257 | 46 | 137 | 145 | 8 |
| December | 1,213 | 1,259 | 46 | 138 | 151 | 13 |
| January | 1,210 | 1,249 | 39 | 139 | 162 | 23 |
| February | 1,207 | 1,254 | 47 | 139 | 163 | 24 |
| March | 1,203 | 1,264 | 61 | 140 | 167 | 27 |
| April | 1,195 | 1,267 | 72 | 141 | 161 | 20 |
| May | 1,193 | 1,247 | 54 | 141 | 161 | 20 |
| June | 1,193 | 1,246 | 53 | 142 | 163 | 21 |
| Fiscal year 2007 | | | | | | |
| July | 1,186 | 1,240 | 54 | 143 | 165 | 22 |
| August | 1,189 | 1,236 | 47 | 143 | 168 | 25 |
| September | 1,197 | 1,245 | 48 | 144 | 166 | 22 |
| October | 1,202 | 1,237 | 35 | 145 | 158 | 13 |
| November | 1,207 | 1,230 | 23 | 146 | 167 | 21 |
| December | 1,218 | 1,226 | 8 | 146 | 169 | 23 |
| January | 1,221 | 1,247 | 26 | 147 | 160 | 13 |
| February | 1,225 | 1,251 | 26 | 148 | 151 | 3 |
| March | 1,234 | 1,258 | 24 | 149 | 146 | (3) |
| April | 1,241 | 1,273 | 32 | 149 | 147 | (2) |
| May | 1,252 | 1,285 | 33 | 150 | 146 | (4) |
| June | 1,262 | | | 151 | | |

As of June 1, 2007, the total inmate population was 1,433, of which 1,287 were males and 146 were females.

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 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:

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.

2003-04 Interim

During the 2003-04 interim, the Legislative Council's Budget Committee on Government Services, pursuant to Section 6 of House Bill No. 1506, studied the long-term needs of state inmates and whether 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. As part of this study, the committee received testimony from representatives of the Department of Corrections and Rehabilitation and the Dakota Women's Correctional and Rehabilitation Center in New England regarding contract housing of state female inmates; reviewed inmate populations, sentence lengths, and recidivism rates; reviewed the condition of the east cellhouse of the State Penitentiary; reviewed land owned by the Department of Corrections and Rehabilitation; received testimony regarding the state's criminal justice process from arrest to release; and reviewed the effectiveness of alternatives to incarceration.

The committee encouraged the Department of Corrections and Rehabilitation to request funds from the preliminary planning revolving fund to determine

the cost and specifications relating to the replacement of the east cellhouse at the State Penitentiary. Upon Budget Section approval, the Department of Corrections and Rehabilitation received \$60,000 from the preliminary planning revolving fund and hired Ritterbush and Associates of Bismarck and HDR Architecture, Inc., Chicago, Illinois, to conduct a study of the replacement of the east cellhouse.

The architect's study of the State Penitentiary included the following findings:

East cellhouse

- Nearly 100 years old and has structural and maintenance issues.
- Fails to meet current life safety standards.
- Fails to meet American Correctional Association standards for space, light, and programs.
- Fails to meet Americans with Disabilities Act standards for accessibility.

Medical facilities

- Lacks space, total beds available, and storage.
- Lacks privacy, especially in waiting and examination areas.
- No disabled access (stretcher used to carry inmates up stairs).
- No space for long-term hospice care.
- Pharmacy lacks workspace and security.
- Dental and x-ray are poorly located for security.
- Lacks facilities requiring hospital stays in Bismarck.

Segregation

- Lacks beds, which increases opportunities for assaults on staff and other inmates.
- Difficult to manage the population.
- No program or ancillary space.

Orientation

- Lacks sufficient beds for average number of new arrivals each month.
- Unable to separate inmate groups properly.
- Lacks processing space and has inefficient workflow.
- Building could be utilized for general population housing.

Facility

- Too much of a burden on central control and front lobby traffic.
- Path to visitation is lengthy.
- Laundry is poorly located.
- Medical treatment area is poorly located since it is on the upper floor.
- Yard access for vehicles and the south tower location needs to be improved for better security.

The study also found the current situation results in expensive outsourcing of prison beds, difficulty in managing inmates, and potential exposure to lawsuits.

The architect's recommendation for changes at the State Penitentiary included:

1. Relocating the warehouse.

2. Constructing new vehicle access and a new south tower.
3. Demolishing existing south tower.
4. Constructing new orientation housing, an inmate intake/transfer unit, clinic, infirmary, segregation unit, visitors' entrance, and laundry facility.
5. Eliminating the east cellhouse.

The expansion would result in a net prison bed gain of 123 permanent beds and would require an additional 38.4 staff. The total cost of the buildings was estimated to be \$16.3 million and the total project cost, including demolition costs, contingency, fees, furnishings, and equipment, was estimated to be \$29.2 million. Based on the buildings' construction costs of \$16.3 million, the cost per bed would be \$71,690. The total project cost would increase by approximately \$2.1 million if the project is delayed from 2006 until 2008.

The committee learned about a proposed riverbank stabilization project along the department's 8,000 to 9,000 linear feet of riverfront property along the Missouri River located at the Missouri River Correctional Center. The Burleigh, Oliver, Morton, McLean, and Mercer (BOMMM) County Joint Board proposed a demonstration and study project with the United States Army Corps of Engineers for bank stabilization and aquatic restoration on the Missouri River. The BOMMM County Joint Board would need to obtain easements from the state for the 57.5 acres of land that would be impacted by the project.

The committee recommended the Department of Corrections and Rehabilitation obtain two land appraisals for the land the department owns at the Missouri River Correctional Center. The appraisals were to include the valuation of the land with the riverbank stabilization project and without the project and be available for consideration by the 59th Legislative Assembly. The Department of Corrections and Rehabilitation was to pay for the appraisals from its 2003-05 biennium appropriation.

The Department of Corrections and Rehabilitation hired Dakota Appraisal and Consulting, Ltd., of Bismarck to provide the appraisals of the land the department owns at the Missouri River Correctional Center. The department distributed copies of the completed appraisal report during the 2005 Legislative Assembly, which stated that as of February 2, 2005, the market value of the land without the riverbank stabilization easement is \$7.85 million and the market value of the land with the permanent riverbank stabilization easement is \$1.82 million. During the 2005-06 interim, the Corps of Engineers received approval and funding to conduct a feasibility study regarding the riverbank stabilization project.

The committee made no recommendation regarding the continuation of the contract for housing female inmates at the Dakota Women's Correctional Rehabilitation Center.

DEPARTMENT OF CORRECTIONS AND REHABILITATION PERFORMANCE AUDIT

During the 2003-04 interim, the State Auditor's office contracted with Criminal Justice Institute, Inc., consulting firm, to conduct a performance audit of the Department of Corrections and Rehabilitation. The two goals of the performance audit were:

1. Is management and the administrative structure of the Department of Corrections and Rehabilitation effective?
2. Is the current placement of adult offenders providing for the most efficient and effective use of resources?

The consultant's recommendations related to facility needs include:

1. Formulate and implement a plan to confine convicted offenders only if they have more than a year and a day to serve.
2. Suspend plans for constructing reception/orientation beds at the State Penitentiary and other proposed bed space additions, except for improvements to the infirmary and medical areas, until the impact of implementing the preceding recommendation can be determined. If the preceding recommendation is not implemented, proceed with all aspects of the capital construction project.
3. Make better use of the beds at the three adult facilities and return as many inmates as possible from Appleton, Minnesota.
4. Obtain funding to make the State Penitentiary infirmary larger and more functional.

2005-06 INTERIM COMMISSION ON ALTERNATIVES TO INCARCERATION

The 2005 Legislative Assembly passed House Bill No. 1473 which established a Commission on Alternatives to Incarceration to study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. The commission is composed of three members appointed by the Governor, the Attorney General or a designee, two members appointed by the Chief Justice of the Supreme Court, the director of the Department of Corrections and Rehabilitation, the director of the Department of Human Services, two local law enforcement officers appointed by the Attorney General, one state's attorney appointed by the North Dakota State's Attorneys Association, three members from the House of Representatives, three members from the Senate, and one representative of the North Dakota Association of Counties appointed by the Association of Counties.

The 2005-06 interim Commission on Alternatives to Incarceration recommended and the 2007 Legislative Assembly passed Senate Bill No. 2029 which provides standards under which the

Department of Corrections and Rehabilitation may implement an electronic home detention and global positioning system monitoring program. The Commission also provided to the Governor recommendations for the Governor's consideration in preparation of the 2007-09 biennial executive budget, including \$300,000 for room and board expenses for individuals admitted to a faith-based program to address addiction problems, approximately \$600,000 for the addition of two full-time equivalent positions for the Department of Corrections and Rehabilitation and four full-time equivalent positions for the Department of Human Services to assist in the expansion of drug courts, up to \$1.2 million for the expansion of the Robinson Recovery Center, \$200,000 to be administered on a cost-share basis with local governments for the operation of community service programs, and \$582,000 to assist in implementing the Cass County Jail Intervention Coordinating Committee mental health project, to be contingent upon the receipt of a federal grant for the implementation of the project.

Budget Committee on Government Services

During the 2005-06 interim, the Legislative Council's Budget Committee on Government Services, pursuant to Section 12 of Senate Bill No. 2015 (2005), studied the Department of Corrections and Rehabilitation's incarceration and correctional facility needs.

The Council received reports from the Department of Corrections and Rehabilitation, the Dakota Women's Correctional and Rehabilitation Center, regional correction centers, county jails, and a corporation operating private correctional facilities. The Council received information on male and female inmate populations, the condition of existing facilities, incarceration guidelines, alternatives to incarceration, joint exercise of governmental powers, and requirements of the Nurse Practices Act and rules relating to medication management within local correctional facilities.

The Council recommended House Bill No. 1026 to provide an appropriation of \$38 million from the general fund for the renovation and expansion of the State Penitentiary, including replacement of the east cellhouse. The Legislative Assembly defeated this bill.

2007 LEGISLATIVE ACTION

The 2007 Legislative Assembly removed the \$42 million general fund appropriation included in the executive recommendation for a State Penitentiary expansion project and provided for a transfer of \$41 million from the general fund to the State Penitentiary land fund for addressing correctional facility needs as recommended and approved under Section 10 of House Bill No. 1015. The Legislative Assembly also provided an appropriation of \$250,000 from the general fund to the Legislative Council for

prison facility alternative concepts and preliminary design development.

The Legislative Assembly provided \$500,000 for faith-based programming and approximately \$17 million for other treatment services, including the Bismarck Transition Center (\$4 million), Tompkins Rehabilitation and Corrections Center (\$4.5 million), female transition (\$2.7 million), North Central Correctional and Rehabilitation Center (\$1.6 million), half-way and quarter-way housing (\$1.7 million), and new male transition services in the eastern part of the state (\$1.2 million).

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.

ACTION PLAN

The committee may wish to carry out this responsibility as follows:

1. Prepare a request for proposal (RFP) for consulting and architectural services for the development of three correctional facility concepts.
2. Develop a list of potential consultants.
3. Hear presentations from interested consultants.
4. Recommend a consultant to the Legislative Council.
5. Receive input from the Department of Corrections and Rehabilitation regarding the correctional facility concepts.
6. Receive testimony from other interested persons.
7. Tour the State Penitentiary, Missouri River Correctional Center, and other locations which may be suitable for a correctional facility.
8. Receive periodic progress reports from the consultant.
9. Develop a recommendation of one of the three correctional facility concepts.
10. Forward the three concepts along with the recommendation for one of the three concepts to the Emergency Commission for consideration and authorization.
11. Prepare a final report for submission to the Legislative Council.

ATTACH: 3

**SECTION 10. CORRECTIONAL FACILITY REVIEW COMMITTEE - MEMBERSHIP - DUTIES
- RECOMMENDATIONS.**

1. During the 2007-08 interim, the legislative council shall appoint a correctional facility review committee to address the immediate and future needs of the state penitentiary. The membership of the committee must include six members of the legislative assembly selected by the legislative council. The membership of the committee must include:
 - a. Three members of the house of representatives, two of whom must represent the majority faction of the house of representatives and one of whom must represent the minority faction of the house of representatives; and
 - b. Three members of the senate, two of whom must represent the majority faction of the senate and one of whom must represent the minority faction of the senate.
2. The legislative council chairman shall designate the committee chairman and vice chairman.
3. The committee shall operate according to the statutes and procedures governing the operation of other legislative council interim committees.
4. The committee shall engage consultant and architectural services, subject to legislative council approval, for the development of the following three correctional facility concepts:
 - a. The construction of a new correctional facility on the existing state penitentiary site;
 - b. The construction of a new correctional facility at a site other than the state penitentiary site; and
 - c. The remodeling of the existing state penitentiary facility.
5. Each of the three correctional facility concepts developed by the consultant and architect must:
 - a. Include a master plan, staffing plan, a cost-benefit analysis, and project cost estimate;
 - b. Be based upon housing a population of approximately nine hundred to one thousand inmates;
 - c. Include options for expansion;
 - d. Take into consideration the transfer of the inmates at the Missouri River correctional center to the new or remodeled facility; and
 - e. Take into consideration the facility and staffing needs of the James River correctional center.
6. In developing the concepts, the committee shall seek the input of the department of corrections and rehabilitation.
7. Before June 1, 2008, the committee shall forward the three concepts along with a recommendation for one of the three concepts to the emergency commission for the commission's consideration and authorization.
8. If the emergency commission authorizes one of the three concepts, the emergency commission shall forward the authorized concept to the budget section of the legislative council. The budget section may approve or reject the concept as authorized by the emergency commission.

SECTION 18. LEGISLATIVE INTENT - CORRECTIONAL FACILITIES. It is the intent of the sixtieth legislative assembly that the correctional facility concepts to be developed pursuant to this Act not include any consideration of closure of the James River correctional center or the Dakota women's correctional and rehabilitation center in New England.

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 25th, 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.