

03 JAN 1978

MONTANA ADVISORY COMMITTEE
U.S. COMMISSION ON CIVIL RIGHTS

CONSULTATION ON CORRECTIONS

December 13 and 14, 1977

VOLUME II

TRANSCRIPT OF PROCEEDINGS

BOULEY, SCHLESINGER, PROFITT and DICURTI

Official Court Reporters

187 North Church Avenue

Tucson, Arizona

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AFTERNOON SESSION

(The following was moderated by Mr. Richard Vandiver)

THE MODERATOR: We're ready to begin our panel discussion on women in corrections, my name is Richard Vandiver, I'm a sociologist from the University of Montana in Missoula.

I am -- my area of interest is in criminology and I teach courses in corrections and the criminal justice system and so forth, and a few years ago Judy Smith and I and Larry Culp put on a conference on women in criminal justice at the University of Montana, and I've had interest in this area for some time.

And today we're going to have a little different sort of panel discussion, it's going to be mostly discussion rather than formal presentations, on the panel, as you can see from your program, are Judy Smith, Jo Jorgenson, Tom Emerling and Ann German.

And we're going to ask each of them to give a more complete introduction of themselves and begin with a few comments about the general issues involved here from Judy Smith.

1 MS. JUDY SMITH

2
3 A (By Ms. Smith) Well, I work at the Women's Resource
4 Center in Missoula and I've been working on the Montana
5 Women Offender Project since 1974.

6 Basically what we've been trying to do with
7 that project is to educate Montanans as to what is hap-
8 pening with women offenders in the state. We're always
9 surprised to find out how little we all know about women
10 offenders and I'll be discussing that a little more in the
11 future.

12 But one thing I'd really like to emphasize is that
13 those of us that work on the Montana Women's Offender Project
14 view ourselves as advocates of women offenders. We,
15 ourselves perhaps have not had the experience of going
16 through that system but have talked to a number of women
17 who have, have had wide contact with women who have been
18 in the system.

19 And I would like you to view me as an advocate of
20 women offenders because that's how I view myself and I
21 think it's important when I talk to people that they know
22 what my perception of my role is.

23 When we start discussing the question of civil
24 rights, I think it's very important to understand that the
25 historical context in this country of civil rights.

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MORNING SESSION

December 14, 1977

9:00 a.m.

(The following was moderated by Ms. Geraldine Travis)

THE MODERATOR: Good morning.

I would like to welcome all of you to the second day of the consultation on corrections sponsored by the Montana Advisory Committee to the U.S. Commission on Civil Rights.

I'm Geraldine Travis from Great Falls, Montana, a member of the SAC, and my expertise in this area is that I have -- I'm a housewife and I've been married for over 28 years.

First I would like to introduce you to Mr. Don Robel, Superintendent of the Mt. View School.

MR. DON ROBEL

A. (By Mr. Robel) Thank you.

Good morning, Ladies and Gentlemen.

I've been given, as I understand it, 15 minutes to fill you about the entire Mt. View School program. It's impossible. I was hoping we'd have more time for our female

1 juvenile delinquents than 15 minutes.

2 So I've had to, I did place some booklets or
3 brochures in the back yesterday, and I hope all of you
4 read those, because they do, in a condensed sort of way,
5 tell pretty much about the Mt. View School program.

6 I am concentrating today rather than trying to
7 cover the whole program, in a couple areas I consider
8 very important at the Mt. View School.

9 The Mt. View School was first established by law
10 in 1893 as part of the boys and girls industrial school
11 at Miles City. In 1919 the state legislature established
12 a separate institution for delinquent girls at its present
13 site seven miles north of Helena, called the Vocational
14 School for Girls. And why they called it a vocational
15 school I never did know.

16 Anyway, in 1968 the legislature officially changed
17 the name to the Mt. View School, there is no, for girls,
18 on the end of it.

19 From 1920 to 1972, the only type of commitment to
20 the Mt. View School were delinquent girls who were com-
21 mitted for long term care, the average stay, length of
22 stay for this group last year, last fiscal year, was
23 eight months.

24 The recidivism rate last year was 8% for this group.

25 In 1972 the Mt. View School started accepting girls

1 who were committed for the 45-day evaluation program.

2 In July, 1977, the Mt. View School started accepting
3 younger boys who were committed for the 45-day
4 evaluation program, a maximum number of 14 boys, this is
5 a one-year pilot program.

6 In October, 1977, the Mt. View School was approved
7 by the United States Department of Justice, the Bureau of
8 Prisons as a federal -- as a facility to house and care
9 for federal female juvenile offenders.

10 In October, 1977, I did sign a three-year contract
11 with the United States Department of Justice, Bureau of
12 Prisons, to accept a limited number of female -- federal
13 female juvenile offenders. We do not have such girl yet.

14 The Mt. View School has been in a state of transition
15 for the past 11 or 12 years from a custodial type institu-
16 tion to a treatment oriented institution. When I was
17 appointed superintendent in August, 1966, I did find a
18 rundown neglected institution, with many, many girls,
19 first of all it was filled with children, and many of these
20 children were more dependent neglected than they were
21 delinquent.

22 I did find an institution where nothing had been
23 painted, I have no way of knowing, I would guess 30 or 40
24 years, plaster was falling off the walls, everything was
25 run down.

1 Through the years, without benefit of new buildings
2 from the state, this has changed, however. The buildings
3 are still old but they are now in a state of repair. With help
4 from the courts and the Aftercare division and others, we
5 have been able to reduce the number of commitments to
6 the institution, specially the children who do not belong
7 in the institution, such as dependent neglected-type
8 children.

9 One major change was initiated shortly before I
10 arrived at the Mt. View School. The previous superintendent,
11 who was the first male, by the way, at the institution,
12 male superintendent, he did open all the cottage doors
13 during the daylight hours and the children were given
14 the freedom of the grounds.

15 I do now emphasize this next point because most
16 people, especially many so-called professional people, do
17 not care to discuss it, as it does not sound too clinical
18 or professional. In fact, it sounds kind of crude or gross,
19 as the kids say nowadays.

20 Most of us would rather emphasize the clinical and
21 the more professional side of it rather than this portion
22 of it. The more emphasis on the treatment, but in my
23 opinion this is treatment.

24 When I arrived at the institution, I was soon a
25 strong believer in the open door program but it was a complete

1 failure.

2 There were approximately 170 runaways that fiscal
3 year before I arrived. The institution was constantly in
4 the newspapers, with incidents, in fact national news on a
5 couple occasions or at least one occasion. And there
6 were tremendous amounts of problems related to runaways,
7 in fact, there were 30 runaways from the institution in
8 one night.

9 Now, the previous superintendent, the one before me
10 was more of a social worker oriented person than I was or
11 am. He was an outstanding man but he had one belief and
12 that was he did not feel that he nor his staff members
13 should search for runaways. He stated that if this is
14 done, if you do search for runaways, one makes a game
15 of it.

16 I did not quite understand this as I related it to
17 my own children, and I have three daughters and one son.
18 And if one of them or all of them ran away, I don't see how
19 one could simply just go to bed and forget about them and
20 hope the police would find them. I think most of us would
21 make some sort of attempt to find them.

22 So, too, with the Mt. View School girl, I could not
23 simply go to bed and rely upon the police department, at
24 that time they weren't cooperating too well because there
25 were too many runaways anyway.

1 My first day of work a girl did run away, that night
2 I arrived at the school and I found I was the only staff
3 member there, the other ones said they were not responsible
4 for searching for runs. I informed them to please report
5 for work immediately, because their job specs. had just
6 been revised.

7 There was no equipment except a two-cell flashlight
8 and needless to say we did not find the girl that night.

9 Now, during the next two or three years I don't even
10 remember, it was sort of like a nightmare, the Mt. View
11 School girls did run and run again and again and over and
12 over. I was sorry I did not major at the time in physical
13 education with a minor in track, instead of studying
14 psychology.

15 We did chase them through the fields, over the
16 fences, through the woods, through the creeks and through
17 the City of Helena. They did run at 25 degrees below zero
18 in a foot of snow in which it's a matter of life and death
19 to find them. They ran for no apparent reason.

20 The previous superintendent was right, it was a
21 game but it was burning me and my staff out.

22 But I was determined not to lock those children in
23 those buildings as they were before. It was apparent that
24 if I could not control them, however, the community pressure
25 would again require they be locked in the buildings.

1 Now, most of these children as was discussed yes-
2 terday, I noticed in all the case histories that were
3 mentioned, you have this runaway problem mixed in there.

4 How do you place these children in foster homes and
5 group homes if they just keep constantly running away?
6 Most of the girls we receive do have this runaway problem
7 prior to commitment. Their response to authority figures,
8 home problems, school difficulties, and other pressures,
9 was to run away and so, too, at the Mt. View School.

10 Now, the problem with running away is that it soon
11 becomes a pattern in their life. The problem is that
12 running away leads to being on the streets, and the streets
13 are frequently dangerous and exciting, and once a girl
14 has been introduced to street life, which frequently
15 includes such things as liquor, drugs, including glue
16 sniffing, lighter fluid sniffing, aerosol cans and a variety
17 of other chemicals, involves them, assault, rape,
18 promiscuous behavior and prostitution.

19 After this street life venture, all else now appears
20 dull and childish, specially school. Once this pattern is
21 developed it is very difficult to change. And placement
22 from the institution is destined to failure unless the
23 girl can develop other methods to deal with problems and
24 pressures.

25 Through the years the Mt. View School program, re

1 runaway problem has been controlled. There was no big
2 magic involved or no big clinical sort of thing, I did
3 simply select about 12 staff members who were willing to
4 be on call with me 24 hours a day, 365 days a year, and who
5 were as concerned as I was about keeping the open program
6 and the welfare of the child, when they are on run.

7 Last year, for example there were only 17 runaways
8 from the school grounds, and we did apprehend most of them
9 in the Helena area ourselves. We also now have things
10 like car radios and walki-talkies, thanks to crime control,
11 and other equipment.

12 As of this day, or at least no one's called me yet
13 this morning, the cottage doors are still open at Mt.
14 View School and the children are still walking, running,
15 playing, riding bicycles around the school grounds.
16 Whether they will be doing this tomorrow is still open
17 for question.

18 But the girls and boys now know what it is to have
19 this freedom and they do not want to lose it. And they
20 know we can not do it alone as staff members, they must
21 help us and they do help us to keep this program open.

22 We have now expanded it to include a selected group
23 of girls in a restricted open program at night, at dark.
24 Now, the reason these children both boys and girls have
25 this freedom of the campus is first because they are treated

1 humanely. I'll tell you if they're not treated humanely,
2 they would all be gone today. Running away is a safety
3 valve to an institution.

4 Many times these children do have reason to run. And
5 when we do apprehend them we always check into this.

6 S-X-ELL Essentially there are these 12 staff members who
7 have given up some of their freedom to insure the freedom
8 of these children. These people receive no special credit
9 or recognition, they may not even get a day off after
10 staying out all night and have to report to work in the
11 morning. I owe these people a great deal.

12 The children at Mt. View School owe these people a
13 great deal. You, as Montana citizens owe these people a
14 great deal. They are very dedicated people and they're
15 very difficult to find.

16 Now, why is all this so important that I would spend
17 my meager 15 minutes to sit around, talk to you about
18 running away? In fact who really even cares? It is to
19 me important to keep the cottage door, open cottage door
20 program because it is the basis for all else at Mt.
21 View School. The more secure the institution the more
22 need there is for harsh discipline when children misbehave.

23 Before the open cottage door program, if you in-
24 formed the girl she was restricted to the cottage for
25 misbehavior, it had little or no meaning because she was

1 already restricted to the cottage anyway.

2 Therefore, in order to maintain control and discipline,
3 it was necessary to lock such children in detention rooms
4 for long periods of time. To inform a girl that she was
5 campused to the institution had little meaning because she
6 was campused anyway, because there were no off-campus
7 programs.

8 To deny a vacation to a girl also had little effect
9 because there were few vacations.

10 But now all of these have greater meaning to the
11 Mt. View School children, to tell a girl her vacation may
12 be denied if she continues to misbehave is frequently
13 all that needs to be said, and we do send children home
14 each week end.

15 To tell a girl she is campused is considered quite
16 severe because of the number of off-campus recreation and
17 work programs. To restrict a child to the cottage is now
18 considered equivalent to locking them in a detention
19 room a few years ago. To lock a child in the detention room
20 for a day, overnight or just a few hours, is considered
21 harsh discipline.

22 To lock a child in a detention room for long periods
23 of times is not even hardly done now except in the most
24 very violent incidents.

25 The point I'm trying to make is that there's no simple

1 answer to these problems; just to search for runaways is
2 certainly not the solution, although it does allow one to
3 open up the entire program if this problem can be controlled.

4 It did allow us to initiate more on-campus activities,
5 more off-campus activities and more vacations. It allows
6 one to develop short term goals for each child and when
7 dealing with children you must deal with short term goals.

8 Because their time frame is much different than ours.
9 Frequently, however, in this business we start at the wrong
10 end. We try to make the most harsh discipline methods more
11 humane without regard to the opposite end of the scale.
12 If there are more open programs on grounds, more off-campus
13 activities and programs and more vacations, there is less
14 need for the harsh discipline methods.

15 The open cottage doors is a beginning is an.
16 absolutely necessity at the Mt. View School, without it there
17 is no program.

18 Most of these children have very low selfimages
19 and think of themselves as zeroes is their latest word.

20 No, there's another one, I won't say that one.

21 Most have little or no selfcontrol. Now, in my
22 opinion, one can not develop a child's selfimage or inner
23 selfcontrol by locking them in a building even if you call
24 it a cottage, a home or a lodge or whatever because it is
25 still a locked building. The child needs the limited

1 opportunity to develop selfcontrol. If a child can
2 develop enough selfcontrol not to run away from school
3 grounds, this is a major step in the rehabilitation process.

4 If a child can develop enough selfcontrol not to
5 run away from an off-campus activity or job in Helena,
6 that is a major step in the rehabilitation process.

7 And finally, if a child can develop enough self-
8 control to go home on a vacation, stay out of trouble and
9 return to the institution, on her own, this, in my opinion,
10 is rehabilitation.

11 Now, there are many problems associated with a
12 program like this, first of all not everyone agreed with
13 it. Some people think these children should be locked up
14 and treated severely and all this sort of thing. Sometimes
15 the kids tend to fake us out and are simply just waiting
16 for a better opportunity to run away as compared to running
17 through the fields, so they wait for the opportunity to go
18 to town or off-campus.

19 But despite all these problems that we have, and the
20 extra work involved, it is so much more effective than
21 locking children in buildings and turning them loose a year
22 or two later and saying go, you are cured, this is nonsense.

23 There are many other factors involved in making
24 this type program work, first and foremost it must be a
25 small institution with a relaxed atmosphere. It should be

1 in a semirural area far enough from a city to allow one to
2 open the cottage doors but yet close enough to utilize the
3 many services that are offered in a city, a small institu-
4 tion can not -- no institution can provide all the services
5 that are necessary.

6 We happen to have both, we're close to the city and
7 yet far enough away. It must be a reasonably happy place.
8 I do not believe rehabilitation needs to be a miserable
9 experience, I think it can be a happy experience in one's
10 life.

11 I do also believe it can be a happy experience for
12 the staff members. And so many institutions I've seen
13 in other correctional fields, everyone is trying to look
14 so professional that they look like they're in pain.

15 The use of humor and joking around with these children,
16 there's very little written about this, it's perhaps
17 one of the most effective tools available to break down
18 the barriers they have developed through the years toward
19 adults and authorities.

20 The emphasis must be placed on rewarding a child
21 for good behavior as compared to sitting around trying to
22 figure out ways to humanely punish the child for misbe-
23 havior.

24 I see I'm out of time. Now, if you -- I have one
25 final statement and if you haven't been listening to me and

1 dozing off or whatever, I hope you remember one thing and
2 that is this statement.

3 Now, you can have the finest clinical staff in the
4 world, you can have all the wonderful vocational training
5 programs or training them to be electrical engineers or
6 whatever you want to do with them, you can have the greatest
7 recreation programs, the open program, the off-campus pro-
8 gram, the vacation program and all the rest of it, but
9 remember one thing from this particular presentation I
10 gave you, unless you care about each one of those children
11 out there, the whole damned thing is waste of time.

12 And how I can explain this to you, I don't know,
13 especially when my time is running out or is out. But it
14 is the basic foundation of any program in the correctional
15 field, is caring about each and every child.

16 Thank you very much, I encourage you to come out
17 and see this, don't believe everything I tell you, come out
18 and see it for yourself.

19 Thank you.

20 THE MODERATOR: Thank you very much.

21 I didn't specify in the beginning but we will move
22 right ahead to each panelist and at the end of the presen-
23 tations the audience is open for questioning.

24 Next we will have Mr. Don Holladay, Superintendent
25 of the Pine Hill School in Miles City.

1 MR. DON HOLLADAY

2
3 A (By Mr. Holladay) Thank you.

4 Ladies and Gentlemen, I also, with Don Robel,
5 appreciate the opportunity of talking on this panel today.
6 I always welcome an opportunity to talk about Pine Hill
7 School, and what we are attempting to do.

8 I like following Don Robel because I think he sets
9 a good stage for the atmosphere and the type of program
10 that one must have if they are going to have effective
11 rehabilitation programs.

12 I ask for your forgiveness if I frequently refer to
13 my notes, but due to the brief amount of time allotted me
14 I have a lot of material that I would like to cover.

15 I have been pleased with the sort of the direction
16 this conference has taken in terms of more information
17 about community based programs. I feel very strongly that
18 delinquency is a community problem and therefore we must
19 be dealing with this problem in the community and not just
20 in the institutions.

21 I am also a firm believer that institution or
22 institutionalization should be the last resort.

23 Could I have someone please turn off the lights in
24 the back? I do have some slides that I will be showing as
25 I run through this presentation.

1 Pine Hill School was established in March, 1893,
2 with the signing of House Bill 184. It is located just
3 east of Miles City, Montana, on the site of the former
4 women's reformatory which had been erected during the
5 territorial days of 1884.

6 And as Mr. Robel has mentioned, it was coeducational
7 until 1919.

8 The purpose of Pine Hill School is to provide the care
9 and treatment, education and rehabilitation of boys between
10 the ages of ten and 21, who have been committed to the
11 institution by the juvenile courts in Montana.

12 Operating on the premise that every boy sent to the
13 institution is a worthwhile individual who needs guidance
14 and direction in his life, the staff attempts to give him
15 a feeling of dignity and selfworth. It has been found
16 that the majority of the boys committed to the institution
17 want help and direction in their lives.

18 The programs are designed to meet individual needs,
19 to ascertain the problems and potential of each boy and to
20 help him change his faulty and negative attitudes towards
21 society.

22 In other words, one of our objectives is to help him
23 gain selfcontrol so that he can return to his community and
24 live as a law abiding citizen.

25 The worth and dignity of the individual is uppermost

1 in the minds of the staff. Each boy needs the opportunity
2 to develop his capacities for learning and to develop
3 his talents. He also has responsibility to use his
4 talents for his own self well being and for the well being
5 of society.

6 Boys at Pine Hill School are there because they have
7 been impulsive and have made poor decisions, therefore one
8 of the major functions is to help them learn selfcontrol
9 and to make good decisions, recognizing that it is the day
10 to day experiences that bring about modification of behavior,
11 all activities are therapeutically oriented.

12 We operate on the premise that behavior is learned
13 and not inherited and therefore can be modified. Planned
14 lodge activities the students are provided a variety of
15 experiences. Work assignments are geared to provide
16 students with meaningful vocational experiences along with
17 a meaningful program. Therefore, they have the opportunity
18 to work with our staff members in welding, electrical
19 and plumbing, kitchen, carpentry shop, and other detail
20 areas on the campus.

21 The capacity of the institution is 150, the daily
22 population for the past three fiscal years from July to
23 June the 30th was 131.1. Due to the concerted effort to
24 find alternatives to institutionalization, the courts
25 are committing boys as the last resort.

1 On November the 16th, 1977, we had 133 boys on campus.
2 126 of these boys were regular commitments and seven were
3 for 45-day evaluations.

4 The offenses of these here on regular commitments
5 ranged from deliberate homicide to criminal mischief.

6 Obviously, boys are not being committed to Pine Hill
7 School for status offenses. Since the courts are
8 committing boys only as a last resort, the average age at
9 time of commitment has increased from a little over 15 years
10 of age to 15.9.

11 Therefore, the average age of boys in our campus has
12 increased from around 16 to 16.6.

13 By law the court can commit a child to Pine Hill
14 School until he's between the ages of ten and 18, although
15 a judge can not commit a boy for the first time who is
16 over the age of 18, we do retain jurisdiction until age
17 21 if the court so indicates.

18 Under the new Montana Youth Act, the judge can
19 commit a boy for a definite period of time. However,
20 in most cases the boy is committed until age 21 or
21 until sooner discharged.

22 Despite the fact that we are getting an older,
23 more sophisticated delinquent the median length of stay for
24 last fiscal year was eight months and 14 days. It is
25 also interesting to note that the recidivism rate has also

1 been decreasing in the last few years. For fiscal year
2 1974 to '75, the recidivism rate was 15%, for '76 and '77
3 it was 12.6%, the national percentage is around 35%.

4 The recidivism rate is not to be confused with the
5 number of returnees on campus. The recidivism rate is
6 determined by dividing the number of boys on Aftercare
7 into the number of boys who are returned to Pine Hill
8 School in that fiscal year.

9 The returnee rate is determined by counting the
10 number of boys on campus who have been released and re-
11 turned. In many institutions, this percentage is around
12 50 to 60%.

13 On November the 16th, 1977, 30.8% of our boys
14 were returnees. You heard Mr. Russell, Director of Aftercare,
15 yesterday mention that approximately 4% of our boys go on
16 to Deer Lodge. The boys are housed in six lodges on our
17 campus, General George Custer Lodge has been designated
18 as the receiving unit, all new admissions are placed in
19 this lodge until the clinical services department and the
20 other staff members have had time to evaluate them.

21 Boys are the greatest security risk during the first
22 two months of confinement at an institution. After a student
23 has been at the institution for four to six weeks, an
24 intake conference is held, all of the people involved in
25 working with this boy, is present at this conference and

1 at this time, an individualized program is worked out.

2 Crazy Horse Lodge is used to house younger boys,
3 ages ten to 14. Boys are assigned either Charles Russell
4 Lodge or Marcus Daily Lodge according to their individual
5 needs.

6 This determination is made by the case conference
7 committee which attempts to place the boy in the lodge
8 where they feel that he can receive the most benefit.

9 Charles Russell Lodge and Marcus Daily Lodges have
10 class designations within them where the boys gradually
11 earn more privileges such as going outside in the evenings
12 when they desire, having a small dormitory that they
13 can fix up the way they want as you've seen some pictures
14 here, we have large dormitories also in all the lodges, we
15 have remodeled the apartments in the lodges into small dorms
16 where one to four boys may share a room.

17 The majority of the boys sleep in large dormitories,
18 except in Joseph Lodge. Chief Joseph Lodge is operated on
19 a relatively new concept within institutions. The boys
20 assigned to this lodge have many more freedoms and much
21 less supervision than the boys in any other lodge. These
22 boys have keys to their own rooms in order to lock out
23 staff members rather than to be locked in. The doors of
24 this building are unlocked ~~and~~ when the boys are in the
25 building.

1 They participate in many more off-campus activities
2 than the other boys. The overall purpose of this lodge
3 is to give the boys more responsibility for their own
4 behavior and the opportunity to test their own decision
5 making processes. It's a little bit like Mr. Robel was ~~being~~
6 talking about here where we need to find this out on
7 campus rather than keep him locked up and then let him
8 go home and we're not sure what they can do.

9 Lewis Lodge has been designated, that's the front
10 part of that picture, as the lodge to house boys with
11 special security problems and who are generally disruptive
12 in the other lodges. These boys are involved in a regular
13 school program, are detailed area during the day but do not
14 have the evening programs. Therefore they are provided a
15 much closer supervision because they have had histories
16 of running.

17 A survey has indicated that the escape ratio is
18 much greater for parole violators than for new admissions.
19 and boys in this lodge, ~~when they show that they have gained~~ some
20 selfcontrol they may be moved to the other lodges.

21 There's a seventh lodge, this is the one you hear
22 quite a bit about, Clark Lodge which is used as the
23 discipline and special treatment lodge. Clark Lodge is
24 used for students who present serious behavior problems
25 such as running away, assaulting staff members, other boys,

1 etcetera.

2 The length of time the boy spends in this lodge
3 has varied over the past ten years. The old phase one
4 was closed in the early part of 1976, the average length
5 of stay in Clark Lodge from October the 15th of '76 to
6 October the 1st of 1977, was 3.01 days. This average
7 does not include the five boys who were in this Lewis
8 and Clark Lodge on a modified program.

9 The overall average daily population for this
10 period of time was 6.67 boys. For a 45-day period from
11 August the 17th, 1977, to October the 1st, 1977, there
12 were nine days where we had no boys at all in this lodge.

13 As you can see from this lodge we do have maximum
14 security, and boys are placed in this lodge who have
15 serious behavior problems.

16 This is the lodge that was constructed just prior to
17 my coming there, I have never been in favor of this lodge
18 and you'll see some plans over there to replace this
19 lodge and totally close it.

20 And I can not hardly wait for that day.

21 We do have recreation provided in this lodge where
22 the boys are taken out of their rooms and provided
23 recreation every day during the week. All lodges have
24 had their own dining room since October of '68. The meals
25 are centrally prepared in the kitchen and are delivered

1 to the lodges in food storage carts.

2 This program lends to a more homelike atmosphere
3 and to less movement of the boys on the campus.

4 Our infirmary has been moved to the second floor of
5 the administration building, boys in need of special
6 nursing care utilize this area. They are under the care
7 of two registered nurses, these nurses also visit each
8 lodge every day and there's a sick call at the infirmary
9 twice daily.

10 If a boy needs more medical attention than can be
11 provided on campus he's taken to one of the local doctors
12 or to the local hospital.

13 We also take a number of boys in to Billings or to
14 Dickenson, North Dakota, for some specialized medical care.

15 Dental care is provided for all students whose
16 parents can not afford to pay for this service.

17 We also have free movement of the boys in between
18 their classes and from their lodges to their detail areas
19 or to the classes.

20 The case conference committee referred to earlier
21 is a group of key staff members who plan each boy's
22 program on an individual basis. The committee is made up
23 of key members of the clinical staff.

24 I see I'm also running out of time.

25 The great, the high school here is accredited and the

1 boys can earn credits and these are accepted in any other
2 schools.

3 Boys 16 years of age or older are enrolled in our
4 school program. The boys over 16 he is encouraged to go to
5 school but is not forced to go to school. And usually
6 the boy, if he's over 16 years of age and does not want
7 to go to school he is transferred to Swan River.

8 We do have special rehabilitation programs and
9 individualized instruction as you can see, our classrooms
10 are small, and our prevocational building provides the
11 boy to pick up some vocational skills and it's more of a
12 prevocational thing where we're exploring what his interest
13 and abilities are.

14 In this area he's provided auto mechanics, auto
15 body repair, small engine repair, carpentry and a number of
16 other programs. We're one of the few training schools that
17 compete in competitive sports with the other schools
18 throughout the state.

19 In essence, it is the desire of the staff of Pine
20 Hill School to release a boy as soon as possible back into
21 the community as a law abiding citizen. We feel we are
22 realistic in providing these services to all boys to
23 recognize that not all boys will respond equally. We are
24 pleased that the majority of the boys leave Pine Hill School
25 and make something of their lives.

1 We also have a student council members that I meet
2 with weekly to talk with them over any problems and any
3 suggested changes. We operate a farm that produces all of
4 our beef, milk, and potatoes and many of the other items.

5 Ladies and Gentlemen, we do have some needs, we
6 need a full time psychiatrist, the old lodges, some of the
7 old lodges need to be replaced, we need more staff, I
8 asked for 16 new staff positions last year and I received
9 two.

10 We need a higher salary schedule, other agencies can
11 recruit staff members out from under us.

12 But despite these needs, I would say that ours
13 was a program of action, a glimpse of the future and a hope
14 for tomorrow.

15 Thank you.

16 THE MODERATOR: Thank you very much.

17 Now we'll move along to Mr. Mel Mohler, Superintendent
18 of Swan River Rank and Swan Lake.

19

20

21

MR. MELVIN MOHLER

22

23 A (By Mr. Mohler) Thank you.

24

25 I fear also that I have more to say -- that I have
more to say than what I'm going to get said. I hope I don't

1 leave anything important out but I want you to know that
2 I feel good about what is going on up at the Swan River
3 Youth Forest Camp.

4 It's a good program and it's working.

5 When we first started the program in 1968, we had
6 three objectives in mind. Number one was to be uninstitu-
7 tionalized so that we were not the traditional bricks
8 and mortars that make up a traditional institution as it
9 is known in the past.

10 We wanted to be different and to do things a little
11 bit differently.

12 For instance we have absolutely no security of any
13 kind, if a kid wants to run away he steps behind a tree
14 and he's gone. However, he's cautioned to watch out
15 for the bears before he gets to the next tree.

16 We wanted to also meet individual's needs as much
17 as we possibly could, and rather than get locked into one
18 program in which everything was done exactly the same for
19 every boy, we started the program of meeting the need of
20 each kid, individual needs as much as we possibly could.

21 And then the third thing we wanted to do was simply
22 do the first two things in as short a time as possible, so
23 we didn't also get locked into a program in which a fellow
24 was being trained to remain in an institution instead
25 of being trained to get out of the institution.

1 The first day a fellow gets to the camp his planning
2 is started immediately for his release rather than for his
3 stay at the institution. We have several things going
4 for us at the Swan, first of all is the setting, it's
5 beautiful, it's picturesque, it's outdoors, the spirit or
6 the milieu ... is there. And if you don't have this type
7 of a setting I don't think you're ever going to, you know,
8 produce any kind of an environment which will lead to
9 change.

10 This is so necessary for a person to make that shift
11 in his attitude or in his life which is going to bring him
12 positive results.

13 Our buildings are new, they're picturesque, they're
14 beautiful, as you see it it reminds you more of a
15 vacation resort than it does an institution.

16 And the staff, we have a good staff, they're good at
17 their jobs. They do one thing very, very well and that's
18 give love to kids that need it and pick up on it.

19 I tell people, if you don't have it in here, you
20 know, you've got no business working in a place like this,
21 you've got to feel, and like the other two fellows have
22 said, the staff, you know, is the key.

23 If they don't like their job and if they aren't able
24 to get into their job, you know, they're not going to do as
25 good as they can.

1 Our residents, since this concern is general, it's
2 real, it's not phoney and they tell me often that just
3 the fact that they were at the camp has been helpful to
4 them.

5 One think that we have to watch is that we don't
6 make it so nice for them that they would rather stay
7 there than go home, and this has been a problem at
8 some times. Many of the partings when a fellow leaves
9 to go home is, there are tears shed. From, you know, 20,
10 20-year old men, young men who really feel that they like
11 it at the camp, they want to go home but still they like
12 it at the camp.

13 It's something that, you know, like I said, we
14 don't want to get trapped into it that we're developing a
15 program that they like so well they can't live anyplace
16 else.

17 For instance our cooks enter into this picture too.
18 They are concerned that the food that they cook is what the
19 kids like. And so their cooking tends to be more like
20 mom would cook at home than a traditional institutional
21 meal, because of, you know, our small population.

22 They can do this where if you're feeding two or
23 300, it's impossible.

24 Our counselors wear many hats. They're social
25 workers, they're recreation leaders, they're disciplinarians,

1 they're an advocate, they're confidente, they're a planner,
2 just a plain good friend.

3 Now, all of this tends to produce a very positive
4 relationship that I alluded to just a few seconds ago.
5 If I would describe our counseling program, it would,
6 one term would probably typify it, and that is a
7 relationship therapy program.

8 The setting and relationship with the staff develop
9 a program which I think meets the needs of the kids, their
10 present needs and their future needs as well. We feel
11 with selfawareness, with image, we also deal with
12 problems, the -- the problem at home hasn't changed, if
13 the old man's, you know, an alcoholic, or the mother's
14 a squirrel or whatever, you know, is happening, they
15 aren't going to change at home. They're going to be the
16 same people that were there when the kid left. So what we
17 try to do is to produce in this kid an awareness that this
18 problem is still there and he is the one that's going to
19 have to change. And if he wants to deal with the problem
20 at home, then he's going to have to get himself into the
21 position where he can deal with it.

22 If he does not want to deal with it we're working
23 with an older age kid which we can do a lot of individualized
24 planning or, you know, release to independent living
25 situations.

1 So our planning is pretty much predicated on what
2 the kid himself wants to do. Each resident is evaluated
3 each month, his progress is evaluated before a staff
4 committee. The resident participates in this evaluation.
5 And he's encouraged to speak up. He knows what we have
6 said about him. And at the -- as he comes into the
7 meeting, you know, he hears our side, and we ask him, you
8 know, what do you think, what do you like? What can we --
9 do better? What are we doing that's helpful? What are
10 we doing, you know, that is no good?

11 These sometimes become, you know, very profane type
12 of a setting where a kid says, you know, you guys are
13 really screwing me over, it's, you're no good and so forth.
14 To just the opposite, and where it ends up into a very
15 sensitive, emotional type of a setting in which a kid, you
16 know, really bares his soul with you, becomes tearful and
17 all this.

18 So that the relationship again is a very intense one.
19 This is where the planning is done for the program, you
20 know, at the camp, but where their release planning is done
21 and the student enters into all of his release planning so
22 that his ownership in it then is very great. It's his plan
23 and not a plan that somebody has developed for him.

24 We have a half time chaplain who meets the individual
25 and spiritual and emotional needs of the fellows pretty well.

1 Not able to do everything that a minister at home could
2 do, we go to church in Swan Lake every Sunday, noncompulsory,
3 but an average of, oh, 12 or 15 boys go pretty regularly.

4 They are able to participate in community church
5 functions, you know, Christmas caroling, potluck dinners
6 and stuff like that that go into the community through
7 the church.

8 We started at one time to take boys in to communion
9 and we finally had to stop it, because, you know, a kid
10 lifting a communion cup and going to another one and,
11 you know, here's to you and then taking communion just
12 simply did not set very well with the rest of the parishioners,
13 so we left that for something that hopefull the fellow will
14 do when he gets home.

15 Our education program, I think, is one of our better
16 programs on the whole camp. We work in about three or four
17 different areas, first of all as a special needs or
18 the remedial area or the catchup area, a kid can learn to
19 write his name, from there to special help in college
20 courses, some of the fellows that transfer up from Deer
21 Lodge are actually college students and are taking off-
22 campus courses for college credit, so it meets, you know,
23 a wide gamut.

24 One of the things that we do is we make sure every
25 kid, when he leaves there, if at all possible, has a

1 driver's license so that he can be a legal driver when he
2 gets out, they're all going to drive and we try to make
3 sure that they have a driver's license.

4 We also do some, what we call survival training, in
5 which the fellows are schooled in, you know, job inter-
6 views, how to fill out application blanks, what a checkbook
7 is, what a checking account is, how you fill out a 1040 form,
8 what a living arrangements you're going to need, how to
9 rent an apartment, a little bit about shopping for
10 groceries, a little bit about clothes and so forth.

11 The major portion of the education program is in
12 the GED area, in which a fellow can attain a GED certi-
13 ficate. This has been highly successful. Last year there
14 were 45 GED certificates issued to the fellows in the
15 education program and this is to kids who had absolutely
16 quit any kind of an education program before, you know,
17 the school for dropouts, they'd walk away from that.

18 Really highly enthused about the GED aspect of it.

19 A fellow often, when he senses that the GED is
20 attainable, all you got to do is get out of his route and
21 I have seen kids attaining GED's with some pretty good
22 scores that I suspected would never ever do it.

23 Their IQ's and their scores just simply indicated that
24 it was impossible for them to get a GED but yet they go
25 ahead and do it.

1 Just recently within the last month, a new program
2 has been started, a work training program which is
3 mixed in with the work training teams and the job service
4 centers around the State of Montana.

5 Now, this is a new approach that the job service
6 people have done, they've taken all of their other hard
7 to employ programs, the world of work, the OJT, job
8 developers, voc. tech., skills improvement, all this stuff
9 and moved them into one unit which they call their work
10 training unit. And have extended this to include people
11 in institutions so that people in institutions are eligible
12 and are part of this work training unit while they are in
13 residence at the youth camp.

14 We have our program going at the youth camp, I
15 think we're probably the first institution who has it
16 functional and it's off and running, gee, it looks good.

17 The job service people, Herb Walter Meyer is in
18 charge of the whole program, he's the head of the employment
19 security division in Helena, tells me that instead of waiting
20 for an employer to phone in and they screen the applicants,
21 the best applicant for the job, have flipped this around
22 so that what they're doing now is going out to the community
23 and looking for the best possible job for the cluster of
24 people that they have who, you know, need employment.

25 A complete reversal of the program. You know, it

1 looks, looks great.

2 Herb tells us that they will guarantee a slot to
3 each kid who is released if we give them from 30 to 60
4 days notice prior to his time of release, and he will
5 guarantee them a slot someplace in Montana, either training,
6 one of the world of work program, employment or something.

7 You know, that's quite a statement to make but so
8 far he -- it's been true. It is happening.

9 We have an alcohol-drug counselor now, just brand
10 new, 87% of our kids, according to recent survey are
11 directly involved in alcohol and drugs in some way.

12 Now, this is a large figure. This program just
13 getting started, is a good program.

14 Our work program is conducted by the state forestry
15 system, we aren't able to train, you know, specific
16 skills but rather pick up on trying to train for good
17 work habits. A realistic 40-hour week, getting to work
18 on time, being dressed properly, doing what the boss
19 says, we have experienced that most of our kids have
20 lousy employment records simply because they don't know
21 how to work and they don't know how to work under the
22 direction of a boss.

23 We work in the woods, we run a carpentry program
24 for the entire state forestry system, all the carpentry
25 work is done at the youth camp, a mechanical program in

1 which the state forestry system brings in military excess
2 vehicles, these are rebuilt into fire engines and so forth.

3 The fellows receive training, fire suppression
4 crews, an obstacle course they have to pass a physical
5 fitness test, they have to pass a written examination on
6 the theory of firefighting and so forth, we have two hot-
7 shot crews every year, as good a fire crew as there is in
8 the United States and when our fellows get on project
9 fires, they demonstrate that these kids are supreme,
10 superb firefighters..

11 A couple special areas, special problems, we are
12 dependent on two other institutions for our population,
13 that they transfer in to us, and this causes an up and
14 down in population. And this is, you know, sometimes
15 hard to deal with, when you don't have a direct, you know,
16 level and stable population.

17 At one time we were receiving direct commitments,
18 this is now no longer done, I would like to see us become
19 a youthful offender center in which we have our own entity
20 and receive our own receptions rather than depending on
21 two other institutions.

22 You hear about work and education furloughs, as
23 being a -- something that is available to people in insti-
24 tutions and by God, they're hard to get, and you know,
25 you talk about your volunteers and your sponsors, and they

1 also are tough to get and especially when they find out
2 really what is expected of them and all of a sudden, oh,
3 I want no part of that, they back out and leave a kid
4 stranded, you know, who had a work program set up simply
5 because the sponsor, you know, backed out.

6 We need space for privacy, personal property
7 storage, we need space for visiting, I would like to have
8 a new, you know, multipurpose building, part of it with a
9 dirt floor and part of it with an indoor recreation
10 court.

11 We would like to get into the outward bound type
12 of program but this also takes money, I would like to see
13 a followup system in which we receive feedback telling
14 us the things that we have done that have been effective
15 and the things that we should have done that would have
16 been more effective.

17 A pessimist sees the tunnel, I read this very
18 recently, an optimist sees the tunnel and the light at the
19 end of the tunnel and a realist sees the tunnel, the light
20 at the end of the tunnel and the next tunnel and I hope
21 our kids are realists when they leave youth.

22 . THE MODERATOR: Thank you very much.

23 Now we will hear from Steve Nelson, of the Montana
24 Crime Control Board.
25

1 MR. STEVE NELSON

2
3 A (By Mr. Nelson) Okay, I always feel kind of inade-
4 quate because I never have an institution to describe
5 and the offices that we have at 1336 Helena Avenue really
6 aren't that dynamic or exciting and certainly don't lend
7 themselves to much conference material.

8 I thought I'd just go over an overview of some of
9 the problems that we see in the juvenile justice system,
10 by and large our clients are the people that you're seeing
11 here and many of you from around, sitting around the room
12 here.

13 Our clients are the people that provide services
14 within the system and for the most part we try to help
15 them and try to help them do their job a little bit better.

16 I think it always helps to go back a little bit
17 in the juvenile justice system and try to remember why it
18 all came about and what some of the basic tenets were
19 and in trying to apply that towards civil rights at least
20 that's what I was preparing some remarks for this, that's
21 where I ended up.

22 And as you remember back in Chicago in 1899, they
23 came up with four basic tenets and they just decided that
24 basically youths were a minority population and they were
25 not necessarily accountable for their criminal actions and

1 should be dealt with in a special fashion. They decided
2 that it was the purpose of the juvenile justice system or
3 should be to help and rehabilitate and not to punish
4 juveniles and we're certainly seeing some changes, to think,
5 in some of the attitudes along these lines. The primary
6 consideration was in the juvenile court should be
7 geared towards the juvenile, not necessarily towards the
8 crime. And of primary consideration there was a need to
9 get away from the adversary nature of the adult court and
10 and to try to make the juvenile court a court which was a
11 friend of the youth and a court which would work in con-
12 cert with the youth to try to resolve some of his problems.
13 That had of course in the last ten years since the Kent
14 decision, the Kent decision, I suppose, took the biggest
15 shot at the juvenile justice system, basically they questioned
16 that the juvenile justice system was either protecting or
17 treating or helping juveniles, and to think in the last ten
18 years you've seen so many supreme court decisions that,
19 at least the legal nature of the juvenile court, the juvenile
20 justice system has gone through a massive revolution, and
21 this is, I don't know whether it's really good or bad. I
22 suppose time will tell. I talked to the first class at the
23 law enforcement academy that was started for juveniles
24 ten years since the Gault decision and specially the Kent
25 decision. It was the first time that the law enforcement academy

1 has sponsored a five-day school for training of law enforce-
 2 ment officers in the method in which they handle juveniles.
 3 This is something that I think plagued law enforce-
 4 ment people for, since the Youth Court Act, started and
 5 probably long before that but it was nice to see that sort
 6 of a thing going on down there and I think we're seeing a
 7 lot of improvement in the way in which law enforcement
 8 people are handling juveniles, there's certainly a lot of
 9 problems there but at least there's a recognition of those
 10 problems and people are taking some active steps to
 11 solving those things. One thing that, of course, is
 12 that a much of our activity at the board of crime control
 13 has been with the juvenile courts in working with probation
 14 programs. And we've gotten into some areas, I suppose,
 15 that are very touchy in the area of civil rights and probably
 16 the biggest one is some of the diversion programs that we've
 17 funded as problems at the correctional institution such as
 18 Mr. Rob. We haven't had a great deal of success with diversion
 19 programs and I think the greatest danger and something that
 20 you people should be considering is that many of the
 21 programs we've funded tend to expand the net rather than
 22 create an alternative for youth that are coming before you
 23 to the juvenile justice system or corrections agencies.
 24 There's a real tendency there to set up programs, it
 25 I think to a degree every group has a program, a set-up program

1 and certainly we created a lot of turmoil and I think there
2 were a lot of bad feelings, but after it was all said and
3 done, we ended up with legislation that was passed last
4 year and now the department of institutions is implementing
5 the shelter care plan.

6 Some of the data that we came up with as we were
7 writing the detention shelter care study were that basically
8 Montana doesn't have a vast population of kids in its
9 jails, somewhere in the area of 25 kids in any given day may
10 be in jail in the entire State of Montana.

11 That, in and of itself, I think precludes the con-
12 struction of large scale detention facilities and we've
13 gone on record as opposing the construction of these sorts
14 of things.

15 As you examine the population of kids that are in
16 jail, I think it becomes just a little bit more alarming
17 but almost perplexing because it doesn't seem to, we don't
18 seem to have many answers.

19 The split between boys and girls is roughly 60-40
20 when you look at the female population, approximately 85%
21 of the females that are incarcerated are status offenders.
22 And I think probably the thing that bothered us more than
23 anything were that it seemed that the girl status offenders
24 if they were not, for the most part they spent less than
25 a day in jail, some 30% of those kids did not spend less

1 than a day in jail and if they were in there more than one
2 day, there was a tendency for them to be in there on an
3 average of four days, so -- and up to, I think, I think the
4 greatest result was 15 days for a status offense.

5 So there seemed to be a real problem, there is a
6 problem in the State of Montana with female status offenders
7 in local lockups.

8 Very often there just -- there aren't alternatives
9 and people, I think, are just kind of beside themselves with
10 knowing what to do with these kids....

11 Another problem we have are the out of jurisdiction
12 runaways, I don't think we're ever going to get to be
13 in a position where we can remedy this particular situation,
14 it's the person that comes from another jurisdiction,
15 primarily out of state, the local officials do not know
16 who they are, they do not know the particular problems that
17 that person might have and all they know at that point in
18 time is that the person is a runaway which is merely a
19 status offense.

20 But they are forced to use secured custody in order
21 to hold that person for the other jurisdiction.

22 That's about all I have to say.

23 THE MODERATOR: Thank you very much.

24 Now we will hear from Mr. Larry Elison, Professor,
25 School of Law, University of Montana, in Missoula.

1 MR. LARRY ELISON

2
3 A (By Mr. Elison) Thank you very much.

4 My time is about all gone because of the greed
5 of the previous speakers, but unfortunately I don't have
6 anything important to say.

7 Maybe fortunately.

8 Last night when I was introduced at the corrections
9 session, I was introduced as a shyster lawyer that raçess
10 horses. I'm not at all sure that's the kind of person you
11 need to describe anything in relation to the juvenile
12 justice system.

13 There was an unfortunate episode that occurred last
14 week in Helena in which the Last Chance Turf Club, which
15 was struggling to stay alive and race horses in Helena,
16 and had done very well last year for a change, lost its
17 bankroll to its executive director who drove to Missoula
18 and hence disappeared with \$25,000.00 cash.

19 My very good friend and colleague, Duke Crollly
20 (Phonetic), who much appreciates my interest in racing
21 horses, dropped by, said he was very sorry to hear about
22 the loss in Helena and the loss of funds and it was really
23 a terrible thing, and really the rest of the members that
24 remained in the organization were virtually helpless and
25 hopeless and he felt sorry for them because they had obviously

1 chosen the most honorable member of their number to handle
2 the money.

3 Unlike Steve, I do have an institution which I
4 could describe, unfortunately it's a decaying one, we're
5 in the process of losing most of our faculty at the Uni-
6 versity of Montana, so you can appreciate my sense of
7 pessimism. I can only see the tunnel at this time.

8 I think that relates not only to the future of
9 Montana but also to the juvenile justice system and the criminal
10 justice system not only in the State of Montana but in
11 the United States.

12 And I don't like being pessimistic, I feel uncomfort-
13 fortable in that mold, but I don't have another, and I've
14 lost a bit of my center strength right now and I'm
15 down, and I need somebody to boost me up and I think in
16 order to charge ahead in this system it's essential to
17 have some balance between youthful exuberance, like I
18 see my two friends, Jean Ellison and -- and they do have
19 youthful exuberance and the balance on the other side
20 of some sort of experienced maturity.

21 And right now my experienced maturity has pushed
22 me over the edge. And I don't know what the answer is.

23 I'm full of traditional wisdom, but I don't think
24 you're interested in traditional wisdom at this point.
25 I've heard all about community corrections and bringing

1 the child back home, and small insitutions, and better
2 training and better education and statistics that come out
3 of our ears and out of our computers, and more lawyers
4 and more court impact and more court intervention and more
5 volunteers, and I still don't know what's happening.

6 I'm lost at this time in the system, I really am.
7 I'm not playing games, I'm lost.

8 Very discouraged and disturbed. I know one thing.
9 That people make the difference. I don't know how you get
10 those people and I don't know what the system is that
11 really works, but remember the case of the bartender in
12 Missoula and he had a really fine little bar on the
13 north side next to the railroad tracks, now that's the bottom
14 of the pits in Missoula if you're not familiar with our
15 local community.

16 And it was kind of broken down and the bricks
17 were falling off the outside and on the inside the plaster
18 was falling down, nobody dusted and there was sawdust on the
19 floor and there were breaks in the floor and there was no
20 floor, just sawdust, and had a hell of a crowd, just
21 couldn't serve beer fast enough.

22 And he was making money hand over fist and finally
23 he said, gee, I got enough money in the bank, I can shape
24 this place up.

25 So he fixed the bricks and sandblasted and put a

1 real live floor on the inside and brushed off the cobwebs
2 and lost all his trade.

3 And I am really unsure precisely what works in any
4 system of criminal justice except some peculiar combination
5 of people and events, and I think they do work.

6 And when I say I'm at the bottom, I really do
7 expect that there's a way back up, and the same fashion
8 that there's a way back up for the people within the
9 system, in the juvenile or the adult corrections system.
10 There is a way up. And it relies on people, and right
11 now at this point of pessimism, my own personal existence
12 I have a great deal of difficulty, maybe because I
13 associate with shyster lawyers and racetrack personnel,
14 seeing the great difference between the controller and the
15 person controlled, and seeing a great difference in the
16 true ethical base of those two groups of people.

17 And maybe also I feel that way because of the past
18 history of Watergate and the Korean bribes and in the
19 State of Montana, our workmen's compensation hassle.

20 Consequently, I don't know. And I think that I will
21 close with that point, because questions from the audience
22 and your impact on this panel is far more valuable than
23 any more traditional wisdom.

24 And blessed is he who expects nothing because you're
25 not likely to be disappointed. And thank you.

1 THE MODERATOR: Thank you very much.

2 Now we will have questions from the audience.

3 So would you come around to the microphone?

4 Q (By Ms. Loring) I think I can be heard, Emily
5 Loring from Great Falls.

6 I'd like to ask the four gentlemen from the insti-
7 tutions, yesterday we heard statistics in terms of the
8 percentage of Native Americans at Deer Lodge. What are the
9 percentage of Native Americans in each of your institutions?

10 A (By Mr. Robel) As of yesterday, Mt. View School,
11 29%.

12 A (By Mr. Holladay) I do not have that figure on
13 our school. I would estimate it's a little bit less than
14 that. Probably right around it.

15 A (By Mr. Mohler) I would think we would have over
16 30% although I don't have it exactly either.

17 Q Prof. Ellison?

18 A (By Mr. Ellison) My institution?

19 Q Yes. I mean the law school specifically.

20 A Why can't I use the university in general? The law

21 Q I demand to hear the law school statistic.

22 A Emily, you know damn well that I'm not an adminis-
23 trative officer and that I never deal in statistics. I
24 don't have the foggiest notion, but I assume that it's
25 somewhere between zero and 1%. I --

1 Q Warden Crist said I could push you.

2 THE MODERATOR: Next question?

3 A But you don't want high percentages from us, right?
4 Or do you?

5 Q Tell me the truth.

6 Q (By Ms. Ellison) Jean Ellison.

7 I'll just use the microphone because I'm at the
8 front of the room, otherwise I think you could hear me.

9 I have a question for each of you. First the
10 question I have for Larry Ellison is very mild, when you
11 call a 53-year old woman youthful, what do you expect?

12 I'd like to know what proposals you have, Larry,
13 to support the juvenile justice treatment and care
14 in the state that Governor Judge will propose for the
15 '79 legislative session?

16 A God, I weep for the rest of you.

17 Q Do you want to think about it for a while?

18 A Give me a couple minutes, not a long time.

19 Q We'll go to Superintendent Holladay then, I have
20 two or three but they're all really related, it's
21 really just kind of one question.

22 One thing that you said bothered me. How does a
23 central kitchen and the delivery of food on institutional
24 carts provide a more homelike atmosphere?

25 A (By Mr. Holladay) Mainly because when we had a

1 large dining room, all of the boys, 130 or 150 of them
2 had to come down to the central dining room, wait in a
3 long line to be fed and they were standing outside in the
4 cold, many of them had just come in off of the farm, and
5 they did not have time to clean up. We prepare the food
6 centrally, we have the food storage carts that have the
7 separate compartments, they are electrically heated so that
8 they can be taken to the lodges and plugged in so the
9 food is served warm or hot and also the boys have time
10 to come into the lodge, clean up a little bit and
11 then they are eating in smaller groups and I think this
12 lends much more to a homelike atmosphere.

13 Q The reason I was asking was because from a mother's
14 viewpoint, eating in the lodges I thought it was a really
15 institutional atmosphere, that was my biggest criticism of
16 Pine Hill School for Boys, was the dining arrangement.

17 But we just have a difference of opinion about that.

18 A Do you think you'd have felt less of an institutional
19 atmosphere if you had 130 of them all together?

20 Q Well, they are supposed to be a family.

21 I want to know what psychological tests you administer
22 when a boy arrives?

23 A These are varied and I'm not right up to date on
24 possibly every one, we do give the boys the individual WISC,
25 we do give the boys the Stanford Achievement Test, they give

1 Wide Range Achievement Test, I think they give the Cutter
2 Vocational Interest Test, and then the Rorschach or some
3 of the other individual tests when it's necessary.

4 Q Who administers these? Now, you're primarily --
5 until you spoke of the Rorschach, you were talking about
6 educational tests, I was talking about psychological
7 tests, who administers the psychological tests?

8 A They are administered by two of our psychologists.

9 Q You have staff psychologists?

10 A Yes, we have a full time --

11 Q And what's their training?

12 A A clinical psychologist with a master's degree in
13 psychology and a psychometrist with her degree in, I
14 think personality development.

15 Q These are full time staff?

16 A Full time staff.

17 Q You talked about your school and it being certified.
18 Do you have trained special education instructors?

19 A Yes, we have two that I think have their specialty
20 in special education. All of our other teachers are certi-
21 fied for whatever they teach, like English, math, sociology
22 and those others.

23 Q But you do have certified special trained, special
24 education instructors?

25 A Yes, I think Hazel Martinson is specially trained

1 in special education.

2 Q Do you have an on the job training program and
3 lastly, have you purchased new mattresses?

4 A Yes, a little bit at a time on the mattresses.

5 Now, what was the other question on in-service
6 training?

7 Q Right, on the job training, in the area.

8 A Yes, -- you mean for the boys?

9 Q Yes.

10 A Some boys are, yes. They are given the opportunity
11 to work with a different -- with a certain staff member
12 where they may --

13 Q No, I'm talking about off the institution, on the
14 job training off the institution.

15 A No, at this present time we only have one boy going
16 off-campus to the Miles Community College. We have --

17 Q This is out of 130 boys?

18 A Yes, we have had some boys in the past go downtown.
19 But we do not have any now other than that one.

20 Q Okay.

21 Mr. Robel, what sex education program do you have
22 for incoming girls, and what alternatives do you have
23 for pregnant girls?

24 A (By Mr. Robel) Thank you. Merry Christmas.

25 We do have sex education classes, it is taught by

1 registered nurse. It is -- girls can take.

2 Q Girls can take them?

3 A Uh-huh.

4 Q This is a volunteer program?

5 A No. Well, all kids volunteer for classes at the
6 beginning of each quarter, they put in their request for
7 which classes they would like, and we do have to meet state
8 requirements in certain subjects they have to take and if
9 at all possible we try to work in their request. If it is
10 available.

11 Q Okay. I guess what I was talking about was incoming
12 girls who are coming in, are they given any basic instruc-
13 tion about physical functioning, about their bodies,
14 about, you know, particularly pointed to them as women in
15 areas that they may not in fact have had any instruction
16 prior to their arrival at the school?

17 A No, not formal, except this class I'm telling you
18 about which I believe is each quarter..

19 Now, they can see the nurse at any time or other
20 people at the institution to discuss such problems, par-
21 ticularly --

22 Q In other words, it's not an organized kind of
23 program?

24 A Well, the class is but -- that's organized.

25 Q What are your alternatives for pregnant girls?

1 A We, as a state agency, are responsible for the care
2 and that naturally includes medical care. When a girl is
3 suspected of being pregnant, first of all all kids are
4 given physicals to begin with as they come into the
5 institution, by a physician in Helena, we have no doctor
6 out at the institution or no infirmary out there, all our
7 services are contracted with doctors and hospitals in the
8 City of Helena.

9 If it is determined that she is pregnant, she
10 would consult with the doctor and the options would be
11 presented to her, she would also --

12 Q What options?

13 A The options of keeping the child, foster homes or
14 abortion. And from there she would also be counseled by our
15 registered nurse, I have three half time registered nurses,
16 and then I get into the law, which I must follow and I
17 would prefer to refer this to Dr. Elison.

18 Q He can include that with the answer to my question
19 then.

20 Now, you said that there was no formal program
21 with the girl coming into the institution, does this
22 include birth control information? Am I to understand that
23 there is no, for an incoming girl there is no formal
24 birth control instruction?

25 A Birth control, if the child, the girl requests birth

1 control information, see, they're supposed to be discussing
2 all these things with their case worker as you go along.

3 This is part of the case worker's responsibility.
4 And the nurse's, as she interviews each new girl. But
5 there's no formalized thing, you know, where we're showing
6 slides or something as they come in the door.

7 Q. Do you know that this is a program that's followed
8 by the case workers and by the nurse --

9 A. Uh-huh.

10 Q. -- with incoming girls?

11 A. Uh-huh.

12 Q. Information about birth control?

13 A. Yes, it's available to them. Plus if they are
14 interested, if they are interested they are taken, again I
15 use community services as much as possible, they are taken
16 to the family planning clinic for information.

17 Q. Every girl, every incoming girl?

18 A. No, at their request.

19 Q. Now, wait a minute, we're talking about, we're
20 talking about 12, 13, 14-year old girls, they must request
21 in order to get birth control information?

22 A. No, -- to receive birth control pills.

23 Q. Information? You know, there are other alternatives.

24 A. There is general information pamphlets and so on in
25 the nurse's office, for example. On this subject which is

1 displayed.

2 Q Can we have this really clearly, any incoming girl
3 to Mt. View School, regardless of her age, must request
4 birth control information in order to get it, is that
5 correct?

6 A No. I don't think that's exactly correct.
7 Because --

8 Q Then I misunderstood you.

9 A I'm sure -- I'm sure there are pamphlets and things
10 as I mentioned available. In the nurse's office concerning
11 this subject. Right in the waiting room. That portion
12 of it is available.

13 Q Could you do something for me, when you go back to
14 the institution, can you find out?

15 A Okay.

16 Q Okay.

17 Now Steve, you spoke about the federal Juvenile
18 Justice Delinquency Prevention Act. I understand that
19 there are funds available through that act for various
20 programs within the state?

21 A (By Mr. Nelson) Yes.

22 Q Could you explain to us in this state what funds
23 have been applied for and what funds are being utilized at
24 this time? I don't know anything about this program and
25 I don't know if you're the one to ask this question of.

1 A. Yes. Okay. The basic problem with the juvenile
2 justice act is that the act, in and of itself, is --
3 gives you broad responsibility and it's a very nice act,
4 it talks about prevention, treatment programs and every-
5 thing under the sun, and you know, it speaks in some very
6 idealistic ways of nice projects that you could fund.

7 There are a couple of paragraphs in there that
8 mandate the states that are participating in the act
9 deinstitutionalize status offenders within three years.
10 The consequences if you do not deinstitutionalize within
11 three years is we have to revert funds.

12 Now they're threatening that we would lose future
13 LEAA funds from other segments, and possibly even have to
14 revert funds that we did spend if we do not deinstitutionalize
15 and of course, our biggest problem there is the jail popula-
16 tion I talked about.

17 The other thing they talk about is we've given
18 ourselves 15 years to separate adult and juvenile offenders
19 within all jail facilities. Now, the costs for those
20 things in the State of Montana, especially the separation
21 of adult and juvenile offenders, is far more extravagant
22 than the \$200,000.00 a year that we receive from it. Okay?

23 So, based on what the requirements of the act, we've
24 had to funnel all the money that we get under that program
25 into the deinstitutionalization program and what we fund

1 there is the shelter care plan through the department of
2 institutions, we've given them a block of money and
3 through that program we support, I think, five Attention
4 Home programs and a couple of foster care short term
5 emergency foster care programs in a couple of jurisdictions
6 so that's the primary effort that we've done with money out
7 of the Juvenile Justice Act.

8 Q Would these be the five Attention Homes that Dave
9 was talking about yesterday or Dan was talking about
10 yesterday?

11 A Yes, I suppose, yes.

12 Q That's under the direct control of the department?

13 A Right.

14 Q Thank you.

15 Mr. Mohler, I just have one question.

16 What facilities for physical education do you have
17 at Swan River?

18 A (By Mr. Mohler) Physical education?

19 Q Right. Do you have a gym, for instance?

20 A We have an outdoor court that we can use for volley-
21 ball and basketball in the summertime, when it snows we
22 have nothing.

23 In the summertime we have more recreation than
24 we can possibly have time to use, and this is one of our
25 needs is for a recreation facility for wintertime use.

1 We go to the gym at Big Fork once a week but we have
2 to bus everybody up there to do it. We really need this.

3 Q. Maybe Prof. Elison can speak to that too.

4 A. (By Mr. Elison) What did I ever do to you?

5 Q. I'm just trying to get information.

6 A. Are you ready to ask some other people some questions?

7 Q. (By Ms. Loring) No, I'm ready to ask you a question.

8 Prof. Elison --

9 A. I haven't been able to answer one yet.

10 A. I think you can this one.

11 I understand that you're involved in preparing a
12 report on Pine Hills. Could you briefly summarize your
13 findings on Pine Hills?

14 A. Can I start at the beginning?

15 THE MODERATOR: Please do.

16 A. I've only got about three minutes, I'm sorry.

17 THE MODERATOR: Oh, I'm going to give you some extra
18 time.

19 A. I'm going to back up to the beginning since you're
20 asking the questions and there's a pattern I'm going to try
21 to follow through and Emily, I'm going to save yours
22 until last, if you don't mind, hoping I don't have enough
23 time to get to it.

24 But I'll start with Thelma's question about Indian
25 population at the law school. I think that's a legitimate

1 concern in this state, because courts have a tremendous
2 impact upon the juvenile justice system and lawyers have
3 a tremendous impact on courts.

4 We don't have a program. We've had very few Indian
5 students in the law school. Not a good situation considering
6 the population in the State of Montana and the needs.

7 Now a clean admission, at the beginning, what are
8 we doing? Two things, one, and I think, Thelma, you're
9 aware of this one and a lot of other people perhaps, some
10 of us have worked very diligently to establish a separate
11 program to try to increase the admission of Indian students
12 into the law school. This has been developed in con-
13 junction with the Native American Studies program at the
14 university, it has been sanctioned by the law school, by
15 the Native American Studies program, and by the university
16 administration.

17 The curriculum outline has been developed and we've
18 been working to obtain funding for the program. Our last
19 application was to the labor department and HEW for
20 funding of this program, it would include a separate track
21 into the law school, it would include special on the job
22 training for people who have some interest in the law or
23 some need for legal training.

24 It would include a paralegal program for Indian
25 lawyers. Or for people working in Indian law.

1 Second, the admissions program at the University
2 of Montana as of this year, has been changed. Up to this
3 year it had been based exclusively on numbers, that is
4 undergraduate grades, law school admission test. They
5 are now opening the door to consider other factors including
6 economic disadvantage.

7 I have mixed emotion about that change. Because it
8 can be abused as much as used in favor of minority groups.

9 That's all I have to say about that problem.

10 Next, Jean's question about what executive programs
11 for juvenile justice for the upcoming years.

12 As you know, the executive alone does not make
13 that kind of decision, he relies upon the departments to
14 make those decisions that are most directly affected.

15 The department most directly affected is the
16 department of institutions and within that department the
17 juvenile system.

18 Commencing the first of January, I hope, not later
19 than 15 or 30 days thereafter, a study to evaluate all
20 of the needs to justify direction to the juvenile justice
21 system will commence.

22 Over \$100,000.00 has been committed to that inves-
23 tigation of, evaluation and projection. Part of that, it's
24 broader than the juvenile justice system but part of it
25 will include the juvenile justice system, as I understand

1 the development of that program.

2 That program, after evaluating, will project needs
3 and propose what Montana should do in a subsequent
4 time frame. It is expected that the executive will
5 support those recommendations and conclusions in so far
6 as the recommendations for programs either new or changed
7 and for financing those programs.

8 We have been very lax in state government and most
9 other governments and individuals and groups and institutions,
10 in planning ahead and making needed changes.

11 Primarily, I think, the system is somewhat like my
12 system individually, we're at a low point in terms of
13 knowing exactly where to go and everybody gets very angry
14 about continued studies that gather dust on the shelves.

15 The studies I don't know would be any better if they
16 weren't gathering dust without being tried, some of them
17 haven't been that valuable in terms of at least a basic
18 structure, that's what's happening, that's the best I can
19 tell you, that's where it's at.

20 Let's see, the next question, oh, abortion law.

21 You probably know more about abortion law than I do,
22 Jean, you've studied it, I have of recent date and there
23 are some enormous problems, and I've discussed this with
24 Don Robel directly. We are bound to both a medical re-
25 quirement to take care of the medical needs of the girls

1 or women that are committed to the institutions of the
2 State of Montana. I think that's a legal demand, it would
3 be denial of due process, equal protection and probably
4 cruel and unusual punishment. If we didn't follow through
5 in terms of those medical needs.

6 Now, how do we deal with those medical needs? We're
7 facing a whole panoply of law, one, as you know, the Doney-
8 Woodall (Phonetic) decision which makes an elective
9 abortion the business of a woman and her physician. We
10 recognize that. And that has been imposed upon the State
11 of Montana through the

12 As a response to that, the legislature passed, the
13 abortion package. Now, one thing we have to look to, I
14 think, in just practical application, is the legislative
15 intent. And that's in what, 95-5-623 will be the legis-
16 lative intent I think it says something to the effect
17 that it is the intent of this legislature to restrict
18 abortion to the greatest extent possible compatible with
19 paramount legislation case decision.

20 So that's where they stand.

21 Subsequently, parts of that particular provision
22 were declared unconstitutional in the Daysha (Phonetic)
23 case, The consent of the husband, for example, or spouse
24 is no longer required, they refused to rule upon the
25 necessity of obtaining consent from the parent, that leaves

1 the person in the middle rather unsure when he's looking
2 at the state case law, I can advise that person that I
3 don't think the parental consent, if it acts as a veto,
4 would withstand the impact of the Planned Parenthood of
5 Missouri case.

6 So I would say that probably that consent provision
7 about parents is very questionable in the State of Montana,
8 although not absolutely tested in this state.

9 Further we can conclude that the department of
10 institutions and the school for girls actually have supplanted
11 the parent in making those decisions, they've taken the girl
12 away from the parent at that point.

13 We are -- the recommendation we're working on is
14 that every girl, when faced with this problem, will go to
15 the doctor and in conjunction with the doctor, a decision
16 will be made and ~~it will be~~ between that girl and her doctor,
17 it will be a medical decision in conformity with the law
18 as we understand it at this point.

19 And we are prepared, I think Don Robel is prepared
20 that if necessary, if the girl is not satisfied with the
21 first doctor he will provide her with another doctor,
22 they're not going to simply take her to a single doctor,
23 if she demands a second doctor that will be another
24 doctor -- another doctor will be made available also.

25 Next, in terms of financing, is a real bugaboo at

1 this point because you're probably familiar that each institu-
2 tion is tied into the federal system in some way in terms
3 of funding, grants and so forth.

4 And you're probably also familiar with something
5 called the Hyde Amendment, which said that federal funds
6 could not be used for elective abortions. That was enjoined,
7 eventually came before the court, was decided that it was
8 okay to make that kind of limitation so that you could
9 force poor women or deny poor women abortions or welfare
10 women or whatever, abortions, so it would be available only
11 to those with funds, money.

12 It's not been decided whether it would be a violation
13 of the federal law in a program of state fund which use
14 federal funds whether it would be a violation of the Hyde
15 Amendment.

16 We're really established in knowing what kind of
17 money we can spend. We're also faced with another problem
18 and that is the legislative intent of the abortion statute
19 which says it was the intent of the legislature to restrict
20 abortions to the maximum extent possible. Now, that's
21 just realism, I think, you just have to face.

22 You know what the Montana Legislature will do in terms
23 of funding elective abortions for people within their
24 control. I think they will support the Hyde Amendment, a
25 projection, a political projection you may disagree that's

1 where we stand in terms of funding at this point.

2 THE MODERATOR: Thank you very much.

3 Are you --

4 A (By Mr. Elison) I'm happy to be through, are there
5 any more questions?

6 THE MODERATOR: Did you answer all of Emily's ques-
7 tions?

8 A I know Emily's still smiling. Are we about
9 through? I will try. I'm game as long as you are.

10 THE MODERATOR: No, you have time.

11 A The Pine Hill report was written, I think, Emily,
12 it would be preferable for you simply to read a copy, I'll
13 give you a copy afterwards.

14 In addition to that, yes, I found what I thought
15 to be some problems at Pine Hill, relational to staff,
16 relational to the physical plant and relation to some of
17 the atmosphere that exists at Pine Hill.

18 That's a very short summary.

19 THE MODERATOR: Would you like to answer the
20 question for the benefit of the other people in the
21 audience?

22 A I'd not like to, will.

23 Thelma, do you have a question first?

24 MS. STIFFARM:) No, go right ahead, I'd like
25 to hear about Pine Hills too.

1 A. Pine Hills has been underfunded, in my thinking,
2 and understaffed in terms of the professional needs
3 of a school for boys. I do not believe they had had and
4 I've not been there so I'm speaking in the past, this
5 is nearly a year old or more now in terms and there were
6 agreements at that time to make some improvements at Pine
7 Hills and to make some changes because I think the adminis-
8 tration and the department of institutions recognized some
9 of the problems that did exist at Pine Hills.

10 The facility for what, maximum confinement in terms
11 of difficulties within the university or within the --
12 within the university, listen, within Pine Hills are abysmal.

13 Don showed you the pictures of some of them, they're
14 absolutely atrocious. And some that were used five years
15 ago are worse than that. I don't think they're tolerable,
16 I think they must be changed, I think we have that kind
17 of obligation to the young people of our state.

18 I also get a little afraid if you build it very,
19 very comfortable, that the population tends to go up,
20 and continues to increase, and we have to be careful and
21 we have to make some decisions first as to how we want to
22 deal with youth overall, I think that's important.

23 And not simply improve a facility before we decide
24 that that's the way we want to spend our money for juvenile
25 problems in the future. That's a significant problem.

1 I think there was a lack, when I was up there,
2 in terms of specifics of the necessary rules and regulations
3 in handling people and we've talked about that, and Don
4 Holladay has been and probably by now has developed a more
5 complete and consistent set of rules and handbooks so that
6 you're treating -- so that the boys know what's happening
7 and there's a consistent package of handling with the boys.

8 I think that there are too many children in too large
9 dormitories denying them the privacy and ~~subjecting them to the~~
10 potential of physical assaultive conduct with other boys.

11 The facility lends itself to that. I think that's
12 very bad.

13 It has a distinctive institutional flavor as most
14 institutions do, and it's not a very buoyant place, it's
15 not a very happy place as I've seen it and that's what I
16 think Jean Ellison was talking about in some of the dis-
17 cussions, Don Robel has specified the need to have a happier
18 environment, something that really is good for the kids,
19 that's hard to come by.

20 I think it's directly relational to people again.
21 I'm not sure you can ever get it without people and people,
22 I don't know how that works, I'm unsure, it's like the
23 bar story that I said, I'm not sure what makes that work,
24 those are some of the problems. The report is available,
25 though.

1 THE MODERATOR: Thank you very much.

2 Did you have some comment?

3 Q (By Ms. Stiffarm) Thelma Stiffarm, Larry, it is true
4 I have heard of the program that you're thinking about
5 implementing at the university law school, the one thing
6 that disturbed me that I had heard maybe you can clarify
7 this, is it true that when an Indian is admitted into the
8 law school, that they will be -- they will be required or
9 offered the option to attend one extra year of school so
10 that, in effect, it will take an Indian law student four
11 years to go through the program? Is that correct?

12 A (By Mr. Elison) No, that's an entirely misapprehen-
13 sion and I think perversion of the program. That bothers
14 me a lot. Strange kind of rumors get out on the land.

15 I can understand the source. Because we have in the
16 past relied upon undergraduate grade records and LSAT,
17 very few Indian students that have applied and very few,
18 I guess, have applied, I don't have the statistics, I'm
19 uncomfortable with that because I'm not in the adminis-
20 tration of admissions at all in the law school.

21 But we don't have many Indian students. What this
22 approach would do is to assume that there may be some
23 economic or cultural disadvantage and therefore provide for
24 the student that could not compete and get in on a regular
25 basis a special approach to get in law school and in that

1 event yes, it would take four years, because what you
2 would -- what you would be doing in effect is taking
3 someone who you conclude on the basis of the test exams,
4 etcetera, was culturally and economically disadvantaged and
5 therefore in terms of competition in law school would
6 have one devil of a time, so you give them a special year
7 comparable to the CLEO program, I think, which gives special
8 training before you get to law school, this would be
9 special training for those students that could not get in
10 on an equal basis. If they can get in straight out, this
11 is certainly not required, it's another way to get in for
12 those Indian students who would not be admitted otherwise.

13 Q For the record, I would like to say that we have --
14 I'm very familiar with the scholarship program, and I know
15 that a number of the people that we put through the
16 Indian scholarship program could be admitted into the law
17 school. In fact I was, you know, at -- Montana never has
18 a special admittance, I, myself, was admitted into the
19 law school as a regular student.

20 We have a number of students that could qualify there,
21 that, the admission is not the problem, it's attitude of the
22 faculty, the administration, the other students there,
23 that cause people like myself to transfer out.

24 So I don't think --

25 A I understand that --

1 Q. My point is by putting a -- by telling someone you're
2 an Indian, you -- therefore you have special problems, blah,
3 blah, blah, all those kinds of things, we know that, but
4 that, the admission into the law school is not the problem,
5 what you are doing, in effect, is creating a special
6 situation for an Indian student, you are saying because
7 you are an Indian or a minority, you must go to law school
8 four years. If you are a non-Indian, you'll go to school
9 three years.

10 That, my dear, is discrimination.

11 A. That's flat out bologna, Thelma, and I'll tell you
12 why, because all of those students that can be admitted
13 under whatever kind of scheme we have will be admitted
14 without this special program altogether.

15 And there has never been any discrimination in the
16 law school in terms of admissions. I take full blame
17 for the next statement, and I think that's where you hit
18 and strike at the cord that hurts, it's the faculty,
19 the administration and the other students that have some
20 biases and prejudices and create an attitude that's very
21 unsatisfactory.

22 I have to accept that. That's what we're talking
23 about in some of our other institutions, an attitude.

24 I do not know how to deal with that. But it exists,
25 I flat out recognize that. It's not the admissions program

1 and it's not a special discriminatory approach, it's
2 inverse discrimination because other students that could
3 not get into the law school would not be given the advan-
4 tage of this special way in, they would have to compete
5 flat out, make it or get out, that's it and all Indian
6 students would be admitted on the same basis.

7 Those that couldn't would be given a second chance,
8 a second row-in.

9 Q We're not asking for any special treatment. All
10 we're asking for is equal treatment.

11 A Yes, I understand.

12 THE MODERATOR: Thank you very much.

13 We are over our time limit, but I would like to
14 ask Mr. Elison if he would send a copy of the report on
15 Pine Hill School to the Denver office so that we could
16 include it in our record?

17 MR. ELISON: He hasn't responded, I was waiting
18 for his response.

19 Just a yes.

20 THE MODERATOR: You will send the report to the
21 Denver office?

22 MR. ELISON: Yes.

23 THE MODERATOR: Thank you.

24 Q (By Ms. German) Geraldine, I'd like to ask just
25 one thing of everybody at the panel. I don't want to ask

1 a specific person because I'm not sure who would be
2 responsible but yesterday during some of the conversation
3 that we had on the panel I was on, it seemed pretty obvious
4 that there's different programming for young men and
5 young women in these institutions and I'd like to know if
6 anybody on the panel wants to respond or just take into
7 consideration, you know, what efforts are being made to
8 eliminate sex role stereotyping in programming, in terms
9 of job training, and in terms of letting kids out of the
10 facility.

11 I don't know, Steve, maybe you could respond to that.
12 Do you have any kind of program?

13 A. (By Mr. Nelson) Not that we fund or not that we're
14 involved with through the board of crime control.

15 THE MODERATOR: I think she wants to know do you do
16 any followups to see that the federal guidelines, is that
17 the kind of thing you would like to know? So that
18 there's no sex discrimination in the funds that you allot?

19 A. In the funds that we allot, no, we don't. We're
20 involved in some programs or some of the followup through
21 the civil rights commission by checking to see whether
22 staffs, civil rights commission has checked to see whether
23 the staff of agencies or institutions that we allot funds
24 to do have a fair hiring practice and things like that.

25 But to my knowledge, they've not been involved with

1 the actual client population to see whether or not the
2 programs there are discriminatory either sexwise or
3 racewise.

4 And we haven't taken any steps along those lines
5 either. Hadn't even thought about it.

6 THE MODERATOR: So you don't know if there is any
7 sex discrimination?

8 A. Right.

9 THE MODERATOR: Or race?

10 A. Right.

11 THE MODERATOR: Thank you.

12 We're running behind time, I would like to make
13 several announcements.

14 The publications in the back are for you. And
15 you may feel free to take as many as you want.

16 The government frank on the back will allow you to
17 mail them out yourselves or to others. And there will be
18 a movie, the world premier of the Mad Dog Blues, starring
19 George Kennedy and it will be shown at Cine III this
20 afternoon at 3:00 p.m., so any of you who are interested
21 are welcome to attend.

22 And I would like to announce there is coffee and
23 donuts in the back of the room and they are free.

24 So please feel free to enjoy yourself.

25 (Short recess)

1 (The following was moderated by Mr. William Levis)

2
3 THE MODERATOR: I'd like to make one announcement.

4 We're going to try to start on time and keep on
5 schedule: Right now we're going to have a discussion on
6 corrections systems outside the State of Montana.
7 After a break at 12:15 for 15 minutes, we're going
8 to have a panel on Montana's correctional system, we
9 have a half-hour scheduled at 2:00 p.m. an open session,
10 at which time persons who have specific problems that
11 haven't been discussed earlier will have a chance to talk.

12 If you have any interest in the open session at
13 2:00 o'clock, we ask that you see Esther Johnson or Norma
14 Jones in the back of the room to indicate what you'd like
15 to talk about.

16 And if you have any specific areas of concern that
17 can be answered by the panelists, we would request that you
18 ask the panelists as you have the last day and a half.

19 The panelists we have today are Jackie Crawford,
20 Consultant to the Department of Prisons in Nevada, James
21 Estelle, Director of the Department of Institutions in
22 Huntsville, Texas, Charles Burgamy, Assistant Warden of
23 the Purdy Treatment Center for Women in Washington, and
24 Robert Frazier, who is representing Walter Echo-Hawk, from
25 the Native American Rights Fund in Boulder.

1 opportunity to try innovative ideas with small populations
2 and without spending large amounts of money and utilizing
3 various resources.

4 We are all aware of the way in which tax dollars,
5 trickle down through the criminal justice system. We
6 know that in priority of the public expenditure the criminal
7 justice system is at the bottom. Furthermore, within
8 the criminal justice system, corrections is at the below
9 police and courts.

10 One last step, within corrections the female
11 offender has always received the smallest share. This
12 large pie has been sliced and resliced until only minute
13 portions of the original remain for women's corrections.

14 As a result, we find that this small number of
15 correctional clients has been all but ignored, programs
16 for women have traditionally been watered down versions of
17 activities tried in men's institutions.

18 In short, for almost all of the history in
19 corrections in this country, women's corrections has not
20 been recognized as part of the system.

21 However, within the last five years, we have been --
22 we have seen the beginning of a rapid change that is
23 going to impact heavily on all corrections systems within
24 the country. Women's corrections is moving toward being
25 allowed to participate in the corrections system of several

1 graduated from high school or has a GED completed.

2 However, there is a 49% chance that she has com-
3 pleted the 11th grade or less. She was probably unemployed
4 at the time of her arrest, 73.2%, and any work she had
5 done prior to incarceration was of an unskilled nature, 62.5%.
6 If employed, her average stay on any job is probably five
7 months or under, 41.1. There is an excellent chance that
8 she was chemically dependent, 96.4, at the time of her
9 arrest and was probably using drugs, 40.8%. As opposed to
10 alcohol, 37.1, or both drugs and alcohol, 22.2.

11 She probably reads at a junior high level, 40%,
12 or below, 21%, and is either divorced, 41%, or never
13 married, 30.4.

14 Regardless of marital status she probably has at
15 least one to two children, 60.7%. And she probably is an
16 unmarried mother, 61.7, and in addition to this there is
17 a probability that, 85.3, that she must assume responsi-
18 bility for her children once she leaves the institution.

19 Also we found it very interesting that they averaged
20 out that the first child was born on the average of 18
21 to 16, and this was 61.5. So we're looking at a very
22 unskilled individual, primarily who's never been employed
23 but yet she is having to assume the role, once she has
24 left the institution, as the sole support for her children
25 and also to maintain employment or else she's revoked on

1 probation or parole. And I'm saying right now in this
2 system in the United States, we have not prepared this
3 individual.

4 She is primarily warehoused in an institution, she
5 has maybe some minimal counseling and also we're looking
6 at very minimal skills. And I think it's something that
7 this system is going to have to begin to assess and begin
8 to develop some programs, and what has happened historically
9 is that we always have to look at the percentage through
10 the legislature as to where we're going to get the most
11 for our money. . .

12 And it's always gone to the larger populations,
13 which economically, sometimes it's understandable. But
14 somewhere in the system I think we're going to have to
15 recognize some needs and some monies are going to have
16 to be appropriated. . .

17 I foresee a number of programs needing to be imple-
18 mented throughout the country, and one of them, as I
19 mentioned here, I think, is very prevalent, is that she
20 is a mother and whether you like it or whether I like it,
21 she will be returning home to those children.

22 And without regrooving some thought patterns of
23 that individual, we are returning her back into the
24 home where she will be grooming candidates for our prisons,
25 both male and female, in the next ten to 15 years.

1 which obviously cloud the decision making process, the
2 critical issue becomes one of cost effectiveness, and
3 on that score the male offender has historically offered
4 the best potential for an effective return on the correc-
5 tional dollar.

6 The key, then, is to develop a program which meets
7 the unique needs of the female offender, pulls her
8 out of the shadow of the male correctional model and
9 provides an effective transition back into the community
10 at a more acceptable cost per client.

11 Examples of service would provide as follows:
12 The County and local level, at the time of arrest and
13 initial incarceration, local sheriffs and police would
14 contact the service center for initial services which would
15 involve an assessment of immediate need with respect to
16 child care, medical needs, notification of family,
17 notification of employer, maintenance of housing and/or
18 household goods. Based on the individual progress
19 through the court system and their status with respect to
20 potential sentencing, the center would accomplish the
21 following: Psychological testing, academic and vocational
22 testing, assessment of eligibility for local programs,
23 staffing and set up potential plans for women.

24 In those cases where the women is put on probation,
25 the information that has been accumulated and the center's

1 recommendation would be reviewed with appropriate officials.

2 The center would continue to assist by facilitating
3 the provision of supportive services that were identified
4 during the assessment process.

5 When an individual is incarcerated, the service
6 center member follows a similar process with institutional
7 officials and continues to work with the individual as
8 she moves through the institution. C.

9 On institution and incarceration. During the indi-
10 vidual's incarceration, the service center member will
11 continue to counsel with the women, cultivate supportive
12 resources within her own community, facilitate visits with
13 family and children and prepare a program which would meet
14 her individual needs upon parole.

15 Parole. Once again, the service center will bring
16 forward all of the information that has been gathered
17 on the women to date to brief appropriate officials. In
18 this instance the service center will provide transitional
19 assistance for a period of four to six weeks without
20 minimizing their primary charge of care and custody.

21 Aftercare programs would have a definite sense of
22 structure for the individual prior to her release.
23 Practitioners would benefit from the majority of of the
24 data collection and resource development that would be in a
25 position to follow through rather than to begin anew.

1 Overall, the client will benefit from a continuity
2 of services and on-going counseling relationship that
3 the current structure of probation, incarceration and
4 parole, precludes.

5 Her treatment program, her contact with the youth
6 system will take on a degree of consistency and predicta-
7 bility that as to date has not been realized in the field
8 of corrections.

9 I imagine some of you are feeling, well, how would
10 we fund that? I'm saying that perhaps maybe we need to go
11 on the state level and that the county officials perhaps
12 could contract with the state or utilize this service
13 center as a resource center. But until we begin to reach
14 that individual on the county level, I feel that, you know,
15 she is going to have to go through many, many, many
16 systems and I think many people are going to suffer
17 behind her behavior, primarily I'm talking about the
18 children and also the parents who have to care for those
19 children.

20 And with that, I'd like to close and perhaps open it
21 up for question and answer.

22 Thank you.

23 THE MODERATOR: Thank you.

24 Jackie Crawford is going to have to leave about
25 noon, but before we open up to questions about women's

1 facilities specifically, why don't we have Mr. Burgamy give
2 his presentation?

3
4
5 MR. CHARLES BURGAMY

6
7 A. (By Mr. Burgamy) I feel right at home here listening
8 to the problems.

9 Washington, too, is facing the same kinds of prob-
10 lems, however I think most of you are aware of Purdy
11 Treatment Center, we've gained some national recognition
12 and some of you saw the movie last night.

13 The planning for Purdy started about 11 years ago.
14 We wanted to have an institution uniquely designed for
15 women to meet the specific needs of women.

16 Prior to this time, the state penitentiary at
17 Walla Walla had tacked on women's courts.

18 In February, '71, we opened our facility with
19 92 women. The count Monday was 243. The more beds you
20 have the more women you're going to have committed. And
21 I think this is true with men too, this is one hard
22 lesson that we've learned.

23 Originally the institution was designed for 173.
24 On campus at this time we have 196, 47 are in the community.
25 The original concept was 50% of the women would be in the

1 community. Six years later we haven't achieved that goal
2 simply because there aren't the resources in the community
3 for women.

4 To give you a little history of Purdy and how it
5 operates, every women in the State of Washington who is
6 convicted of a felony and sent to prison, comes to Purdy,
7 we're the only facility. A woman is received and remains
8 in a reception unit for approximately four weeks, in this
9 time she is given a complete physical examination, psycho-
10 logical testing, vocational testing. Also specific needs
11 are identified at that time, such as placement for kids,
12 family counseling with the husband, etc.

13 At the end of four weeks we meet with that woman
14 and with her participation, develop a treatment plan
15 which consists of short and long range goals.

16 At the end of this meeting the woman signs a con-
17 tract to follow this program.

18 Every 12 weeks the woman has the option of having
19 this contract renegotiated. Our goal is to have at least
20 75% of the women in the community at least six months
21 before they're released.

22 We have found we have the most success when we can
23 have at least six months of supervised work training in the
24 community.

25 The program is broken down into three specific

1 need areas, vocational, educational and personal needs.

2 Each woman; at the treatment center is required
3 to participate in a minimum of 20 hours in programming per
4 week. We have 82 jobs on campus, which range from the
5 traditional secretarial work to electrician's helpers. The
6 rate of pay is from 25 cents an hour to \$1.50 an hour.

7 Each job has a graduated rate of pay based on your
8 performance and evaluations. We have a staff of 123, which
9 includes 57 counseling staff, two social workers, one
10 clinical psychologist.

11 Our focus really is to assist the women to gain
12 coping skills so that when she is released, she will not
13 have to go back to writing checks to suppress her anger, her
14 frustration, but rather will have the skills to seek
15 resources in the community.

16 Within the institution, two years ago we found that
17 a lot of women were involving themselves in programs simply
18 to look good for the parole board. This is a traditional
19 game that goes on at every institution I've ever been at.
20 If you go to the parole board looking good, chances
21 are you're going to get out quicker.

22 As a result, we had quite a few women coming back,
23 because problem areas had not been worked on. Therefore,
24 two years ago we instituted a behavior management program
25 for the entire institution. This is simply a five-level

1 program of responsibility.

2 In order to gain privileges, a woman has to
3 demonstrate that she can handle responsibility. Some of
4 you saw that movie last night which indicated if you
5 don't want to work you don't have to. Well, that's true,
6 on the commitment order it does not say hard labor or
7 that you have to work, but it also does not say that you
8 get any benefits.

9 So if you want to do your time, we let you do your
10 time which means that you're in your room and you don't
11 have any benefits, because you weren't sent there to get
12 any benefits.

13 As a result, we have 100% participation in the various
14 programs.

15 To close, I would like to say one thing. Back
16 when I was a young graduate student I was thinking I could
17 save the world and I had a German psychiatrist who was my
18 supervisor. And I used to express a lot of frustration with
19 not being able to change people. And one day he looked at
20 me and he said I want you to remember one thing, you can't
21 make chicken soup out of chicken bones.

22 What that means is don't put your expectations for
23 another person on a level higher than they can achieve.
24 Because what happens is you get failures. And I've found
25 that to be very true. Thank you.

1 THE MODERATOR: Thank you.

2 At this time I'd like to open it to questions from
3 the audience. E

4 I have one question. We've heard discussion the last
5 two days about women being sent out of state, and there
6 was discussion in the film last night about the York
7 Center in Nebraska accepting women at one time from Wyoming,
8 Montana and North Dakota. Since that time there have
9 been court decisions, I think in North Dakota, saying that
10 women can not be sent out of state because it's cruel
11 and unusual punishment.

12 In Wyoming there was a settlement of an ACLU
13 suit, now there are facilities in Wyoming.

14 What are your feelings about this situation, about
15 sending women out of state, both of you?

16 A. (By Ms. Crawford) Well, when we start talking about
17 cruel and unusual punishment, I think that this can also
18 be an element of cruel and unusual punishment. If you
19 don't have adequate programming and decent facilities
20 to place them in.

21 I would rather see them be transferred out of state,
22 remainder of the time maybe, perhaps six months prior to
23 their parole eligibility be returned to their home state
24 and placed in a work release center or a halfway house.
25 But if you have an individual who is sentenced to ten to

1 20 years and you're going to house her in a jail just
2 because, quote, you know, she's in her community, then
3 I think you're doing her a disservice.

4 So I really feel that we have to assess that very
5 carefully as to what viable programs are available and
6 what you can do for that individual as far as treating her.

7 But if you're going to warehouse here in a jail,
8 then I'm advocating no, I think it would be more viable
9 for her to be transferred out of the state and then, perhaps
10 six months prior to her release, be placed back into her
11 home community as a transitional period.

12 A (By Mr. Burgamy) I think I would agree with that.

13 Q (By the Moderator) Is it more expensive to send a
14 woman out of state than to have the facility in-state?

15 A (By Ms. Crawford) Yes. It really is. It's depending
16 on how much money, you know, that they choose to spend
17 on an individual, but I would say in the State of Nebraska,
18 while I was there, I think we were charging \$25.00 a day,
19 we finally had gone up to that, because that was our
20 per diem and we had to meet at least with that, something
21 comparable.

22 And we did provide a whole package of services and
23 we did see a tremendous change in the out of state women,
24 and quite often they say, well, because we removed them,
25 you know, from their home, this has been detrimental.

1 I have seen some very positive effects because
2 quite often you may have to remove that individual, par-
3 ticularly in your out of state's that are contracting with
4 other states, number one, because they allow the woman to
5 get so mired into the criminal justice system that sometimes
6 she has to be removed from the state so that she can be
7 treated and then sent back and maybe replaced.

8 But as long as a state facility is not available,
9 the judge is very reluctant to send that individual out
10 of the state unless he has no other alternative.

11 A (By Mr. Burgamy) It's costing us about \$41.00 a
12 day now to keep 243 women. So I don't think -- we don't even
13 honor transfers to other states from residents who are
14 from other states, even though it would be cheaper for us.
15 Because if we get into that, we'll be back where we were
16 four years ago, when our population was 96 and 100 people,
17 we had room to accept boarders but we don't want to get
18 into that because, number one, if you start taking in
19 boarders, those people are cut off from a number of pro-
20 grams that are available to native -- natives of Washington,
21 so no.

22 THE MODERATOR: Are there any questions from the
23 audience?

24 Q (By Mr. Casciato) Frank Casciato.

25 I listened to Jackie Crawford talk about this profile

1 of the lady that you developed, a five-time loser, then
2 you alluded to the fact that the judges then are looking
3 at the past behavior, now sentencing more people which
4 might be correct but what amazes me, like Mr. Burgamy
5 there, explains that they had an institution six years
6 ago with 80 people in it, they now have 240, Montana wants
7 to build an in-house program for women.

8 What will they do if they plan 15 beds and let's say
9 they now have ten women a year who are incarcerated? If
10 you have a 50-bed program you turn around and you incarcerate
11 50 people or you wouldn't build the institution, so therefore,
12 it allows the judge in this state, as I see it, not to use,
13 as a preventive method in his own thinking, for instance,
14 sending women out of state. Mr.

15 He has to think do I want to remove that woman from the
16 community is it cruel and unusual punishment, all these
17 questions and in fact doesn't sentence the woman.

18 If you have an in-house unit you in fact will
19 sentence the women, you don't use that criteria, it's not
20 a check system on the judge.

21 And I submit to you that building institutions
22 does nothing more than house people and you will fill
23 them up when you build them in this manner.

24 THE MODERATOR: Any response?

25 A. (By Ms. Crawford) Well, I -- you know, I concur with

1 what you're saying to an extent, but yet you know, still
2 we're having an element of society that says that individual's
3 committed a crime and they have to be accountable for
4 their behavior and so accountability enters in somewhere.

5 Q Let me ask you on accountability, what they do
6 with this woman who was running around, society raping and
7 maiming the public, possibly stealing \$50.00, and say does
8 that justify building a five million dollar institution
9 to keep her from doing that?

10 A No, I'm not advocating building one. I'm just
11 saying there's still this element of pressure that we always
12 have to take into consideration.

13 You know, again you know the gentleman here from
14 Purdy disagrees that, you know, we have as far as contractual
15 services, but maybe because of the population's growing
16 in such vast numbers, that we need to start considering
17 some kind of a regional concept somewhere, again and then
18 implementing some kind of a work release or halfway house,
19 perhaps, and if that individual coming into the system
20 could be placed there, if she's not able to handle those
21 kinds of responsibilities then transfer her to the regional,
22 upon some intensified treatment then perhaps back in,
23 you know, to her own community.

24 Q Well, hypothetically speaking, in Montana, let's
25 say we have ten women now who are incarcerated, it must be

1 close to that figure and let's say that there's 40 who
2 can be incarcerated, what are these ladies doing today, are
3 they using existing services or are they running amuck,
4 creating havoc in, you know, they're just really functioning
5 as citizens when in fact we build an institution, there's
6 41 women running around not writing this check.

7 It just amazes me that we would continue to build
8 institutions in which to house people. It's economically
9 sound, I guess, once you build it you must run it not
10 expand it.

11 A. (By Ms. Crawford) As I presented just a little
12 bit earlier, the female service center, you did not hear
13 anything about bricks and mortar, we were talking about a
14 unit of teams that would go in and deal with these particular
15 problems and perhaps assist the individual so she would not
16 get so heavily involved into the system and perhaps we
17 could divert her but I think we're going to have to develop
18 some consistency and I have found dealing with female
19 offenders that they have gone through so many systems and
20 it's so fragmented that we've allowed them to manipulate
21 until they've used, until they've exhausted all services
22 available and then, at that point, they do wind up there
23 before the judge.

24 Q. So you build a new service in which you send them
25 back and plug them back into the same social services they

1 had exhausted in the state because you can't build any
2 one institution to cover all the social services.

3 A See, I think that there can be, strictly for
4 females now. I'm just talking solely on female offenders,
5 I think it's a pilot project that has to be tried and I
6 think until the county level and the state levels and all
7 the private kingdoms in these states, and I'm not just
8 generalizing, you know, particularly in Montana, I'm
9 talking about in the United States, begin to develop an
10 umbrella of services and some continuity, I don't really see
11 us getting too far in the criminal justice system anywhere,
12 because I really see the offender being allowed to manipulate
13 the system.

14 Q What I see happening in Montana in that we don't
15 have an in-state service is the fact that what you do is
16 build a building and put people in it and do nothing more
17 than increase that building until we can have an institution
18 much the same as Deer Lodge.

19 Matter of fact, what you'll do with equal rights and
20 so forth is have as many women locked up as you have men,
21 you're not preparing them to, but just building another
22 system in which to house people.

23 A (By Mr. Burgamy) The trouble with what you say,
24 Frank, is that there are going to be X number of people
25 that need incarceration. What has to happen is you have to

1 take it one step beyond that when you talk about building
2 your small facility.

3 Do you really want a work release facility in the
4 community or not? And what I mean by that is we have
5 purposely, at Purdy, not brought in more programs because
6 if we bring them in, then the community says we don't want
7 them out here because you've got the same thing there.

8 So, by limiting what we have to offer, we have to
9 turn around and say hey, this woman has a need to be a
10 welder, the only welding training available is in Seattle.
11 So, given limitations and planning, I think you can do it.

12 Q Okay, we can belabor this, I suppose for your whole
13 time, but I think the only thing I wanted to state and it
14 seems awfully important to me being an exinmate, is that
15 when you build this building and that's just my primary,
16 you know, my primary statement is that when you build it
17 you will fill it without question.

18 Now, I'm sure the services you could provide there
19 would be good, crowded conditions would be improved, but
20 at the very same time you could do it without this building,
21 stick them geographically together someplace where you
22 could round them up or whatever you want to use for ter-
23 minology.

24 I think that's my only point, I don't want to belabor
25 whether your programs are good, I'm sure you've developed

1 some that are good, but keep building institutions, you
2 could just as well build a big one and keep an eye on it.

3 Q. (By Ms. Smith) Judy Smith from Missoula.

4 I think the out of state question is an important
5 one and one of the reasons that advocates of women
6 offenders raise it is because women were sent out of
7 state as a way to ignore them, I'm not an advocate of an
8 in-state facility just to build another facility to about
9 fill it up with women, in fact I think men should get it
10 together to change, perhaps, their equal rights situation
11 with what's happening to women in the state.

12 If women are supposed to get a special treatment
13 programs, men should look at it and say why aren't men
14 getting it, why do we have to go to Deer Lodge when women
15 are getting the special treatment?

16 I think equal rights would give us all the best
17 situation rather than happening to become more like men.

18 But I think what's happening by sending women out
19 of state we're trying to pretend they aren't there, we
20 haven't given them any kind of attention to their own
21 unique needs so when women advocate bringing women back
22 into the state they're doing that as a way to say focus
23 on these people, they have to have their needs responded to.

24 I agree with you, I don't want to build another high
25 security facility or even a low security.

1 Q (By Mr. Casciato) What do you do, though, for
2 women who are the violent offenders who've got, as I
3 understand you will still send out of state?

4 MS. SMITH: If after we have analyzed the women
5 offender situation and have set up programs to try to meet
6 needs of women and we still have a few people that need
7 to be sent into a high security situation, I would be
8 willing to say perhaps those people have to be sent out
9 of state but I'm not willing to say that until we
10 really have looked at what women offenders in Montana are
11 doing.

12 And I don't think we've done that in any systematic
13 way until perhaps the last year or two.

14 Q How do you deal personally with the problems that
15 incarcerated is rather mathematically, it will jump up
16 drastically, you could go 300%, I think, on that without
17 question, in a year you'll have 30 people incarcerated.
18 How do you deal with that, you know, by just the fact
19 that you don't want women to go out of state?

20 I understand that problem and I agree with you on
21 that. You don't want them to go out of state, but how do
22 you deal with the problem that you're going to incarcerate
23 more people, you're building yourself more problems.

24 MS. SMITH: That was what I thought I said, is that
25 perhaps after we look at it if we see that there are a

1 few people that need to be incarcerated, I would be per-
2 sonally willing to send them out of state if I had that
3 kind of power.

4 But I don't want to say I will do that until I
5 think women offenders have had a chance to really see
6 what can happen otherwise and I don't think they ever
7 have in this state, I think women were sent away because
8 they wanted to ignore them.

9 We're saying you can't ignore them so that's my
10 out of state response.

11 And again the equal rights question, I think, is
12 very important, if women are going to get some good things
13 happening for them, men should try to get it too.

14 The ERA and all this equal rights means that it
15 should be better for all of us.

16 THE MODERATOR: Do you have a question specifically
17 on this issue?

18 Q. (By Mr. Ray Dean) I would like --

19 THE MODERATOR: Could you identify yourself?

20 Q. Ray Dean, Eastern Montana College.

21 I would like to ask Mr. Burgamy to elaborate the
22 report of what, from your point of view what is the
23 realistic expectation of the system, you mention about
24 you can not --

25 A. (By Mr. Burgamy) The realistic expectation of the

.1 system is not to have that person come back with a new
2 felony.

3 Q. You mentioned about that you can not have the chicken
4 soup from chicken bones.---

5 A. What I was referring to there is those of us in
6 corrections when we start talking about treatment, better
7 be sure that we're not trying to create treatment that's
8 above the level of a person's capabilities, because when
9 you do that you create frustration.

10 In other words, it's okay for you to be a dishwasher
11 when you parole if that's what your capabilities are,
12 my hope for you would be, be the best damned dishwasher
13 that there is.

14 If you're going to be happy with that and that's
15 your capabilities, fine. Don't take an eighth grade
16 dropout and put in the treatment plan that you're going
17 to get a two-year AA degree because that's unrealistic.

18 THE MODERATOR: I'd like to move on to Mr. Estelle,
19 if we could right now, if that's okay, and then save some
20 more questions for later.

21

22

23

MR. JAMES ESTELLE?

24

25

A. (By Mr. Estelle) Mr. Levis, first of all I want to

1 express some appreciation to my good friend, Thelma
2 Stiffarm for arranging the invitation for me to be here.

3 This has been more than an opportunity to exchange
4 ideas with this group. It's been a sentimental journey
5 for me. And I agreed when I accepted this invitation
6 that I would not talk about a specific program, because
7 I know what the reputation of Texans north of the Red River
8 is, and if you want to learn about the Texas system, why,
9 you all have a standing and open invitation to come down
10 and visit that system and see what we're doing there.

11 I agreed that I would talk about some of the general
12 problems facing corrections in the United States today,
13 and unlike Dr. Elison, who expressed a great deal of
14 pessimism about where we are, I have a great deal of
15 optimism as a matter of fact.

16 And one of the reasons I have this optimism is
17 because we can have sessions like this, where -- and if
18 you haven't figured it out now, I'm a professional bureaucrat
19 and compound that problem by being a carpetbagging
20 bureaucrat, I've worked in three different prison systems.
21 But sessions like this where we carpetbagging bureaucrats
22 are put in a situation where we have to hear from citizen
23 groups, but that is also a two-way street.

24 Now, I saw something happen here this morning within
25 this, what I consider a very positive kind of atmosphere,

1 I mean this kind of program is what's going to keep us
2 moving and I think in the right direction, but I saw
3 something happen here this morning that is indicative
4 of part of our problems.

5 Not only in this area but in so many other social
6 problem areas. There's a tendency for all of us, including
7 me, there's a tendency for all of us to put it on a we,
8 they, you, us, you, situation. And friend, let me tell you,
9 we're all in this sinking boat together, if it's sinking.
10 I'm not sure that it's sinking, because I think we've
11 come quite a way across a body of water together.

12 But if we begin to rip out the gunwales of this
13 boat to try and paddle in different directions, it will
14 sink.

15 I don't like to see professionals dedicated, com-
16 mitted professionals go on the defensive. I think they
17 have a responsibility, a real responsibility to be responsive
18 to the citizens and the public they serve, and not one or
19 two stressed groups, but the total community that they
20 serve.

21 And that's a tough thing to do. That's a tough
22 thing to do. And I'm not defending the weak ones or the
23 ones that don't respond to the community, I'm not defending
24 them at all.

25 But for instance, one of the citizens questioned the

1 question, and I'm glad the question was asked about how
2 many special education teachers there were for 130 boys
3 in a Montana school. And how many psychologists there
4 were.

5 Do any of you live in a school district in
6 Montana or any other state that provides two special
7 education teachers for every 130 students? Do any of you
8 live in a school district anyplace in this nation that
9 provides two psychologists for every 130 students in school?

10 Let me tell you something, if we did live in that
11 kind of a world, Mr. Holladay and a bunch of the rest of us
12 would have to go to work for a living. And that's the
13 truth of the matter.

14 We insist and we have insisted historically and
15 we continue to insist on attacking this problem, and it's
16 not a problem, it's a war, attacking this war at the wrong
17 end.

18 We worry about winning a few funny little battles
19 at the institutional level after our children are in
20 institutions and after our adult offenders are in institutions
21 and absolutely continue to ignore many of the conditions
22 that put them there. And those are ours, collectively
23 ours, they aren't mine, they aren't yours, they belong
24 to the community and as long as we're paying taxes and
25 voting and living in that community, we've all got a

1 responsibility to meet those conditions that continue
2 to increase the institutional population. And the institu-
3 tional population is going to continue to increase if we
4 continue to fight these battles instead of developing
5 a strategy to win the war.

6 A moment ago there was a conversation about if we
7 build more institutions with empty beds, they're going
8 to be filled. No question about it, the law of physics ,
9 applies to politics and applies to social problems as well.
10 Something is going to fill that vacuum. But the sad
11 story is if you want to get back and talk about tactics
12 again instead of strategy is that most institutions have
13 never built in advance of their population needs. Because
14 for some strange reason, we citizens, we get out of that
15 bag again because I find myself doing that, we citizens
16 insist on sending people to institutions whether or not
17 there's bed space.

18 And we're always playing catchup in that game. Show
19 me a state today or a community today that has built in ad-
20 vance of their expected population in jails or prisons.

21 It doesn't exist. It doesn't exist. So we're
22 playing catchup, we're trying to get constitutional because
23 we insist on putting people in unconstitutional conditions
24 and then we play that never ending kind of a revolving
25 door game, well, let's take them to court because they're

1 unconstitutional. Well, how in the hell did we get un-
2 consitutional? I

3 It's the same old cycle thing, and until we break
4 ourselves out of this set, this mental set, that we can
5 solve these problems at the institutional level, and
6 begin to solve the social problems and the economic problems
7 at the community level, before people get involved in the
8 criminal justice system, we're going to fight this kind of
9 revolving door battle.

10 Now, as square and as hokey and as -- in today's
11 world some places almost un-American as it may sound, I'm
12 going to talk about a couple of things that aren't going
13 to set well with some people probably in this room. And
14 I'm not an expert, all I've got is 26 years' experience,
15 there are no experts in this field.

16 If there were I'd be out of business. But when
17 we've got a divorce rate in this country that exceeds 50%,
18 and when we have institutions loosely called the church,
19 and I say that in the broadest ecumenical sense, who have
20 undertaken not to save souls as their mission anymore,
21 but to solve social problems, because you and I again, you
22 and I aren't ready to solve them so the church has again
23 followed the law of physics, they feel a need to fill that
24 vacuum that you and I left them, so they've stepped away
25 from their primary mission of saving individual souls and

1 started trying to solve, in their very inarticulate,
2 inadequate, ill-equipped way, to solve social problems that
3 you and I have a responsibility for, and has so diluted
4 the impact on the nuclear family unit that I hear the
5 social workers talking about, that nuclear family unit
6 but they're right, all they're talking about is mom,
7 dad and the kids.

8 But as long as we have the destruction, the in-
9 creased failure of the family unit to remain a unit,
10 and a lack of impact of religion, whatever religion, on the
11 family unit, and as long as we continue to insist that the
12 schools play a greater role in local parenties than ever
13 before, we're going to continue to have those kind of
14 problems that bring citizens and carpetbagging bureaucrats
15 into confrontation rather than cooperation.

16 You know, it was right here in this town, this
17 city, because this is a city about six times as large as
18 the one I've ever lived in, in 1971, and I did not
19 endear myself to another group of citizens in this city
20 that day, they were kind enough to invite me to talk
21 about corrections, and it was a luncheon meeting, and
22 they were really enthusiastic, interested, good people.

23 It happened that the audience was all women. And I
24 could tell that they were genuinely interested because
25 of the kinds of questions they were asking and the amount

1 of time that they seemed willing to spend in discussing
2 these problems.

3 But at about 2:30 I began to wonder if this was
4 going to be, you know, an all afternoon marathon kind of
5 thing because it was all right because I was doing my
6 thing too. But about 2:30 from the back of the auditorium
7 a voice, almost plaintively, Mr. Estelle, what can we do,
8 what can we as individuals do to help stem this increasing
9 crime rate?

10 I looked at my watch and I said, I assume there
11 are some women here who have children, and if you do, one
12 of the first things you can do is be home in that home
13 when those children come home from school.

14 So that they don't walk into an empty house.
15 And as I say, that was not received with great enthusiasm.

16 But how many of you, how many of us, have left an
17 empty home to go to school or to go to work as youngsters
18 or come back to an empty house from either our recreation,
19 school or work?

20 If that is a repetitive pattern in a home, it is
21 not conducive to the orderly development of an adolescent.

22 Now, somebody up here on the panel mentioned love
23 and I think it was -- it should -- it didn't surprise me
24 coming from Mr. Mohler, because I have some real insight
25 as to what his program is about. And I saw he and his

1 staff, I mean literally and figuratively save some young
2 men that should never have been sent to prison, at that
3 time we were able to, and I assume this program still goes
4 on, where they're able to transfer a few young men to the
5 Swan River Camp.

6 I saw that staff literally save him. Because of
7 that factor of love.

8 Nobody likes to talk about it, particularly adult,
9 White, Anglo Saxon males. It doesn't match our macho
10 reputation. But there isn't anything else in the world,
11 and I know you don't want to hear it because you wanted
12 to hear some of that, how did you phrase it, Doc, some kind
13 of wisdom?

14 MR. HOLLADAY: Traditional wisdom.

15 MR. ELISON: Traditional.

16 A Well, traditional wisdom. This ain't traditional,
17 not in today's world you don't want to hear it but one
18 to one, individual, people to people love, caring for them
19 as you would like to be cared for, and we talk about it
20 because in rooms like this we get around to it and we
21 say that's why we're here worrying about these kids at
22 Pine Hills and the women that are sent out of state.

23 If we truly exerted all of our energies in that
24 kind of loving care for one another we would have that
25 care before that individual ever got to the institutional

1 level or before they ever got involved with the criminal
2 justice system.

3 VOICE: Hear, hear.

4 A (By Mr. Estelle) But we'd rather look in some-
5 body else's back yard, we'd rather go across town because
6 don't you know all the problems really come from across
7 town. Or across the state. Or over at Great Falls.
8 Or in my state, you know, the east side of Houston and
9 the south side of Dallas, that's where all the problems
10 are.

11 That's a lot of crap: The problems are right here,
12 with us, not you, not me, but with us. They're right in
13 there. And I'm sorry, I traveled 2000 miles and I'll
14 talk about technical, tactical or strategic problems
15 later on with you after this meeting. But I just threw
16 away my prepared remarks.

17 Thank you.

18 THE MODERATOR: Thank you.

19 Mr. Frazier?

20

21

22

MR. ROBERT FRAZIER

23

24 A (By Mr. Frazier) Thank you.

25

First I'd like to say that Walter EchoHawk that was

1 originally scheduled, regrettably he is unable to attend.
2 He has two court appearances this week, one in Nebraska
3 and one in Oklahoma that he has to prepare for. So he
4 has sent me instead.

5 Before I talk about Swift Bird, I'd like to talk a
6 little bit about Indian offenders and our work at the
7 Native American Rights Foundation.

8 For the past two years the Native American Rights
9 Fund and the Cheyenne River Sioux Tribe have conducted a
10 joint study into the feasibility of a plan to develop and
11 implement an Indian controlled community based corrections
12 center for Indian offenders.

13 This project is a cumulation of research data and
14 litigation conducted over the past four and a half years by
15 the Indian corrections project of the Native American
16 Rights Fund.

17 Indians are incarcerated in local, state and federal
18 correctional institutions in vastly disproportionate numbers
19 to their population.

20 For example, in the State of South Dakota, the
21 Indian population was under 5% in 1970, however, 34.6% of
22 all arrests in the State of South Dakota were Indians. The
23 Indian population in the state penitentiary in Sioux Falls
24 is 33%. The Indian women's population in the women's
25 prison is 50%. In Montana, the Indian population was 3.7%.

1 Yet in the prisons, the Indian population is 33.3%. In
2 Minnesota, point four percent of the population, Indian
3 state population, yet 12.5% are in prison.

4 In Nebraska, the state population for Indians was
5 point four percent, the prison population was 6.4%. In
6 South Dakota, 7% of the population was Indian, yet in the
7 prison, 32%.

8 And North Dakota, the Indian population in the
9 state was point one-five-one-percent, yet in the prison popu-
10 lation, 17.5% of the prison population were Indian.

11 We find that Indians are incarcerated in penal inst-
12 tutions in disproportionate numbers. Virtually every
13 Indian family has some relative in prison. The human
14 and social losses in Indian communities are enormous. It
15 is crucial that Indian offenders be rehabilitated in
16 such manner that they can return to their home communities
17 as productive tribal members and not return to prison.

18 We find that most prison systems are ill-equipped
19 to provide Indian offenders with the types of skills
20 necessary for them to function in a bicultural society.
21 The primary reason why Indians do not receive equal reha-
22 bilitation opportunities in penal institutions is that
23 most correctional theories and programs currently in use
24 were developed to meet the needs of the non-Indian offender.

25 The programs are administered by non-Indian employees.

1 The values and attitudes of the Anglo society are reflected
2 in all the aspects of confinement and rehabilitation.
3 Any correctional official who lives in Indian country can
4 confirm that the values and learning experiences of Indians
5 differ greatly from that of the non-Indian as do the
6 factors which lead to criminal behavior.

7 Those traditional Indians who do not or can not
8 fit into programs designed to treat non-Indian offenders
9 do not perform as well. The results of such a system
10 deny the Indian offender the benefits of rehabilitation,
11 and deny him the opportunity to participate in such a
12 system.

13 In parole we find that because Indian offenders do
14 not participate well, that they're denied parole. We
15 find that the Indian offender serves a longer original
16 sentence than compared to the non-Indian. And at the, the
17 ratio on that is that as high as 15% in some areas.

18 Now, when we looked at these we found that by going
19 into courts we were attacking the problem from the wrong
20 end, the Indian people are already in prison, they were
21 suffering from cultural degradation and so we decided that
22 there must be alternatives to sending Indian people to
23 prison. So then we sat down and we started thinking about
24 Swift Bird. Swift Bird is located in South Dakota. We
25 plan to contract with five target state areas, Montana,

1 North Dakota, Nebraska and Minnesota. The programs are
2 designed so that they incorporate the values and concepts
3 of Indian culture. It would be a minimum security
4 facility, for adult male offenders, with one year or less
5 remaining on sentence.

6 Jurisdiction of the residents remain with the sending
7 institution. One of our primary programs will be survival
8 skills. We will be developing a program where the Indian
9 offender will be able to function in a bicultural society.

10 We will start with the premise that, in traditional
11 Indian society, the Indian hunter, he went out to provide
12 for his family. He knew the resources that were available
13 in his area. He knew -- he has the skills necessary to
14 secure those resources and bring back food to provide for
15 his family.

16 So the question we will be answering is how does
17 the modern Indian do this in today's society? The Indian,
18 we will introduce the values whereas the Indian offender
19 will know that the resources in his home community. He
20 will know how to get in touch with these people, he will
21 know the forms that he has to fill in, he will know how
22 to read and write and have an elementary understanding
23 of what is required of him in his job.

24 Spiritual education will play an important role. We
25 find that historically the government formally and informally

1 has introduced a policy where Indian religion was
2 suppressed. We find that in prisons that when offenders
3 go before parole that the parole boards they look at their
4 records and they see that religion, participation in
5 religious program plays an important role.

6 The Indian offender does not participate in these pro-
7 grams and therefore is denied the points necessary to
8 receive parole. Indian religion is not recognized as a
9 bonafide religion.

10 We have had to go in to courts and prove that
11 Indian religion is a religion as, on the same status as
12 Christian Religion.

13 In the prisons, there have, churches for Catholics
14 and Protestants and yet when the Indian offender says
15 that they want their own church, the sweat lodge, medicine
16 men to come in, the prison people decide no, it's a
17 security risk, it's no good.

18 We have to go in, then, and bring in consultants
19 and experts to say yes, it is a religion, it still exists
20 today, it's not structured as Christian Religion but yet
21 it does exist. It does play an important role, by intro-
22 ducing positive influences into the life of the Indian
23 offender, a lot of the negative things that bring about
24 his incarceration will go away.

25 We find that 80 to 90% of Indian offenders in prison

1 are alcohol related. So we're not dealing with the criminal,
2 we're dealing with a person that is having some problems,
3 personal, with the family, with the -- with the community,
4 we find a person that is caught in a web that is filled
5 with regulations from the federal government, state govern-
6 ment, county government, city government, and tribal
7 government.

8 And under all this forest, because there is not no
9 positive influences, because we are new in the concepts
10 of non-Indian government, because all programs that Indian
11 tribes do have are designed to meet the non-Indian needs,
12 that they're not working.

13 So what we're doing is at Swift Bird is it's going
14 to be experimental, we start in a regional concept, we
15 hope -- we realize we will be successful because we can't
16 do no worse than presently exists.

17 The benefits from -- the benefits are great, for
18 one, for other correctional departments: We will be
19 introducing programs that they, themselves, can use. We
20 will be developing training programs for correctional
21 people. We will be -- we were trying to implement
22 programs where there would be more Indian people in the
23 correctional field.

24 We find that not enough Indian people are involved
25 in the rehabilitation of their own people. By contracting

1 with the states it's another step for sovereignty for the
2 Indian tribes because then the states are saying yes, you
3 are a sovereign nation, we can contract with you on an
4 equal basis. This is very important.

5 On the tribal level we are telling the tribes
6 that if we are a sovereign people we are responsible for
7 our people, we must rehabilitate the people, we can not --
8 no longer send them to prisons, let them sit there and suffer
9 by themselves and not care about them.

10 We have to bring them home and take care of them.
11 We have elderly people, we have medicine men, we have
12 spiritual leaders, these people must be utilized, no
13 longer must we allow Anglo dominated theories to tell us
14 what to do. We have to look at our people, look at our
15 past, our religion and our culture, the answers are there.

16 We have to develop these into such a context that
17 they will survive in this society. We have to bring the
18 traditional values and concepts and incorporate them into
19 modern theory.

20 It is our belief that heavy influence by traditions
21 will play an important role. And therefore we hope that
22 Swift Bird will be a start, a beginning.

23 We will, after a period of a year or so, we might
24 branch out into other regionals. We will try to get
25 the tribes to support us so that they will develop their

1 own local centers so that no longer do tribal members have
2 to be transferred away from their homes and families but
3 that they can stay home.

4 We will be developing -- utilizing Indian orientated
5 GED programs, we find that the Indian offender lacks
6 high school equivalency. So we will bring them up through
7 Indian orientated GED programs, the programs will be
8 individualized.

9 We are contemplating using a new system that's been
10 proven successful in Illinois correctional system, it's
11 a play-doh, it's a computer-type thing. It's still up in
12 the air, but it's feasible that we can use this and bring
13 in our own programs again, Indian orientated programs into
14 this.

15 Everything is experimental, but like I said before,
16 we can't do no worse than what's already been done.

17 Thank you very much.

18

19 (Applause)

20

21 THE MODERATOR: At this time I'd like to throw it open
22 to questions from the floor.

23 Could you come up to the microphone and identify
24 yourself, please?

25 Q. (By Mr. Delmar Bigby, I'm from Fort Benton. I'd like

1 to ask Mr. Frazier a question here.

2 It appears you did quite a lot of research into
3 percentages and compared to the populations. In your
4 research have you found any, whatever the word is, where
5 the majority of the offenders in the penal system are from
6 the residents of a reservation or urban residents? Is
7 there a difference in the proportions?

8 A. (By Mr. Frazier) Well, we tried not to distinguish
9 between reservation and urban, but we do find that in
10 border towns that surround reservations that attitudes
11 and biases and racism is such that, where is it, in
12 Nebraska, for instance, 100% of total arrests were Indian
13 and out of that, 100% were alcohol related.

14 We find that the confrontations that exist do cause
15 more people in reservation areas to be in prisons, but
16 because of it being on federal land we find that most of
17 them are sent to federal institutions as compared to state.

18 Q. You're dealing directly with state institutions?

19 A. No, state and federal.

20 Q. The reason I ask this is because ever since the
21 Indians came under the White man's rule, the policy has
22 been to assimilate the Indian into the White man's culture,
23 and the reason I wanted the proportions was to get an idea
24 of what is the success rate of the White man to assimilate
25 us into their culture is. When we do move to an urban area,

1 and we can not assimilate.

2 A Well, in -- with that, you can look into prisons
3 and in the jails and see that that's not working. You can
4 look at the unemployment and see that it's not working.
5 The poverty level, educational level, it's not working.

6 As it compares to urban, I really can't say for
7 sure. But in the urban areas, it's just as bad, it's
8 even worse in some areas.

9 Q Thank you.

10 A Thank you.

11 THE MODERATOR: Mr. Mohler?

12 Q (By Mr. Mohler) My name is Mel Mohler.

13 First of all a comment. It seems to me that
14 regardless of the reason why we have institutions or if we
15 have institutions, and why the people get there, that we
16 in institutions have simply got to do our job to the best
17 absolute potential that we've got. If we don't, then
18 we better get out of the business.

19 Now, Mr. Frazier, a question.

20 I've been in the Montana system for 22 years. Why
21 are the young Indian boys that I'm working with now have a
22 poorer selfimage of themselves now, today, than they did
23 20 years ago?

24 A (By Mr. Frazier) Well, if you look into your schools
25 and how they represent Indians in the schools, you'll find the

1 answer.

2 You will notice that when the Indians win, it's
3 a massacre and when White man wins, it's a battle. We
4 find if you look in your magazines, your comics, the stereo-
5 types that exist there, you find that we're ignorant
6 savages.

7 In literature, you find that we're the noble Red man.
8 In movies, you find that John Wayne comes in with a six-
9 gun and shoots 20 Indians. These kind of things, they play
10 on the person.

11 They give -- society instills a negative attitude
12 on the Indian people... Because of deterioration of tribal
13 society and the introduction of foreign ways, you can't
14 help but have this negative image. You're surrounded by it.

15 There's no positive influences coming in and telling
16 you that, no, you're a good person, that it's not so bad
17 that you failed when you tried, it's -- it's just that
18 it's bad when you don't try at all.

19 MS. DORTOHY BOHN: May I ask a question?

20 THE MODERATOR: Go ahead.

21 Q. (By Ms. Bohn) I'd like to direct this question to
22 Mr. Frazier.

23 I know it has, it's not directly concerned with
24 correction systems but I would like to ask it anyway.

25 As far as the Indian population is concerned, what

1 would be the effect to the Indian population of decriminalizing
2 all status offenses?

3 A. (By Mr. Frazier) All state offenses?

4 Q. Status offenses.

5 A. Well, I don't rightly know. I could --

6 MR. DON HOLMAN: Maybe I can respond to that.

7 THE MODERATOR: Your name?

8 A. (By Mr. Holman) Don Holman.

9 Q. (By Ms. Bohm) Because most of the incarcerations
10 are status offenses, aren't they?

11 A. Well, I don't think they are anymore. I was working
12 in South Dakota a few years ago and South Dakota decriminalized
13 the main status offense, public drunkenness. And as a
14 result of that, the arrest rates didn't go down that I saw
15 in the surrounding communities, on the reservation, what
16 happened was instead of being called public drunkenness, the
17 same people were being arrested for the same things and it
18 was being called disorderly conduct. And I don't think
19 decriminalizing status offenses is going to have that
20 great an effect because it has no effect whatsoever upon
21 the root of the problem.

22 Because we're dealing mostly with adult, adult
23 offenders, there are not that many status offenses for
24 adults, public drunkenness of course being the main one,
25 and in the areas where I've seen that decriminalized,

1 mainly Minnesota and South Dakota, it has not decreased
2 the arrest rate whatsoever.

3 THE MODERATOR: Sir?

4 Q (By Mr. Tin Lame Woman, Northern Cheyenne Lame Deer.

5 I want to comment on Mr. Frazier's remarks.

6 It was really good to be here this morning, the
7 newspapers said something about this starting today and
8 going on tomorrow so there was a communication, come down
9 that part of the country, we made it this morning.

10 I guess it started yesterday and we missed some of
11 the sessions.

12 I think Mr. Frazier is in a line of what Native
13 people have been searching for and through the period of
14 years and I think that it is coming down to the point
15 where Native people are starting from their own communities,
16 like Mr. Estelle stated, that it has to start from the
17 communities, from the -- from their own people to work
18 with, work with that problem.

19 The success rate of the institutions whether it be
20 state, maybe subject to state, federal laws on reservations,
21 and I do have relations in both areas, I have gone through
22 this type of a system of being institutions -- being
23 in institutions and returning to the reservation. And
24 some even further into higher institutions.

25 But the root of the problems of what they left or

1 were still there when they returned. And I just wish
2 that our Native American Rights Fund and Mr. Frazier and
3 the rest of the people there, the Native people working
4 with this project, the best of luck and wishes from the
5 Northern Cheyenne.

6 The Northern Cheyenne and I hope that in the near
7 future, I work with the tribal government in Lane Deer, and
8 these are some of the things that we are -- we are -- would
9 like to get started for our own people.

10 The Northern Cheyenne ~~have~~ have always gone on
11 record to challenge a lot of things in the court systems of
12 this country, recently we just won the recent court ruling
13 was number one fair designation that was awarded to the
14 Northern Cheyenne Tribe. And we just talked about it
15 briefly yesterday, we're going to enforce, how we're going
16 to enforce this air quality ruling.

17 That's off the subject, but another area, just what
18 we're here for, is the thing on civil rights. I'd just
19 like to ask a question, I don't know if there's any federal
20 bureau of -- federal people in here, I don't know. But
21 I do have a -- a problem in that a question of area, is
22 that the Native peoples in all reservations and in my
23 experience on Northern Cheyenne, working with my people,
24 is that they're at the mercy of law enforcement officials
25 from these different agencies. State and federal.

1 We have problems right now of violation of our civil
2 rights, I believe, we have the Federal Bureau of Investi-
3 gation, which have come on the reservation and questioned
4 ten, 11-year-olds, taken statements, from them, and I --
5 these families don't know where to turn. They don't
6 know just where their rights are begin.

7 When people of this type come in and want statements.

8 I've always, I've been in jails myself and I've
9 been read the constitutional rights, where they involved
10 me at one or another time, but I just wonder where it
11 involves people on a reservation level. It seems that
12 there's another answer there, which lead to some of the
13 percentages that Mr. Frazier has commented on.

14 And I guess -- maybe you know something about --

15 A (By Mr. Frazier) Well, with 11-year olds, it would
16 seem that before they could do that I would think that
17 they would need adult consent. I would think. And in pre-
18 paring a statement like that, I would assume that if an
19 adult had not given his consent, that such a statement could
20 not be given, because I believe that there's work now being
21 done into the civil rights of juveniles whereas before,
22 juveniles were considered the property of the parents.

23 Lawyers and advocates for juveniles are saying that
24 no, that they're -- they do have rights, particularly this
25 is coming out of child abuse laws. But I really can't

1 say, you know, for sure.

2 THE MODERATOR: Sir, I can maybe help you, our
3 agency, the ~~commission on~~ civil rights, has conducted
4 hearings in Seattle on the relationship of Indian reser-
5 vations to the state, and will be holding other hearings,
6 possibly in this region, in region eight, concerning this
7 issue of the jurisdiction of the state and the federal
8 government both on and off the reservation.

9 Also, our agency has put out a booklet which we can
10 send to you, the American Indian Civil Rights Handbook,
11 which may answer some of your concerns, also there is an
12 Indian rights desk in the department of justice headed
13 by James Shermerhorn and I can give you that information
14 too.

15 So, both our agency and the Indian rights desk,
16 justice, should be able to deal with this issue.

17 Q I'd like to thank you. I'd like to comment on Mr.
18 Bigby's question to Frazier.

19 I was born and raised on a reservation in Northern
20 Cheyenne, Lane Deer, and at one time or another, I left
21 the reservation to seek continuing education off the
22 reservation, and we have this, still have some Indian
23 still trying to say that there's a difference between
24 urban and reservation Indians.

25 I have lived in both areas and familiar with both

1 areas, and I think that this distinction, I think Mr. Bigby
2 has been in the service or one time or another and has
3 left the reservation, and these problems are the same
4 for Native peoples. Wherever they go. Whether it be on
5 a reservation or in a city in Seattle and those are com-
6 bination of problems of which we run into and this
7 society of which Columbus brought with him.

8 But I think that when we talk about our cultural
9 values, all these things, the spiritual values, the cultural
10 values, the way of life, all these things have been there
11 for the non-Indians to always ask questions on.

12 And the spiritual leaders of our tribes have a wait
13 to help share some of the problem, solving that may be
14 the institutional people that should have sat down with
15 our headmen and related some of the problems of our Indian
16 students who are in their institutions now.

17 Of our Indian women and men who are in their insti-
18 tutions now, and are being denied paroles and this sort
19 of thing.

20 But we have always been there, we've been crowded
21 into the little reservations but we're still around and we
22 want to share with the non-Indian society some learning.
23 We want to have them learn for not only the survival in
24 this country, but maybe for the survival of the world,
25 and I think this is the time to start. Thank you.

1 THE MODERATOR: Thank you very much.

2 We have time for maybe one more question.

3 You had a question first?

4 DR. WITT: I just want to respond to something, a
5 couple of people have said here as regards to Swift Bird,
6 as regards to the gentleman's comments regarding the FBI, I
7 think on the reservations, I'm pretty extensively on
8 record for that so I don't want to dig myself in any
9 deeper at this point, except to say that I have worked
10 through Mr. Shermerhorn's office and the people who do
11 the investigating for Mr. Shermerhorn's office at the FBI,
12 so that might be one area to keep in mind.

13 I came across that.

14 On Mr. Mohler's comment on the younger Indians'
15 negative selfimage, at this point more than say 20, 30-years
16 ago, as this is something that has been in the consideration
17 of Swift Bird and one of the big points there is going
18 to be building more positive selfimage amongst these people
19 and as far as background on that, there's 20 and 30 years
20 ago the reservation communities were much more cohesive than
21 they are at this point, there was less mobility. There
22 were fewer people in urban areas.

23 In the 1950's there was a program, government
24 program called relocation. And this is where most of the
25 urban Indian areas sprang up.

1 This caused, (you know, a lot of family breakdown
2 and so on, and a lot of the young Indian people are more
3 or less in a state of flux at this point.

4 They're rediscovering, I think, a cultural identity
5 and they're finding that the old traditions that go back
6 many hundreds and thousands of years are valid and can
7 be put into use today; because the Indian society has
8 never been stagnant, it has been changing and surviving
9 along with society for the last several thousand years.

10 On Mr. Bigby's comments regarding the urban-rural
11 Indians, I know this is something that's come up in dis-
12 cussion often regarding Swift Bird, and the main reason
13 we're not really addressing directly, I think, urban-rural
14 problem is that every Indian I've ever met in both, in
15 urban settings, when asked where they were from, very
16 rarely did I hear someone say Minneapolis, Chicago, Dallas,
17 I would hear Red Lake or Black River Falls, Pine Ridge,
18 the people identify with their home reservations and this
19 is where the traditions and cultures lie and so this is
20 what we're addressing because this is where people's homes
21 really are.

22 People may have lived in a city for 15 or 20 years,
23 but it's still not home and so this is why we're not
24 really addressing urban-rural concept, we feel that the
25 traditions, the cultures and the way of life that we can

1 address to modern society is applicable not only
2 on the reservations but anywhere in society that we can
3 carry with us.

4 Thank you.

5 THE MODERATOR: Thank you.

6 Mr. Vandiver? This will be the last comment.

7 MR. VANDIVER:- I have a comment and question for Mr.
8 Estelle.

9 I'm a college professor, and I'm frequently accused
10 of being radical, philosophical, my head in the clouds, not
11 really understanding practical things.

12 For nigh on to 40 years, I've been hearing from
13 Sunday school on up the kind of statements you've made,
14 and you, as a practical man, have to understand, I think,
15 that the really practical consequences of the kind of
16 philosophical statements you made here, theoretical state-
17 ments about changes in lifestyles are very radical, they're
18 very revolutionary. In fact, if we were as citizens of
19 the State of Montana, to institute, in our lifestyles,
20 the kinds of values in real practical terms that you
21 advocate, there'd be a tremendous revolution in our life-
22 styles.

23 Can you provide us with a good strategy, practical
24 strategy for instituting these kinds of things on a practical
25 level in our lives?

1 A (By Mr. Estelle) No, I can't, but there are people
2 far more intelligent, throughout the ages, who have
3 already provided us with the strategy. And they don't
4 know any race and they don't know any color and they
5 don't know any church denomination. Because the people
6 I'm talking about were invented before the institution
7 of organized religion was invented. I'm talking about
8 the same kind of philosophies that our Indian friends
9 have been talking about, that they need for their people,
10 I'm talking about the same kind of philosophy that was
11 brought to us, I think about 1977 years ago this month.

12 I'm talking about the same kind of philosophy that
13 Confucius brought to us, before there was ever any
14 organized Confucian Church.

15 But we don't want to listen to those kind of things
16 because they're too -- they're pretty basic, they're too
17 personal for this kind of society that you and I share.

18 Don't let the fact that you're a university professor,
19 though, dissuade you from the idea that you might become
20 involved in the same kind of personal commitment in your
21 own sphere of influence because I think that's where it
22 starts, friend, with me.

23 THE MODERATOR: Thank you very much.

24 Just two things, we're going to start in about five
25 or ten minutes with the last panel. I hope everybody has

1 signed the sheet outside so we get all left you on the mailing
 2 list for anything that comes out of the conference, and
 3 also if anyone else wants any other materials besides the
 4 what is available here, let us know because we will send
 5 out the information from our office and again, the next
 6 session will be from 12:30 to 2:00 and those of you who
 7 are interested in participating in the open session at to be
 8 2:00, please let us know now so we can set up for it. I have
 9 just thank you. Just east and in Montana, I have worked
 10 doing (shortly) for the Montana Supreme Court trying to
 11 identify (the following was moderated by Mr. James Zion)

12 I've done large amount of minor criminal defense in
 13 COURT. THE MODERATOR: I think we'll get started; we have
 14 a comment from the stenographer here that it appears the
 15 warden may have been arrested, so I guess we had better
 16 get right on into the program. receive and review complaints
 17 from it's too bad that we have such a limited period of course
 18 time and have to go straight in during the lunch hour,
 19 but hopefully we'll make it worth your while. For those
 20 who have stayed their struggles to establish their identity
 21 as a For those of you who don't know me, my name is James
 22 Zion, and I'm the President of the American Civil Liberties
 23 Union in Montana. this afternoon is, of course, Montana's
 24 We are an all volunteer organization, interested
 25 in one very special interest, namely, restrictions against today

1 because it's like saying, you have 15 minutes to tell us
2 everything you know.

3 And it's kind of hard to start from that standpoint.
4 So I'd like to go from a more general and if you will
5 philosophical point of view on the various forces that
6 affect corrections in Montana. And of course, these
7 same forces apply not only to the corrections systems, but
8 to justice systems and other systems which we traditionally
9 don't think of as being justice systems as well.

10 Now, when I talk about corrections, I'm not simply
11 referring to the jails, the prisons, the mental institutions,
12 the juvenile facilities, I'm referring to everyone who has
13 contact in the corrections systems.

14 And these forces affect the arresting officer, who
15 is part of the corrections system, the prosecutor, the
16 defense attorney, courts, jails, probation and parole,
17 the various other institutions and of course the Montana
18 State Prison itself.

19 And we are all subject to these various forces.
20 Generally, the forces that we're having problems with in
21 Montana are those that cause individuals to pigeonhole
22 other individuals. We like to have orderly ways of
23 looking at society, and so we place people in categories
24 or I call them pigeonholes.

25 The unfortunate part is sometimes we place people in

1 pigeonholes that are not appropriate for our society. And
2 I'm going to be describing some of those pigeonholes
3 in a moment.

4 The other general approach that I have seen in society
5 both with governmental units and with private persons who
6 are having impact on governmental processes, is what I
7 call the trashcan approach.

8 We take various people in our society and we throw
9 them into the trashcan. Be they prisoners, be they Indian,
10 be they women, be they persons who are subject to mandatory
11 retirement.

12 And I think this is unfortunate.. ?

13 Now, the first kind of pigeonhole that we have is
14 known as more popularly as racism which I define where
15 you have situations where there is more of an intentional
16 factor, to racial stereotyping, which I guess is a kinder
17 word to apply to people who do not realize that they are
18 judging people or treating people according to their ethnic
19 background.

20 And there is some shocking statistics on that.

21 I notice in the film last night, Beyond Bricks and
22 Mortar, that the statistics cited there on the inmates
23 was that 25% of the inmates at Deer Lodge for whatever
24 period that statistic was compiled, were Indian compared
25 to a five to 6% population. When you take a look at the

1 statistics for crime in Montana, the 1976 annual report
2 from the board of crime control, you can see that 39% of the
3 arrestees in the period of June, '76, to June 1st of '77,
4 were Indian. And 1% was Black. And that is compared to
5 a very low segment of the population.

6 We heard Mr. Frazier a moment ago cite the statistic
7 of 33% prison inmate population in Montana as compared to
8 3.7. When you go over into a related area, namely foster
9 placement of children, which is, you just can't separate
10 it from criminal law at all, you find a statistic that in
11 Montana, 23.9% of the foster children in Montana are
12 Indian, compared with an off-reservation population of 1.2%.

13 Of course there's the old saying that statistics
14 are nothing more than numbers, looking for an argument. And
15 it may be argued that these statistics in fact do not
16 reflect racism but may be a function of other factors such
17 as poverty and I would simply suggest to you that poverty
18 too is a product of racism or racial stereotyping.

19 Another example of the problem that we have with
20 discrimination in Montana is the fact that we are having
21 a confrontation now over Indian issues, and we have extremist
22 organizations such as Montanans Opposed to Discrimination,
23 or MOD, stirring up the dust.

24 One problem I notice with regard to parole, one
25 question that came up in my mind and I hope some of the

1 professionals in corrections can address this question for
2 me, is if in fact parole decisions are made on the basis
3 of finding employment in the community, what do you do
4 with a situation, for example, the current unemployment
5 rate at Rocky Way Reservation near Havre is estimated to
6 be 70% unemployment.

7 How does that affect the Indian prisoner from Rocky
8 Way if in fact getting a job may be a precondition for
9 release?

10 I think that we've got real problems.

11 Now, there's another kind of pigeonhole that we have
12 or a real problem that we have and that is the whole
13 problem of alcohol and drugs and this is something that all
14 the institutions are saddled with. It's a vicious, vicious
15 problem.

16 The statistic is that Montana is the fourth per
17 capita in the United States for the consumption of beer
18 alone. I haven't been able to find any statistics for
19 other, for the so-called hard liquor.

20 In a recent novel a driver runs through it which
21 is about life in Montana, I noticed the comment that
22 Montanas don't even consider beer to be drinking.

23 Well, if we're the fourth largest per capita in
24 the country for consumption of beer, what kind of problem
25 is that creating?

1 Well, according to the statistics that I've obtained,
2 it is estimated that 8.5% of the population of the State
3 of Montana are alcoholics. In other words, we're talking
4 about 6,949 people. If this were applied to a disease
5 we would call it an epidemic but I'm afraid that there
6 has not been an emphasis on alcohol.

7 In the United States, 55% of the arrests are
8 alcohol related.

9 Again, in Beyond Bricks and Mortar last night
10 that was a statistic that at that time, 80% of the inmate
11 population had offenses which were drug or alcohol related.
12 But what kind of activity are we seeing in the community
13 with regard to this problem?

14 We saw during the last session of the legislature,
15 that the alcohol lobby which is a very successful lobby,
16 and is a very powerful lobby, came in and almost successfully
17 lobbied against a tax measure which would provide some
18 alcohol rehabilitation.

19 And I can tell you that as the, a defense attorney
20 it's extremely frustrating to represent a defendant in
21 either state court or federal court and find that the
22 person's life and the given offense is essentially alcohol
23 related, to find that your alternatives for advising the
24 court on a sentence are either an unrealistic volunteer
25 program for a severely dependent person or incarceration.

1 And I'm not familiar with the programs at the state
2 prison and I'd appreciate it if Warden Crist could enlighten
3 us on that somewhat.

4 Another group that we're interested in as well, that
5 are pigeonholed, are the insane and those who just can't
6 cope. They are walking wounded and there we have people
7 who do insanity are having troubles in society and then
8 we have the phenomenon that we know as the loser.

9 And unfortunately there are a lot of these people
10 around and there need to be ways of addressing that problem.

11 There's been a lot of discussion during the con-
12 ference about women and sexism, and I would simply point to
13 another item that I hadn't heard addressed here and that
14 is in the past few years after the announced goal of
15 Montana State Government to get women into state government,
16 my understanding is that women in state government have in
17 fact decreased rather than increased, and I think that
18 that is reflective of a problem that we are having in
19 Montana. Areas such as Great Falls, Miles City, Glasgow,
20 you have service people who are put into pigeonholes and
21 assumptions are made about their conduct.

22 There's been a lot of talk about youth and again the
23 lack of alternatives is extremely frustrating to the senten-
24 cing juvenile judge.

25 Now, there's one final problem that we have in Montana

1 which I think is unique to the western rural states, and
2 that is the problem of the city-county rivalry.

3 In other words, you have a rivalry between govern-
4 mental units for who is going to administer programs.
5 A classic example being the defeat of the bill in the last
6 session of the legislature which would put all social wel-
7 fare services under the state department of social and
8 rehabilitation services rather than the present split be-
9 tween state and county and I think that old jealousies,
10 old feuds, are having a bad impact on what we're going to
11 be doing with our offenders.

12 How does the trashcan approach that we see in
13 government sometimes, and we see it in the private sector
14 too, how does the trashcan approach work?

15 The trashcan approach works first of all through
16 more reprehensive measures, and I think we're seeing that
17 in our justice systems now.

18 I know yesterday that Warden Crist cited an extreme
19 population increase in the prison, and to some extent,
20 of course, that's going to be due to the growing population.
21 But I question to what extent it is throwing people into
22 the trashcan.

23 You see throughout the country the move towards
24 the mandatory death penalty which is on the form of trashcan
25 approach and it's a very nice plea bargaining tool for a

1 prosecutor to say, to a defense attorney, your man's
2 facing the death penalty, he's facing hanging, why don't
3 you plead him out to a minor offense or a lesser
4 offense? That creates a lot of problems.

5 We have the problems of whether or not our institu-
6 tions are to be detention rather than rehabilitation
7 facilities, we have legislative apathy, we have the
8 approach of the present Burger United States Supreme Court
9 to noninterference in traditional civil rights area which
10 I feel is a mistake, because I feel that everybody,
11 whether it be a governmental group, a private group, a
12 group such as ACLU, needs somebody pointing out our
13 facilities to keep us honest.

14 And I feel that the federal courts are not in fact
15 enforcing that obligation.

16 We have the whole problem of the lack of alternatives
17 as I mentioned, and we have the problem, I feel, of
18 bureaucracies that are growing due to a lack of consumer
19 input and due to a lack of input by the citizenry.

20 Another problem we have in Montana is that article
21 2, section 28 of our constitution provides that once a
22 person is convicted, there is a right to treatment
23 appropriate with that person's needs.

24 I was talking with Representative Holmes earlier
25 confirming whether or not the Montana Legislature had

1 addressed this problem and she confirmed my suspicion
2 that it in fact had not.

3 We have a lack of minimum standards. When you take
4 a look at our Montana codes you have quite a bit on sentencing,
5 you have quite a bit on crimes, you have very, very little
6 on mandated treatment, either in institutional facilities
7 or outside of institutional facilities.

8 And my only solution that I can offer for a more
9 immediate approach in corrections for those who are
10 interested in corrections, both professional people and
11 lay people, is let's take a look at some minimum standards
12 and try to get them adopted. I think minimum standards
13 are helpful to institutions. There are standards that
14 the United Nations has minimum standards on the treatment
15 of prisoners, the national advisory on criminal justice
16 standards and goals has a nice thick, eight and a half by
17 11 book with some very suggestive standards and discussions.

18 States such as Connecticut have adopted model codes
19 not only for prison discipline but have set up ombudsman
20 agreements for the prisoners.

21 I think that these kinds of things should be dis-
22 cussed and should be used as an approach. And I'm sorry
23 to take up so much time, so I'll just go right straight
24 into the next speaker and I'd like to introduce to my
25 left, Roger Crist, who is the warden of the Montana State

1 Penetentiary at Deer Lodge.

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MR. ROGER CRIST

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A. (By Mr. Crist) Thank you, Mr. Zion.

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You know, if I had read the agenda, I would not have been in the dining room eating a hamburger when I was supposed to be up here on a panel, and the word came over the loudspeaker, you know, that you're wanted in the Bitterroot Room and of course Mike Laughlin, from the crime control commission, he said 22 just went over your wall, you know, the old joke and they all chuckle.

Wardens don't chuckle at things like that.

I do apologize for being late and not paying attention to the agenda.

The State of Montana has approximately 750,000 people located in a huge geographic area. For 20 years attempts had been made to build a new prison to replace a 106-year old territorial prison. Five major studies at a cost of over \$300,000.00 were made over a period of time and low and behold, they all recommended that you ought to get out of that old monstrosity and build a new institution.

The prison administration recognized right from the

1 start that the architects were given an extremely difficult
2 task in view of the relatively small amount of money
3 available. That being 5.5 million dollars.

4 When I say relatively, let me try to put that in a
5 perspective for you. The Idaho institution that was
6 finished a few years ago came in at 20 million dollars,
7 the one being proposed in Wyoming that they're working
8 on right now is coming in around 30 million dollars, the
9 one in Minnesota is coming in at something like 50 million
10 dollars.

11 This meant that a great deal of planning and
12 innovative thinking had to be done. The project would
13 have been completely impossible except that we were able
14 to remodel or add on to three existing buildings,
15 the prison owned the land, the basic road and utilities
16 were in, the support buildings such as warehouses,
17 slaughterhouse, dairy, motor vehicle center, etcetera,
18 were already in existence so we were able to build on
19 those.

20 The question has been asked, you know, why the
21 Deer Lodge Valley, why not Billings, Great Falls, so on,
22 so forth. One of the primary reasons, very honestly,
23 was pure and simple economics, there was probably a five
24 million dollar base already there, you know, that would
25 have been very difficult to walk away from when you considered

1 the amount of money we had available.

2 The new prison had to be all things to all people
3 with a small state population, a low tax base, and our
4 relatively small number of inmates, and people keep
5 on referring to Deer Lodge as a large prison. Deer Lodge
6 is not a large prison. I was a deputy warden in a prison
7 that had 1,300 inmates in, Statesville in Illinois now is
8 probably running around 3,000, San Quentin is over 2,000,
9 Jackson, Michigan has got 6,000. So when you're talking
10 about 550 you're talking about, nationally, a relatively
11 small prison. There is no way, economically speaking,
12 that a number of institutions could be built to house men
13 in specific classifications.

14 This is what the larger states do, they have one
15 maximum security institution, one medium, one minimum, so
16 on, so forth.

17 The new prison had to be designed to house maximum,
18 close, medium and minimum security inmates within one
19 facility.

20 The concept of separate housing units with more
21 staff and more rules or regulations depending on the
22 degree of security involved, came into effect. We call
23 this responsible living. The responsible living concept.

24 And in effect, the housing units were designed in
25 such a way that the more responsibility a man could accept,

1 the more freedom he would have.

2 One of the problems that plagued the old Montana
3 State Prison and for that matter every penal institution
4 in the country, was the inability to separate individuals.
5 In other words, the need to separate the old from the
6 young, the aggressive from the nonaggressive, the sex
7 offender from the non-sex offender. And the criminally
8 sophisticated individual from the nonsophisticated indi-
9 vidual.

10 The new Montana State Prison was designed in such
11 a way that there was a maximum security building, there
12 will be close security units there, there are medium
13 security units and minimum security units at the present
14 time.

15 The maximum security building was a traditional
16 type of architecture. It would provide for five units
17 within that building ranging in size from a four-man unit
18 to a 14-man unit.

19 The medium security and the minimum security units
20 were identical in terms of physical construction, they
21 consist of three-story units divided into four, eight-man
22 units on each floor. Some people like to refer to this
23 as the Deer Lodge Hilton, I don't think these guys over
24 here think it's the Deer Lodge Hilton.

25 This three-story building is tied to a one-story

1 commons building by an ornate wall. It's not the typical
2 prison wall, it's a precast concrete thing, it's nothing
3 that somebody couldn't get over, what it does, really,
4 is define the parameters of that particular unit.

5 Between the two buildings is created by this
6 ornamental wall, a yard for each unit. This yard area
7 gives the inmate a choice, if he does not want to involve
8 himself with the entire inmate population on the big
9 recreation yard, he can stay in his own unit and still
10 be in an outside yard.

11 As mentioned before, each floor of the three-story
12 housing unit is broken down into four, eight-man units.
13 These consist of eight single rooms and these are rooms,
14 they're not cells. That come out on a common dayroom.

15 The unit has common toilet and shower facilities,
16 as well as common -- as well as a common counseling room.

17 We haven't got the counseling rooms up and running
18 yet out there because we haven't got the furniture for them
19 yet.

20 Using, I'm just talking now about the counseling rooms
21 within the eight-man unit, we have other counseling rooms
22 that are functioning. Using the institution classification
23 system and this type of design, we have been able to
24 bring about a maximum amount of separation based on inmates'
25 ability to assume responsibility for their own actions.

1 We wanted to provide a comfortable, free style
2 visiting environment for those inmates that could accept
3 the responsibility, but we also saw a need to provide tight
4 security visiting for those people who could not accept
5 that responsibility. This was accomplished by building
6 a large visiting room where inmates classified as close,
7 medium or minimum security could visit freely. Maximum
8 security inmates visit in a maximum security building under
9 strict security procedures; and that unit is built in such
10 a way that while the visitors were in the maximum security
11 building, where they visit from the area that they're in,
12 they can not go on to the rest of the building.

13 Inmates classified as medium or minimum security,
14 after checking with the officer, in good weather, can go to
15 an outside picnic-type area, we've got the swing set in-
16 stalled out there for the kids, we've got some other things
17 that we have to put in there, we're going to take a big tr
18 tractor tire and make it into a sandbox and I've got a
19 design on some small children's sized tables so that when
20 they visit their parents they can occupy themselves with
21 child-like things rather than, you know, disturbing the
22 parents' visit to a great extent.

23 Adjacent to that visiting room is a security-type
24 visiting room, and it's one with a chest-high divider and
25 glass up to the ceiling and you talk in what I call a

1 Mickey Mouse telephone. That's there to remind the people
2 that if they can not conduct themselves as responsible,
3 reasonable citizens, that that's where they're going to
4 be holding their visits.

5 I don't think we've used it over four times in
6 the eight months that we've been out there and I'm over-
7 joyed at that.

8 I even hope it won't get used at all, but everybody
9 knows that it's there in case it's needed.

10 We wanted our treatment staff to be involved with
11 our security staff in a unit treatment management approach.
12 The four separate housing units based on security
13 classification allowed us to take treatment personnel
14 out of the traditional administration building and place
15 them in the commons building in direct relationship to
16 the housing units.

17 The treatment staff working in conjunction with
18 the security staff, then became part of the treatment manage-
19 ment team that would, in effect, run the unit.

20 A unit classification team made up of both treatment
21 and security staff would administer all matters pertaining
22 to the unit. Where their recommendations crossed unit
23 lines, and when I speak of units here I'm talking about the
24 96-man units, when they crossed unit lines the recommenda-
25 tions had to be approved by the institution classification

1 committee. In other words, before a man could be trans-
2 ferred from A unit to B unit, it would take the institution
3 classification committee approval, before he could be
4 transferred from one job to another it would take the
5 institution classification review.

6 It was felt that a certain degree of autonomy should
7 be given to the staff, actually working in the units, but
8 we could not allow four separate institutions to develop
9 in some haphazard manner and that's why the overview by
10 the institution classification committee.

11 We wanted facilities for treatment offices, indi-
12 vidual therapy, group therapy, religious programs, vocational
13 programs, academic programs, recreation.

14 In order to accomplish this, almost all of the
15 treatment rooms in the institution were set up in such a
16 way that they could be multiple use rooms. In other words,
17 one academic teacher would also have to use the same room
18 as a vocational education teacher.

19 We wanted more contact between the key staff, the
20 line staff and the inmates. The institution was designed
21 in such a way that there would be no interviews with inmates
22 in the warden's office, the deputy warden's office, the
23 associate warden's office or in the offices of any other
24 key staff.

25 When interviews are held they're held in the back of

1 the institution.

2 Now, what that does is that it assures us that key
3 staff, including the warden, will get off their butt and go
4 on back in the back end of the place and see what's going
5 on. On their way out they're passing inmates and staff,
6 they're seeing the people that have requested to see them
7 and they're coming back and they're dealing, you know,
8 meeting other staff and inmates on the way.

9 Another thing we did, and we did it by design, is
10 we put in a staff lounge and designated two coffee break
11 areas in the institution, one is in the staff lounge, one's
12 in the staff dining room. And we took coffee pots away
13 from staff in all the other places.

14 Now, the reason we did that was in the old institu-
15 tion what was happening is social workers were having their
16 coffee break with social workers, teachers were having
17 their coffee break with teachers, security staff was having
18 their coffee break with security staff.

19 We brought about a situation where with only two
20 coffee break areas in the institution, these people, you
21 know, would come together and learn more about the other
22 person's area of responsibility and the other person's
23 interest, and I would say that that is working out very,
24 very fine.

25 Montana, like all states, has experienced an extreme

1 population increase, when we first started planning the
2 institution, we had a steady five-year downward trend in
3 terms of prison population.

4 In an actual count in May of -- excuse me, September
5 of 1972 of 249. Since that time our population has more
6 than doubled and we have a current population of 553
7 today.

8 In 1975 we experienced a 10% population increase,
9 1976 a 29% increase. We now find ourselves in a position
10 where we have to design and build, where we have designed
11 and built an institution for 334 because when you get a
12 steady five-year downward trend and you only got 249 inmates
13 you're not going to be talking to the legislature about
14 building an institution for five or 600 or something like
15 that, so the institution was designed for 334, and we have
16 a situation where we have over 200 inmates still in the old
17 institution.

18 This will be rectified in May of 1979 when our
19 architects and contractors tell us that the new units at
20 the new prison will be ready, and then we'll completely
21 abandon the old institution and town, it's going to be
22 turned over to the City of Deer Lodge, there's some method
23 in that madness, my experience is that you either tear
24 down an old institution or you give it away, otherwise
25 someday you'll be back in it.

1 And that's why we're giving it to the city as a
2 museum.

3 A few other things. What we've been about with
4 regard to the prison is trying to pull the different
5 elements together. Our philosophy, our personnel, our
6 program, our physical plant and our budget. We've talked
7 about bricks and mortar here, you know, off and on for the
8 last day and a half, but let me take those five elements
9 that I've just rattled off and get real concrete about it.

10 We've been trying for years to expand our vocational
11 education. But in order to hold vocational education in
12 welding, you got to have a building, you got to have a
13 physical plant to house that. You've got to have a vocational
14 education instructor to teach that, you've got to have
15 the proper equipment, you know, and then you have to have
16 a philosophy now that says yeah, vocational education isn't
17 a cure-all for everybody but it's good, now, kind of.

18 You can have the best philosophy in the world that
19 says yes, I think we ought to do group therapy but in
20 the old institution where you didn't have a single group
21 therapy room, you didn't have a single conference room in
22 the whole damned place, you know, you're just talking
23 words.

24 So, again I would emphasize that what we have
25 attempted to do is bring together the philosophy, the personnel,

1 the program, the physical plant and a budget, you know, in
2 a meaningful sort of a way, if you get one of these elements
3 out of whack you're in trouble.

4 In wrapping this up, I'd just mention a couple more
5 things. The Montana State Prison is not a cure-all, it's
6 not going to take the place of parole, it's not going to
7 take the place of probation, it's not going to take the
8 place of community corrections, all of these things are
9 needed, and I imagine Bobby will talk about that in more
10 detail.

11 The prison has received national recognition, it
12 was featured by the National Symposium on Correctional
13 Architecture in New Orleans a while back, it was featured
14 again by the American Correctional Association at Denver,
15 and Ken Sholin (Phonetic), who's the Commissioner of
16 Corrections, was in town this week at the community
17 corrections meeting, and Ken is a big community corrections
18 man.

19 Minnesota is one of the states that's really pushing
20 and has done a lot in community corrections, but he's also
21 building, in Minnesota, a brand new prison and remodeling
22 an older one and I was rather pleased that he was so im-
23 pressed with our place that he asked me to come out to
24 Minnesota and consult with them in their design.

25 That's more than 15 minutes, Mr. Zion.

1 THE MODERATOR: Next I'd like to introduce Mr.
2 Bobby Rhay, who is the Administrator of the Department
3 of Corrections from Helena.

4
5
6 MR. BOBBY RHAY

7
8 A (By Mr. Rhay) Thank you, Mr. Zion.

9 First of all I would like to indicate to you that
10 I have only been here about a month, I came here from a
11 west coast state and was head, for 21 years, of a 1,700-man
12 maximum security facility.

13 I say that not as an excuse for anything or a
14 presentation, perhaps to solicit a little sympathy for the
15 last 21 years.

16 And I find when I get here that the task assigned
17 me here at this conference has been partially eroded. You
18 gave me the division of corrections to discuss, and then
19 I find preceding me on the panel all of it, either the
20 bureau chiefs or the superintendents, leaving me only two
21 bureaus to discuss with you here this afternoon.

22 And Roger, perhaps, I can make up a bit of your
23 15 minutes as such.

24 I'd like to comment, in noting these presentations,
25 that I was extremely pleased as a new administrator in the

1 state to see the caliber of people who have preceded me on
2 this platform. Few people, except with experience, can
3 realize, as one of our learned legislators has just said,
4 the tough job they have.

5 And I think as citizens of the State of Montana
6 we must appreciate that most difficult job they do.

7 The purpose of the division of corrections is to
8 develop and administer an integrated corrections program
9 for adult and juvenile, while providing individualized
10 treatment for each offender requiring institutionalization.

11 For those incarcerated adequate security must be
12 maintained to protect the offender and prevent further
13 transgressions against the public. Through adherence to
14 the concept that service should be provided by the private
15 sector whenever practical.

16 However, these resources should be supplemented
17 and augmented by private programs that are coordinated at
18 every delivery level. This would include a cooperative
19 effort by all federal, state and local agencies to insure
20 maximum impact on the client.

21 To effectively discharge its duties and responsibilities,
22 the division of corrections must, one, provide adequate
23 supervision and services to the courts of Montana. This
24 enables those courts to utilize probation to the maximum
25 extent possible.

1 Two, develop pretrial diversion and bail programs
2 for selected offenders. Three, provide for the confine-
3 ment and rehabilitation of adults in programs oriented --
4 program oriented correctional facilities.

5 Four, provide for the confinement and rehabilitation
6 of juveniles in institutions with individualized treatment
7 programs which emphasize academic and prevocational
8 training.

9 Five, to develop community corrections center and
10 expand community based alternatives to incarceration to
11 facilitate successful reintegration of the offender into
12 society. This would include the maximum use of parole.

13 Six, establish and implement progressive staff
14 development and training programs. Seven, develop a
15 research and evaluation capacity to determine the achievement
16 of specific results and the efficiency of various treatment
17 methods offered to the offenders. Effective state system
18 weight planning can be completed.

19 Eight, to develop and utilize modern management
20 techniques so insure more effective and efficient use of
21 available resources.

22 To achieve these goals, the division of corrections
23 provides care and custody services, developmental services,
24 community services, and administrative services, through
25 four institutions and three bureaus. They are the Montana

1 State Prison, Pine Hill School, Mt. View School, Swan River
2 Youth Forest Camp, the bureau of community services, the
3 bureau of aftercare, and the bureau of probation and
4 parole.

5 Mr. Russell has been on the platform before you
6 and has very well covered this bureau of aftercare and
7 so I will skip.

8 Community corrections bureau, the purpose of this
9 bureau is a service bureau to develop and administer
10 programs within the community for the resocialization of the
11 adult offender.

12 Development of services is to provide individualized
13 treatment plans for each client to meet the physical,
14 intellectual and emotional needs of each person as they
15 pass through the program.

16 It is essential society be protected from harmful
17 offenders while at the same time providing that offender
18 with structured programming which will alter either his
19 or her behavior in such a way so as to become a law abiding,
20 selfsufficient, responsible individual.

21 The following directives are carried out by the
22 community services bureau: One, development of residential
23 community corrections centers for both male and female adult
24 offenders. Two, develop alternatives to incarceration to
25 assist the successful resocialization of adult offenders

1 in the society.

2 And three, development of a volunteer program in
3 support of offender resocialization. Four, develop programs
4 to provide courts with viable alternatives.

5 Five, developing community resources to assist in
6 the reintegration process providing positive support base.
7 And six, development of care and custody for adult female
8 offenders out of state. And I might like to report to you
9 that the last out-of-state female offender in York, Nebraska,
10 has been returned as of last week, leaving the State of
11 Montana only one out-of-state female offender and that is
12 in Nevada. She will return by next February.

13 Community corrections operates on the basic assumption
14 that an individual has come into his predicament through
15 his own irresponsible behavior. It is the goal of com-
16 munity services bureau are to provide care, custody and
17 programming for restructuring behavior of adjudicated adults
18 within the community setting.

19 Probation and parole bureau charter statement.
20 This is establishing a program for the education and
21 betterment of selected prisoners confined in the state
22 prison, to increase their responsibility to society, to
23 make it possible that they may, while serving their sen-
24 tences, work gainfully to support their dependents in
25 whole or in part.

1 In essence, the statute requires that the bureau
2 investigate and make recommendations to the work furlough
3 committee and the board on each work furlough applicant.

4 The bureau investigates and reports any violation
5 of the contractual agreement after the work furlough
6 committee and the board of pardons determines the prisoner
7 should be released.

8 Six, the laws of 1975 as amended, charged the bureau
9 of probation and parole to supervise parolees that have
10 been conditionally released by the board of pardons.
11 The supervising agent will assist the parolee to become
12 a productive law abiding citizen of the community and
13 inform him or her of his rights upon successful completion
14 of parole or probation.

15 It also charges the probation and parole bureau
16 to determine whenever anyone who has been conditionally
17 released and placed under the supervision, should be
18 arrested and removed from society for the protection of
19 all concerned.

20 Whenever the hearing officer determines probable
21 cause exists to terminate such a parole, the bureau must
22 be notified and issued warrant to return such prisoner
23 to the prison to await parole revocation hearing conducted
24 by the board. The board shall make a final disposition of
25 the case either in terminating parole or seeking alternatives

1 that will not jeopardize the public safety.

2 Care and custody. The bureau's overriding mission
3 is to protect society from its adult offenders while at
4 the same time attempting to modify the offender's behavior,
5 making him or her acceptable to society.

6 The goal is to return to the community a law abiding,
7 productive citizen who is no longer dependent upon the
8 state.

9 Under developmental services, the bureau conducts
10 presentence investigations as required by the courts of
11 Montana, enabling the courts to use alternatives to
12 incarceration as well as the Montana State Prison.

13 Another service is to develop a pretrial diversion
14 program for selected offenders. It also provides the
15 courts and the parole board information helping them to
16 determine when and if it is in the best interests of
17 society and the offender to release him or her under super-
18 vision.

19 And suggest special conditions that should be im-
20 posed which are relevant to the offenses that have been
21 committed. It provides problem cases with diagnostic
22 job skill evaluations and requisite training, enabling
23 them to locate jobs or location of residence commensurate
24 with their potential.

25 The bureau agents provide the parole board or

1 sentencing court of jurisdiction with progress reports
2 and/or violation reports. The proper jurisdictional
3 agency, aided by the report of violation and the minutes
4 of the due process probable cause hearing, may then
5 determine if and when a termination of a conditional re-
6 lease or parole or to modify the condition of a probation,
7 parole or the condition of an inmate that has been released
8 to a sponsoring agency under specific work furlough con-
9 tractual agreements.

10 Community services. The probation and parole bureau
11 must be aware of the various programs that are made available
12 to the State of Montana offenders who have been committed
13 both in the institution and community based facilities of
14 the department of institutions, as well as those facilities
15 and programs operated and maintained by privately funded
16 organizations.

17 This necessitates the probation and parole bureau
18 field services keeping in close liaison with the department
19 and other agencies. Such cooperation is exemplified by
20 the recognition of the board of pardons, the sentencing
21 court, the department of institutions and the corrections
22 division.

23 The bureau of criminal identification and the various
24 law enforcement agencies, the governor's crime commission,
25 the aftercare bureau and private agencies that are integral

1 parts of the entire State of Montana correctional process.

2 The probation and parole bureau recognizes the
3 fact that most Montana offenders will one day be released
4 to the community, whether supervised or by direct discharge.
5 For many such releases should only occur through community
6 oriented treatment programs which focus on the offenders'
7 major problems and needs.

8 Thus the bureau is constantly seeking innovative
9 programs that will eventually reduce the magnitude of the
10 crime problem and protect the public safety.

11 Since arriving in Montana I have become acquainted
12 with some very important things that are happening here.
13 One, Governor Judge appointed the Montana Council on Criminal
14 Criminal Justice Standards and Goals to adopt a set of
15 standards and goals for the improvement of Montana's
16 criminal justice system.

17 This he did in October, 1974. Five task forces
18 were appointed, one for law enforcement, one for the
19 courts, one for corrections, one for information systems
20 and one for community crime prevention.

21 The corrections report published in July of 1976
22 and those standards and goals can form a solid foundation
23 for an emerging corrections division.

24 Two, a discretionary grant through MBCC of 103 --
25 over \$103,000.00 from LEAA, \$91,000.00 of which was from

1 federal and over \$10,000.00 from state funds, to develop
2 a master plan for Montana corrections.

3 The objectives of a master plan are six-fold. One,
4 a comprehensive master plan which will unify the correctional
5 system and provide integration of programs.

6 Two, a blueprint for correctional action.

7 Three, a management tool to provide logical direc-
8 tions to Montana corrections.

9 Four, a document for legislative and OBPP action.

10 Five, develop clear, definable goals and objectives.
11 Develop a plan for the future, not an encyclopedia of
12 resources currently available.

13 I consider myself in an extremely lucky position to
14 arrive in Montana during a time when a new, less than two-
15 year old division of corrections is emerging. It is
16 emerging without some of the old prejudices, barnacles
17 that long established correction divisions naturally
18 acquire. It is my hope that the development of the
19 development of the master plan will give and show clear
20 directions, not only to the legislature and the funding
21 organizations, but to all the citizens of the State of
22 Montana at where we're going with our corrections program.

23 Thank you very much.

24 THE MODERATOR: Thank you, Mr. Rhay.

25 I understand that Mr. Zanto, the Director of the

1 Department of Institutions, wasn't able to come today
2 because of a conflict in schedule, but we're fortunate in
3 his place we have Mr. Curt Chisholm, who is the deputy
4 director.

5
6
7 MR. CURT CHISHOLM

8
9 A. (By Mr. Chisholm) Thank you, Mr. Zion.

10 When I was advised that I was going to fill in for
11 Larry, I hope you don't mind the second stringer here to
12 address this conference, ~~if considering the theme, I~~
13 ~~was in~~ In considering the theme, I was instructed that what
14 was required of us was a 15-minute prepared statement,
15 so for the first time in my life, I have a prepared state-
16 ment.

17 Now, my preference is to extemporaneously speak
18 from notes, so rather than doing that and boring you to
19 death, I'll read my prepared statement and bore you to
20 death.

21 No, seriously, many of the people that you have seen
22 up on this panel and in the room are employees of ours.
23 All of the major share of the official correctional
24 agencies in the State of Montana belong to the department
25 of institutions. And for the most part we have been talking

1 about or tried to make ourselves conscious of rights of
2 those people who have been involved in the criminal
3 justice system.

4 The clients, the rights of the clients, if you will.

5 I'm going to change that perspective just a little
6 bit and talk about the rights of another group of people
7 who are also very much involved in corrections, and that
8 is the rights of the people who run the programs.

9 And their rights, that I want to talk about, at
10 least in a very implied fashion, are their rights to
11 your patience, their rights to your understanding, their
12 right to your good will, and their right to -- and the
13 right that they have to hear from you, well articulated
14 positions in terms of what you expect us to do with the
15 populations that we have and what we are responsible for
16 providing services to.

17 I consider the role of the department of institutions
18 a very enviable one relative to the theme of this par-
19 ticular conference. Not because of the power or the
20 prestige or the importance of our department in its role
21 as a human service provider in the State of Montana, but
22 primarily because of the perspective we gain in our depart-
23 ment relative to the theme of this particular conference.

24 Not only do we operate the bulk of correctional
25 programs and responsibilities in the State of Montana, but

1 we also have a counterpart role in providing services
2 to the mentally ill, to the developmentally disabled, to
3 aging, or to -- to aging services and people afflicted
4 with drug and alcohol addiction, is at present very major
5 pressures for dramatic reform in virtually every dimension
6 of our department's programs.

7 Our programs have, for many years, and you know
8 this quite well, have become a publicly expected remedy
9 for social problems which result from severe disabilities
10 and from antisocial or delinquent behavior.

11 Of course for many years our programs were in fact,
12 quote, institutional programs. The persons with severe
13 problems were in fact removed from contact with normal
14 society and the problem of society is therefore reduced.

15 However, recent court decisions and legislative
16 action have, in effect, removed easy access to institutions
17 as a remedy. We have, in effect, established conditions
18 which make the traditional focus on the interest of
19 society almost secondary to the interest of the individual.

20 In the final analysis, most of the recent pressure
21 on human services programs derives from federal court
22 decisions and recent state and federal legislation, which
23 establishes number one, the right of individuals to
24 treatment, and the right of those individuals to treatment
25 in environments which impose the least possible restriction

1 on individual freedom.

2 The pressures for reform which have resulted from
3 these court decisions, legislation and changes, if you
4 will, in public values, present to the human service admin-
5 istrator, and included in that are correctional adminis-
6 trators, presents to those people a very real dilemma.

7 Arranging individual rights and freedom in harmony
8 with public rights to protection and freedom from burdensome
9 dependencies, has probably always presented something of
10 a paradox to us. But recent major emphasis on individual
11 rights have resulted in dramatic effects on individuals,
12 agencies, and institutions.

13 Rather suddenly established concepts and practices
14 are being found in violation of interpretation of the U.
15 S. Constitution. We are struggling with a need to develop
16 concepts, to develop organization techniques and resources,
17 which satisfy current constitutional interpretation.

18 In our ~~department~~ a major concern with individual
19 rights versus the public rights may be analyzed as including
20 special concern for individuals who are not only involved
21 in the correctional system but also all casualties of
22 social, educational and economic deficiencies. The
23 severely handicapped and those who are not competent,
24 including those who are dangerous or potentially dangerous
25 to themselves or to others.

1 These changes, because of recent legislation in
2 Montana, especially, appear to have been abrupt. In fact,
3 the changes have been, in our opinion, predictable for
4 many years and in Montana, many of our state and local
5 agencies have been quietly developing local and regional
6 programs which provide treatment in minimally restrictive
7 environments.

8 Our regional mental health center, as an example,
9 began in 1947. This is way beyond the time it was popular
10 to do those things or prior to the time it was popular or
11 in vogue to do such things. Of course it was a very feeble
12 attempt and in the last ten years, however, our efforts in
13 providing community mental health services have grown in soph-
14 istication, complexity and cost, may I add.

15 Our aftercare program has been operating for a
16 number of years, which is an effort on the part of the
17 state to provide services in least restrictive environments.
18 The use of the courts of our parole and probation agencies
19 has been in effect for a number of years, I believe, or
20 maybe longer than that.

21 But in any event, we have been seeing and in a
22 very nonvisible fashion sometimes, constantly changing,
23 constantly improving programs in the community and in our
24 institutions.

25 If the two superintendents of the two correctional,

1 juvenile correctional institutions could tell you what
2 those institutions were like prior to their administration,
3 I think it would amaze and shock all of us. So we have
4 come a long ways, is basically, I think, what we can
5 fairly state.

6 Even though changes have been taking place and
7 even though there has been considerable anticipation of
8 change and changed responsibility, there is still a tre-
9 mendous gap between the intent of court decisions and
10 legislative action and understanding and expectations of
11 the general public and their representatives, which
12 leaves a general or the general impression is of abrupt
13 change with related coercion, wand waving and reformation
14 poses.

15 In the department our perspective tends to be a
16 little biased and a little defensive due to the fact that
17 we feel things that have been happening.

18 However, as far as corrections are concerned, some
19 of the difficulties we are now encountering are not all
20 that different conceptually than the problems that we in
21 our department have been dealing with relative to the
22 delivery of services to the mentally ill, the mentally
23 retarded, etcetera.

24 It is true that in years passed, in corrections,
25 both society and the incarcerated individual accepted the

1 fact that being confined because of delinquent behavior
2 resulted in a loss of many basic privileges.

3 Today, however, activism on many fronts is replacing
4 mere acceptance by the inmates and the general citizenry
5 and even correctional administrators of the conditions
6 of the incarcerated and their attendant problems..

7 But judicial systems disregarded the traditional
8 hands off doctrine in relation to the operation and adminis-
9 tration of correctional institutions and correctional
10 community programs and are now having a profound effect in
11 correctional settings throughout the nation.

12 However, court decisions requiring changes in pro-
13 cedures and methods of handling inmates are being rendered
14 faster in many instances than funds needed to implement
15 changes are becoming available. Thereby causing in our
16 mind a dilemma of gigantic proportions for correctional
17 administrators and human service administrators in general.

18 However, we do not feel that this, in fact, is the
19 real problem. Lack of money is always a problem. And it's
20 been a traditional problem of correctional administrators
21 since the year one.

22 But the real problem is that there is an urgent
23 need, I feel, and so does the department, for clarification
24 of issues and improving our capability for continuous
25 clarification. It seems in all areas of human services

1 very little policy and planning information is available
2 to guide correctional or human services administrators
3 relative to recent trends in those areas since the
4 popularity and advent of recent correctional criminal
5 justice reform edicts.

6 As an example, little is known about recent trends
7 in the area of deinstitutionalization. In the field of
8 mental retardation since the 1971 presidential announcement
9 of the national goal to reintegrate one-half of the
10 residents of retardation institutions in community
11 settings.

12 You would expect, therefore, that discovering national
13 trend relative to deinstitutionalization would be useful
14 to program planners, administrators and legislative
15 officials presently involved in or contemplating future
16 involvement in deinstitutionalization efforts.

17 However, little is published and/or disseminated
18 to guide them. Again I think in the final analysis the heart
19 of the issue is not whether state correctional administrators
20 in this particular state are unwilling to implement the
21 directives of what can now be called the new correctional
22 reform, or whether or not there are sufficient dollars
23 to proceed with their plans, the issue is basically that
24 there is an urgent need in our society for mechanisms to
25 improve the formulation, interpretation and management of

1 public policy as it relates to dependent, handicapped,
2 dangerous or incompetent persons.

3 The three traditional, I would call general dimensions
4 of scholarly activity are needed in a special relationship
5 to public policy in this area, that is research, training
6 in relation to needs of dependent and handicapped
7 citizens and constant consultations such as we have in the
8 last couple of days.

9 The ideological basis of current correctional trends
10 that both recognize the rights of the incarcerated and those
11 involved in the criminal justice system, and recognizing the
12 need to deinstitutionalize that general population rests
13 on the principle, I feel, of normalization.

14 Our knowledge of this basic ideological principle
15 is incomplete without an understanding of the premise, the
16 purpose of what can generally be called normalization. In
17 Human services we deal with this term daily and constantly,
18 the operational definition or premise of normalization
19 used to guide our analytical thought encompasses three
20 processes, I feel.

21 Prevention, number one. Secondly, the return to the
22 community of all residents who have been prepared by pro-
23 grams of habilitation or rehabilitation to function
24 adequately in appropriate community settings, and thirdly,
25 the establishment and maintenance of a responsive residential

1 environment which protects human and civil rights and which
2 contributes to the expeditious return of individuals to
3 normal community living.

4 Operational definitions, however, are often mis-
5 leading, due to their necessary simplicity. Indeed as an
6 example, the very intelligibility of the nine-syllable,
7 tongue twisting term deinstitutionalization is dependent
8 upon other things on the interpreter's knowledge of the
9 context in which the word is used.

10 We may conceive the term, for example, to be a political
11 word, in political parlance it surely capitalizes on pre-
12 sumably widespread knowledge about the reportedly wretched
13 conditions in many congregate correctional institutions,
14 in this state or other human service institutions.

15 The underlying political or value allocation problems
16 announced by the terms is semantic. It communicates the
17 ethical and perhaps cost beneficial idea to policy makers
18 that substantial human and financial resources should be
19 deployed to reverse or undo institutionalization. And its
20 bad effect on those people institutionalized.

21 The word, however, is more than a political word,
22 obviously, it's sole identity lies like an iceberg's tip
23 rests near the surface. !

24 There are other pertinent context of the word's usage
25 in psychology, education, law, science and so on, but to

1 understand the word and especially to comprehend its very
2 human implications, we must really understand the full
3 perspective, the idiology behind it and the large gap, the
4 tremendously large gap that exists between professional
5 decision makers in corrections and the expectations of you,
6 the public.

7 Who both pay for and make stringent demands upon the
8 work that our correctional administrators do.

9 The right to treatment and its attendant dictate
10 of least restrictive environment is based on the idiology,
11 I feel, of normalization which is a body of ideas reflecting
12 the social needs and aspirations of extraordinary indi-
13 viduals in society in that it provides the believer with
14 a picture of the world as it is, and as it should be.

15 But the idiology, I believe, is extremely important
16 and/or philosophy, just as Mr. Estelle has pointed out to
17 us earlier. It is important because an idiology or belief
18 system suggests models of delivering services relative to
19 the management orientation as an example of our correctional
20 programs, that it should be founded on clear, logical
21 premises derived both from professional, public and politically,
22 acceptable positions and should be reflected in the law and
23 constitution based on humane and just treatment.

24 Development of public and professional acceptance in
25 my judgment can only be approached gradually and must be

1 based on experience. The development of manpower and other
2 resources are, of course, very dependent upon public under-
3 standing of what we're trying to do, and acceptance of the
4 requirements of our system.

5 Montana, of course, is not abundantly endowed with
6 manpower and other resources at the present time. And
7 we'll have to deal with those things as management issues.
8 But it appears to me that even with unanimous legislative
9 endorsement of right to treatment, and the right to normali-
10 zation, there is still going to be a substantial lag in
11 meeting standards as currently defined by the courts. And
12 in order to reduce that lag, again may I emphasize our
13 right to your patience, your understanding, your help, and
14 your articulation as the general public of what you expect
15 us to do in corrections.

16 Thank you.

17 THE MODERATOR: Thank you very much.

18 You've now heard a special interest point of view
19 and, if you will, point of view of the providers of govern-
20 mental service.

21 Now it's time to turn to the point of view of the
22 consumer of the correction system, and first of all I would
23 like to introduce Mr. Gary Quigg, who I understand is a
24 fellow advocate in that he handles fair hearings within
25 the prison in correctional matters. Perhaps he would tell us

1 a little more about that as well.

2

3

4

MR. GARY QUIGG

5

6 A (By Mr. Quigg) I wish I was as cool and collected
7 as most of the other speakers here. But that's not the case.

8 I was arrested August the 2nd, 1968, and I've been
9 incarcerated ever since that date. I'm attempting to get
10 out and I've been attempting to do so ever since my original
11 incarceration.

12 Unlike most of the other speakers here, I don't have
13 any credentials or titles or any professionalism to throw
14 out, and what you're going to hear from me is a different
15 point of view than has been expressed by the warden and
16 the other people from the different institutions.

17 We weren't given any instructions when we came down
18 except to tell it like it is. And that's what I'm going
19 to try to do.

20 We had the misfortune to spend the last two nights
21 in the Yellowstone County Jail, and I'll tell you the
22 prison conditions in Deer Lodge are much better than they
23 are down here, and I think the people in Billings should be
24 aware of that, and should probably make some attempts to
25 try to change their own conditions here.

1 We give -- we were given about a two-inch pad to
2 put on the floor down here and there's five people in a
3 two-man cell, three of us sleep on the floor, just a short
4 blanket over us, and the rest of the people, the other two
5 gets a bunk.

6 I can see that the jail's probably vastly overcrowded,
7 and probably needs to be changed, but they should do some-
8 thing about it in the meantime.

9 I notice their visiting rules and stuff are much
10 more restrictive than they are at the prison too, they give
11 them ten minutes visiting, three times a week where we
12 get three hours a day. And I think that should -- that's
13 something that should be looked into by the people in
14 Billings also.

15 My point of view is that some of the problems at
16 the prison and that we encounter are brought on by the
17 guards, and I'm not sure that the warden's aware of what
18 goes on in the everyday running of the prison. And in
19 the interaction between the prisoners and the guards them-
20 selves. And there's a few points that I was going to bring
21 out.

22 We hear a lot about due process and equal protection
23 of the laws in regards to different court decisions. Last
24 week there was an eight-man unit in A unit, the entire eight-
25 man unit was run in and placed in segregation inside because

1 they found a bucket of home brew being brewed in the living
2 quarters of the unit, the guards were unable to determine
3 who it belonged to so they punished all eight people.

4 They ran them in from the new prison and put them in
5 segregation.

6 Our grievance system at the prison is vastly inade-
7 quate, and we have to go through a long, drawn out process
8 to get any kind of results, and our results from the
9 department of institutions has been very unimpressive and
10 I'm not impressed with the governor's office or the
11 department of institutions.

12 I was going to give an example which came down
13 recently, I know that Dan Russell isn't here now but he
14 was the previous acting corrections administrator. We had
15 a problem with the guards harassing people by making them
16 wear a belt with their prison issue clothes. Lot of the
17 people didn't want to do that. So I originally wrote to
18 Larry Zanto as the department of institutions director,
19 and he referred me back to the prison, he said go through
20 your prison channels.

21 So I realized that would be an effort in futility,
22 but I went ahead and did what he requested.

23 We filed formal complaints within the prison system,
24 alleging that this wearing of a belt was just harassment
25 technique by the guards just if they saw you without a belt

1 they'd go tell you to put it on, if you didn't put it on
2 they'd give you a writeup or give you a lockup.

3 So the prison administration said we're going to
4 keep the rule and we still require wearing of prison issue
5 belts, and I wrote to, I appealed their decision to the
6 department of institutions, the department corrections
7 division and Dan Russell sent me a letter back and he said,
8 you're required to wear a prison belt for the security of
9 the prison and the safety of the inmates. I wrote back and
10 I asked him what that could possibly have to do with any
11 of those things, and I didn't get any reply.

12 As noted yesterday by the warden, I have been engaged
13 in considerable court litigation, and I just consider these
14 my efforts to change the problems that I've seen in the
15 prison over the different years. When I started in 1970,
16 is when I filed my first writ and I've still got several
17 pending right now with just varying degrees of success,
18 I find that most of the Montana judges aren't too sympathetic
19 to prisoners' rights or to prison problems.

20 I've been impressed here today by the many good
21 ideas and the proposals presented by some of the different
22 speakers, but I see a need to have them made into a coordina-
23 ted effort to implement their plans rather than just one
24 or two people doing one thing and one or two doing another,
25 seems like it's all misguided and headed in different

1 directions, it's kind of hard to get a concentrated effort
2 when that's the situation.

3 There was -- the judges and the supreme court
4 justices from this state recently toured the state prison
5 and I will just use this as an example of some of the
6 promises that we get which are not fulfilled.

7 The judges asked us what type of law materials
8 and legal books we needed. And I told them and they
9 promised some of those would be forthcoming. And we haven't
10 got any volumes yet since then.

11 Also, the judges' wives came in on a separate tour
12 right after that and they promised us boxes and boxes of
13 books, and we haven't seen any of those either. So the
14 fact is they haven't even corresponded again since then.

15 So we try to do, most of the prisoners, I think,
16 we work toward different goals and we hope for the best,
17 but we expect the worst.

18 THE MODERATOR: Thank you very much.

19 The last commentator today is Mr. Dennis Plouffel,
20 who is the Director of the Native American Indian.

21 Mr. Plouffel?
22
23
24
25

MR. DENNIS PLOUFFEL

A (By Mr. Plouffel) North American Indian League.

I was kind of at a loss as which direction to take when I come down here in this, but Gary just more or less set it up for me. The new prison was occupied in March of this last year. And at that time there was 335 people moved out to the new prison. Approximately 180 were left in the old prison. The old prison was found to be inadequate, just, it wasn't a healthy place, you know, to keep a prisoner, that's why they built the new prison, that was their whole idea, whole concept of it..

When we left the prison Tuesday or Monday morning, I left the board and there's 200 men still, 216 men still in the old prison. They're still living under those conditions that were ruled unsatisfactory in the first place.

When the new prison was built they took the social services, the clinical services, the hospital, all the vocational training programs out with them to the new prison. So we had, at that time 180 guys that were left in there with just nothing to do but sit around and think. Unless you wanted to work in the kitchen, you could have a two-hour shift in the kitchen waiting on tables or swabbing the floor or some type of thing like this for 30 cents a day or 50 cents a day, and right away we started complaining.

1 Well, my group and several other groups, I say my
2 group because I am a member of the group, started complaining
3 through the inmate complaint system, proper procedure. You
4 complain to this guy, he complains to the one above and
5 you write out this form and send it in. Three months
6 later you get an answer back that doesn't even have any-
7 thing to do with the first complaint.

8 So we took it upon ourselves to complain to Mr.
9 Zanto who was then the head of the department of correc-
10 tions, as I understood it, and wrote him a letter requesting
11 that either somebody from his office or he himself come
12 down and hear our complaints.

13 In the meantime, the warden was on some trip some-
14 place doing something, he's -- the man taking his place was
15 Mr. Brogette (Phonetic), send me a directive, we're going
16 to have a meeting, I want you to bring all this evidence,
17 I want you to bring all these statements, all this documen-
18 tation to me and then after we review it, we'll decide
19 whether Mr. Zanto should see it. Or whether you still
20 feel, you know, we should pursue it.

21 I answered back that I felt we'd gone through pro-
22 cedures, their policies, that's why we went to the head,
23 I mean if you can't get it done with the Indians going to
24 the chief, you know? That's our way of thinking.

25 So the warden came back and sent me another, not a

1 directive, a request, that he would like to meet with the
2 officers of North American Indian League. We met with
3 him, we presented all our allegations, complaints and whatnot,
4 and at that time he satisfied myself and five other
5 officers of the North American Indian League that steps
6 were being taken to correct these allegations.

7 Such as harassment by the staff, and, oh, I should
8 mention, I sent copies to everybody I could think of or
9 anybody that was mentioned to me, of these letters to Mr.
10 Zanto, U.S. Commission on Civil Rights got one, I think
11 that's how I ended up over here.

12 And everybody I could think of on the governor's
13 staff or even knew of, I sent copies to. I wanted every-
14 body to know about it. Because in the past, I'm not saying
15 it's done now but in the past if an inmate went this far,
16 they've got a place out there called maximum security, it
17 slows him down in his letter writing and his complaint
18 system.

19 It's -- I haven't experienced it, maybe it's be-
20 cause we're going about it which we feel is the right way
21 this time.

22 We wanted our complaints known outside the prison,
23 because in each and every complaint or allegation, we felt
24 like I say, the warden satisfied us, he was doing what he
25 could, but it was either his budget, his supervisors,

1 department of institutions or somebody above him that was
2 preventing him from doing any more.

3 It all boils down to it's the public, it's you
4 people that can change those conditions, it's not the
5 warden, it's not us inside, we can make all the complaints
6 and inmates do complain, I mean I could go on for 150
7 minutes with complaints, but there was so many things said
8 here that I wanted to try and say something about each one
9 of them and I could but I don't have time.

10 There's 191 security personnel working at the prison
11 or there was the day I left. Now, I get my records and
12 fact from the same source that the warden does, I just go
13 about it a different way.

14 And they're in the process of a training program,
15 there, to train these officers. Well, they're into their
16 second, three-week training program so they've got seven
17 officers that we feel are trained to work in an institution.
18 They've got seven more that are in training now. They're
19 finishing up pretty soon. And that's the whole idea of
20 running these places is you got to have people that know
21 what they're doing and how to handle these situations or
22 you ain't getting nowhere.

23 I asked the question, I says is ~~it~~ rehabilitation
24 you're after? Or is it detention? Well, it's a little bit
25 of both, you know. Some of you we got to keep out of

1 society, some of them we can rehabilitate, those are the
2 ones we're going to work on and all this stuff, you know?

3 Well, I've got to make some, some straight line
4 that they would follow and include both things, I mean
5 if you're going to lock a guy up, fine, there's guys
6 in there that know that they should be locked up and they're
7 in there and they've been there for a while and they ain't
8 complaining, is all they want is their fair and equal
9 treatment while they're there.

10 But there's guys in there that can get out, have the
11 opportunity to be out in the streets, I'd say 40% of
12 those guys could be out on the streets now if they had a
13 job or some type of training. And they would be productive
14 citizens out there. That's my answer to that population
15 explosion over there at Montana State Prison, it's community
16 based corrections.

17 This is the first I've heard about it is when I come
18 over here. My God, anything I can do, sure contact me,
19 everybody knows where I live.

20 I got stuff here that -- there was a question
21 brought up about parole violations versus how many guys
22 had made parole, how many guys were out there on parole.
23 My records, which again are -- I can't validate them without
24 putting somebody in hot water, there were 195 people
25 paroled from February 1, '77, to December 1, '77, there were

1 45 of those people were returned as parole violators.
2 That meant there was 150 people out there that are
3 successful on their parole, are still out there or maybe
4 they're sitting in a jail someplace, I don't know, we get
5 those faults too, every time a guy gets picked up, and
6 they decriminalized being a public drunk but, they, the
7 parole department sure doesn't see it that way, you know.

8 If you get caught in a bar, it's parole violation
9 unless you can really talk yourself out of it or get a
10 good attorney or get some organization behind you.

11 And which brings me right into North American Indian
12 League. I'll just read this, this was given to me by one
13 of my project directors out there. We were requesting
14 some more funds for one of our programs, and this was the
15 letter he wrote to this organization, and some of it is
16 real, I mean it hits it.

17 It says concerning alcohol, as the records will
18 show, 98% of the Indian men are in prison because of an
19 alcohol or drug related crime. That's 98% of them, currently
20 we've got 80 Indian inmates in there. In both prisons.

21 The records will also reflect that the Indian
22 population is almost five times more than it should be
23 if all things were equal. Now, what we meant by that was
24 adequate legal advice when you're arrested on the reservation
25 or in the city or whatever, they just don't provide it for

1 an Indian because it's -- it's something that hasn't been
2 done before and they just don't want to get into it, it
3 might cost them another program or some more money.

4 Like I say, these are all my opinions.

5 On the average, the Indian inmate in Montana State
6 Prison is 22 and a half years old, has a ninth grade
7 education and stays in prison an average of two years and
8 two months. The average sentence of an Indian inmate is
9 16 and a half years.

10 Some of the facts that are not written down for
11 the public to see are how effective has the standard
12 prison program been for the Indian. How much effect has
13 the existing programs had on the Indian?

14 The answer is easy, these programs are not able to
15 reach the average Indian, simply because they are not
16 designed to do so. And according to the latest news
17 report issued by -- issued on TV by the attorney general,
18 Mike Greeley, he indicates that this is correct.

19 That was a correct statement.

20 Let's consider another matter of importance to the
21 Indian in prison, religion. Much talk goes on about the
22 Indian religion in Native American church but little is
23 actually known in here about it. Simply because we have
24 not been able to get the people in to help us.

25 There's interest, I don't think you'll find an Indian

1 in there that doesn't believe in God, but God, to us, is
2 the Great Spirit. The Indian goes to prison alone, he
3 serves his sentence alone, not anymore, and he is released
4 alone.

5 He is an individual and that is what we wish to con-
6 cern ourselves about. The individual person, his wants,
7 his need, his capabilities.

8 So as we look at these various programs and other
9 activities, keep in mind that all our efforts should be --
10 should have enough flexibility to help each individual meet
11 his own responsibilities in his own way.

12 Which brings us to North American Indian League,
13 and these facts and figures brought out earlier panels about
14 percentages of Indians being 34%, I think it was four
15 years ago, 34% of the population of the Montana State
16 Prison was Indian.

17 Today it's 13%. But they didn't take into considera-
18 tion four years ago, I think the head count was 249 in that
19 prison, today it's 500 and something. Which makes us
20 right back around 80 Indians in there all the time.

21 Each and every program that North American Indian
22 League works on project program inside activities,
23 coordination with outside activities, all must be cleared
24 with the prison.

25 We've got to meet their administrative and their

1 security requirements before we're allowed to proceed with
2 anything. That hampers us in a lot of ways because we've
3 got to take twice as much time to get the results that
4 somebody on the streets could get in a phone call or
5 whatever, or writing a letter.

6 North American Indian League is associated with,
7 like I mentioned earlier, just about every Indian organiza-
8 tion in the State of Montana, and several non-Indian
9 organizations. We wouldn't be what we are in there now
10 if it wasn't for these outside people. They're the ones,
11 you get two or three convicts get a good idea, they aren't
12 going to get anyplace unless they got somebody on the
13 streets that's going to help them and back them.

14 And so I'd like to go into a lot more but my
15 concern is the Indian inmate. And when Swift Bird was
16 brought up, suggested, I immediately took it to all the
17 pros, we voted on it, everybody wanted an application to
18 go to Swift Bird. Then we got the requirements for Swift
19 Bird, first offenders, nonviolent crimes, less than a
20 year, we took a look at our own Indian population, I keep
21 a list, day to day record of this type of stuff, we had
22 two guys out of 80 that would have met the eligibility
23 requirements to go to Swift Bird.

24 So I hope something's going to be done in the
25 future about that, because Swift Bird is a good idea, and

1 we got our own little Swift Bird going over there, it's
2 called North American Indian League, and I appreciate the
3 opportunity to come down here and address you people.

4 Thank you.

5 THE MODERATOR: Thank you very much.

6 The time allotted for the panel has expired right
7 on the button, and one of the functions of the consultation
8 was to be a fact finding and fact gathering medium for
9 people who have information and desire input into correc-
10 tions issues. So there is one-half hour set aside for that
11 input.

12 Unfortunately we're going to have to be pretty
13 rigid about the time because I understand that there are
14 airplane schedules. Before we open it up for public
15 commentary, there are a couple of announcements.

16 First of all, for the participants in the conference,
17 you've all received travel forms and if you haven't you
18 should ask for them. You have five days from today in
19 which to mail them down to Denver, so I would urge you to
20 get them filled out and mailed off.

21 Now, for anyone else who goes home and figures, hey,
22 that was a good idea or I have some more information on that
23 or some statistics or whatever, there is 30 days from
24 the end of this conference in which to submit further
25 comment for the record, so that if you have any further

1 comments within 30 days, please get a hold of the U.S.
2 Civil Rights Commission's address in Denver and mail your
3 comments there.

4 And at this time we'll open it up for public
5 commentary and I would ask each person who comments to
6 state their name and identify their affiliation, please.

7 Q (By Mr. Conklin) I'm Russ Conklin from Great Falls.
8 I'm also the ACLU.

9 I have a question to direct to Roger Crist.

10 As I add up the figures you have approximately 300
11 people in the new prison and perhaps 200 in the old. How
12 many people are residing on the prison ranch?

13 A (By Mr. Crist) Your figures aren't quite correct.
14 There are 553 inmates in the prison. Of that number,
15 approximately 210 are in the old prison. The others are
16 in the new prison with a few exceptions.

17 There is two men in the dairy, there's one that works
18 nights down at the hog unit, one that works at the slaughter
19 house taking care of the boiler at night, one at the feedlot.

20 Q That's all, when I visited the prison a few years
21 ago they had quite a few people living right on the
22 prison ranch, you don't have now.

23 A Of course the new institution is right on the
24 prison ranch but I think you're referring to our outlying
25 units, which would be identified as the cow camp, ranch 2,

1 and the dairy dormitory, I think that's what you're referring
2 to. All of these were closed. And there's, I think, valid
3 reasons for closing them.

4 From health standpoint, you know, they just plain
5 didn't measure up in terms of kitch sanitation, you know,
6 floor stress in the dormitory, when we were building we had
7 38 men crammed into that area, it was not a good idea.

8 The cow camp is just what it sounds like, it's a
9 series of little shacks, the health department comes out,
10 the fire marshalls come out, they say no way. Plus we've
11 got people that live in the valley and when you have inmates
12 escaping from those areas it tends to make the local people
13 a little bit jumpy.

14 We took everything into consideration and we had
15 adequate facilities at the new institution, we closed those
16 units, they're also very expensive to supervise.

17 Q I just was under the impression that prior to moving
18 into the new prison, you did have quite a few inmates
19 living on the ranch property in the ranch itself.

20 A That's correct, and it was out of necessity while we
21 were building, we had to give up space that was under con-
22 struction that we had used previously.

23 Q Thank you.

24 THE MODERATOR: Russ made it to the microphone
25 before the list of people who signed up for open testimony

1 made it to me, so I'd like to call each person and please
2 limit your comments to five minutes.

3 First of all Mr. Mike Bear Comes Out.

4 Q (By Mr. Bear Comes Out) My name is Mike Bear Comes
5 Out, I'm a juvenile probation officer for the Northern
6 Cheyenne Tribe. And in working with juveniles that have
7 been processed through the District Court of Billings, when
8 they get out, I'd just like to state a case here and maybe
9 you could take it from there.

10 We had a young juvenile that was on federal probation
11 and he was sent to Littleton, Colorado, for an evaluation,
12 a six-month evaluation.

13 When he returned he was returned back to the reservation,
14 and I was trying to comment that we don't have any way of
15 working with federal probationers, juvenile probationers,
16 we don't have any program for them.

17 We don't have a liaison between the federal probationer
18 and myself for our society. We don't have any workable
19 program for these young people.

20 I'd like to maybe ask the civil rights commission
21 to look into this problem for us. If you need anything from
22 my tribal government to get this going, we'd be happy to
23 try to get it for you.

24 The other things we'd, I'm sort of concerned about
25 is that ever since the Black Wolf case in the Montana State

1 Supreme Court where Cheyenne kids could no longer be
2 committed to state institutions, the federal government
3 or the tribal government for that matter, have never
4 provided us with a facility or with a program to
5 rehabilitate our own juveniles on our reservation.

6 And we feel that this is a need that we have to
7 bring out.

8 As far as our ideas about what we'd like to do is,
9 I'd just like to sort of say a few things and tell you
10 maybe a story that maybe can bring out what I'm trying to
11 say.

12 We had a -- I was on a board to try to start a
13 community college on our reservation. And we had many
14 different people that don't belong to our tribe, they were
15 all in here, they were all on the board, there were just a couple
16 of Cheyennes and there was some people from Montana State
17 University.

18 While they were discussing our society's goals, and
19 I heard one of them say that, well, the society's goals
20 are always changing, their values are always changing, and
21 I was sitting back there and I -- I grew up with my
22 grandparents, and I lived with them, I lived sort of in the
23 traditional way of our people. And the way my grandfather
24 had always explained to me was that our values and our
25 traditions have always been the same since the -- since

1 the beginning of time when our Cheyenne people could
2 remember traditions and values, yet here these people were
3 talking about the Cheyenne values and Cheyenne traditions
4 changing.

5 Well, what I'd like to say is that our old people
6 always say before you can talk about the shortcomings of
7 other people, look to your home and look to your family.
8 And if you have overcome these shortcomings, then maybe
9 you can speak and that's what I'd like to say to the
10 federal government, why don't you look to your system of
11 corrections before you come onto our reservation and take
12 our kids away from us and try to rehabilitate them.

13 You don't have the answers to deal with our young
14 people. I think we have our own answers. And this is
15 what I'd like to leave with this commission.

16 We're trying to deal with our problems in a way
17 that we can do away with some of our problems, our social
18 problems. But we understand our situation much better
19 than anybody else, and I'd like to say again that the
20 guy from Swift Bird, I think, said it all, he said we
21 realize that we can't do any worse than what has already
22 been done, what is being done. I think this is the
23 attitude of our people.

24 When we grew up and we were found to have done
25 something wrong, we were never -- we never had to pay a debt

1 to society, to our society, our guilt was never paid back
2 to society, instead when we were guilty of something, we
3 had a chance to pay the debt to ourselves.

4 We lived with our guilt and we continued to live,
5 but we tried to learn from our mistakes. And I'd just
6 like to leave you with that and whatever you can -- whatever
7 the civil rights commission can do with our problem con-
8 cerning our juveniles would be greatly appreciated.

9 And I'd like to thank you and we're, on our reser-
10 vation we're trying to get our stuff together and trying
11 to handle our own problems and I think this is a good,
12 positive outlook that anybody should have.

13 If we're going to work together in solving our own
14 problems --

15 THE MODERATOR: I'm sorry to say your time is
16 just about expired.

17 Q Okay, I'd just like to say one more thing. You
18 know, lot of people make decisions on assumptions and I
19 think this is very wrong. When you talk about the Indian
20 religion, I'm not so sure that he should -- that our,
21 what we believe in is classified as a religion, what we --
22 what our old people teach us is the one way of life, that
23 all human beings should live who happen to come to ~~come~~
24 to this country to live. Our grandmother used to show us
25 a knife and he'd turn it upside down where it was the

1 sharpest and he'd say, this is the way life works, for any-
2 body that comes to this land. You have to live, we have
3 to live here together and we have to live on this land,
4 there's no place else to live, so let's try to live together.

5 THE MODERATOR: Now I call Mr. John Maynard of the
6 University of Montana Law School.

7 Q (By Mr. Maynard) Yes, my name is John Maynard, and
8 I'm a legal intern with the Montana Defender Project which
9 operates out of the law school in Missoula, Montana.

10 For the past ten years the University of Montana,
11 Montana Defender Project, has given legal assistance to
12 inmates in post conviction matters. The -- last April the
13 Supreme Court of the United States issued a decision in the
14 Smith versus Bounds (Phonetic) case in which it mandated
15 that each state provide a system whereby people incarcerated
16 in state institutions could have access to the courts to
17 attack violations of their civil rights.

18 In June a hearing was held in Helena, Montana, and
19 the procedure for developing this program was initiated.
20 Since that time the program has been initiated, and the
21 University of Montana school is now charged with the re-
22 sponsibility of representing inmates at the Montana State
23 Prison in civil rights actions.

24 A number of possibilities were explored in this
25 process and I think that each of them was given a good deal

1 of conversation before this particular program was estab-
2 lished. It's not the Montana Defender Project per se,
3 it's a separate unit entirely. One of the problems, I
4 believe, with the Montana Defender Project over the past
5 ten years has been that we were only dealing with a very
6 small part of the problem, some of the kinds of concerns
7 that have been expressed here today are the concerns that
8 we will be addressing in the future.

9 Under the Montana Student Practice Rule and the
10 federal student practice rule, senior law students are
11 able to represent persons in all of the court systems and
12 in addition to this, an attorney has been hired at the law
13 school to undertake this program and to direct this program.

14 He began work last Monday, and will be pursuing these
15 actions in the future. I think that the thing that I would
16 like to say about the program is that it's, like I say,
17 beginning, it's in its very initial stages, and we definitely
18 would appreciate any kind of input that we can get from
19 whatever course.

20 So that we can develop a comprehensive program that
21 will effectively and responsibly deal with the concerns
22 with which we are charged.

23 Thank you.

24 THE MODERATOR: Thank you.

25 Karen Olson, please.

1 Q (By Ms. Olson) Hi, I'm Karen Olson, I'm temporarily
2 living in Wolf Point.

3 Back in '73 or '74 I was the first outside
4 coordinator for the cultural class with Mayo, that Dennis
5 probably remembers. At the present time I'm on temporary
6 leave as a radio reporter from Wolf Point, and I want to
7 read a few comments and perhaps phrase some questions that
8 provoke some thought.

9 I know there aren't going to be any answers right
10 now. But I found Mr. Estelle's statements interesting,
11 very persuasive and very comfortable in their familiarity,
12 for of course, who can argue with the Great Spirit, God,
13 Jehovah, or whatever name you're going to give the force.

14 However, I have some questions. These questions
15 have brought from my experience as a single parent
16 struggling to bring up three Assetta Paint (Phonetic) children
17 and a single parent interested in quality education, by
18 the way, in a quality environment.

19 And also a person struggling to grow spiritually.
20 Yet, after ten years, more often than not, I am constantly
21 amazed by the actions as well as the rhetoric of selfpro-
22 claimed religious people who have the power to positively
23 affect the lives of their fellow and sister human beings
24 and yet do not do so.

25 Thus I ask if they truly believe in love, or more

1 accurately labeled a good pay, how is this, the decision
2 made to accept and understand and support some while for-
3 getting and condemning others?

4 What criteria are used to make these selections?
5 What criteria are constantly used to constantly lay guilt
6 on women or the single parent? Male or female?

7 We single parents know better than anyone else that
8 someone needs to be at home with the children. And we
9 know better than anyone else that they also have to be fed,
10 clothed, housed and educated. So we try to do the humanly
11 impossible, juggling a dozen different roles, trying to
12 be a mister or ms., bionic being, and if we cry out for
13 support from our religious community, or secular community,
14 we are labeled crybabies, emotional, neurotic, radical,
15 impractical, or nonspiritual for not accepting our crosses
16 that we have been given to bear.

17 And if the reasons are lack of training, work dis-
18 crimination against women and/or minorities, male or female,
19 the single parent finds him or herself without any other
20 alternative but to turn to financial assistance or pennies.
21 Then he or she and our offspring are again labeled with
22 all -- which we've been talking about the social and socio-
23 logical consequences.

24 Mr. Estelle calls for individual responsibility
25 while criticizing institutionalized churches for getting

1 off the track, as he says, of saving souls into weak
2 social programs. Yet, as a sociologist or writer interested
3 -- and as a writer interested in human interaction, I
4 informally define groups as being no more or less than the
5 actions of the individual making up that group.

6 I have found that individuals and their organizations
7 often try to escape responsibility by finding scapegoats.
8 As a woman and a single parent, I would suggest that people
9 such as Mr. Estelle consider the idea that the answer as to
10 how women can help the problem of juvenile delinquency and
11 namely breakups is not going to be solved with the simplistic
12 suggestion and directive to stay home.

13 THE MODERATOR: Thank you.

14
15 (Applause)

16
17 THE MODERATOR: Richard Vandiver, please.

18 Q (By Mr. Vandiver) My name is Richard Vandiver, I'm
19 a criminologist from the University of Montana.

20 Mr. Chairman, if it's appropriate, I'd like to use
21 my time to ask a couple of questions of members of the panel.
22 Maybe Roger or Curt could deal with this, but since the
23 Montana procedure code states that all persons convicted
24 of crimes in Montana retain all their civil rights except
25 those specifically taken away by the judge at the time of

1 sentencing and justified by the judge as necessary for
2 the protection of the community, what sort of procedure
3 is being used by the department of institutions to give or
4 take away specific civil rights when persons are committed
5 to the custody of the department of institutions?

6 A. (By Mr. Chisholm) Do you want to address that
7 relative to the prisons? Then I'll get on --

8 A. (By Mr. Crist) Well, I'm not really sure that I
9 know how to answer that, Dick, except to tell you that that
10 in a penal institution in this day and age, to knowingly
11 violate anybody's civil rights you'd have to be a damned
12 fool.

13 Some of the judges in their commitment papers limit
14 those rights, some of them frankly have limited them much
15 more than what I would.. I think we have to make it plain
16 that these rights are not absolute rights, and unfortunately
17 some of our inmates, some tend to think that they are.

18 In the sense that freedom of speech does not give you
19 the right to holler in a theater, you know, fire, when
20 there is no fire and panic the group.

21 Freedom of speech doesn't give you the right to
22 stand up in the dining room of the Montana State Prison
23 and say let's all riot, boys, because I assure you Warden
24 Crist is going to be there and that's not what's going to
25 happen.

1 Another example of that is freedom of religion.
2 Now, the courts have pretty much ruled that a religion
3 is a religion if you say it's a religion, that's about
4 what it amounts to and I can understand where they're
5 coming from. They don't want to get involved in is
6 Catholicism the true religion and Lutheran or Baptist not,
7 you know, so on, so forth.

8 However, well you have a right to your beliefs, you
9 don't always have a right to express those, and to give
10 you a completely idiotic example, if I were to say to you
11 that a part of my religion requires that I sacrifice a goat
12 in the middle of Times Square in New York at 12:00 noon,
13 I assure you the New York PD is not going to allow me to
14 do this.

15 Cruel treatment to animals, disrupting traffic flow,
16 you know, etcetera, etcetera. So rights are not absolute
17 and common sense has to enter into the situation, but I
18 would repeat, you know, if you knowingly violate somebody's
19 civil rights you're a damned fool in this day and age.

20 Q The second question that I wanted to ask is that the
21 Montana Constitution also provides for the restoration
22 of civil rights, simply once a person is released from the
23 state. Does the department of institutions have a, some
24 sort of procedure that it goes through to restore those
25 rights? And if so what is it?

1 A. (By Mr. Chisholm) We do in the sense that -- a
2 simple document by procedure and policy of the department
3 is officially provided to the individual informing him that
4 his rights have been fully restored as, it articulates
5 what those rights are and what it means, and we've imple-
6 mented that.

7 As far as your initial question was concerned
8 relative to our other institutions, I -- this one's been a
9 comprehensive response but we have implemented relative
10 to responsibilities defined in recently passed, what you
11 would call commitment legislation dealing with the mentally
12 ill in Warm Springs, the mentally retarded in Bold River
13 School and Hospital, etcetera, a number of those institu-
14 tions where in effect we have to have specific kinds of
15 habilitation and treatment plans on record where proceeding
16 without as a matter of process.

17 It's a matter of very defined process we have to
18 go through, it's under constant review, PSRO review, and
19 by the board of visitors, etcetera, we inform patients when
20 they're admitted to those hospitals of their right, we
21 give them to them in writing, we're under contract with
22 legal services to provide access to legal aid relative
23 to their recommitment hearings, etcetera, etcetera.

24 So there are a number of different things that
25 we're doing throughout the department outside of the

1 correctional field, and in the correctional field as a
2 matter of fact, to comply with some of these issues.

3 Granted we're feeble in certain areas and that's
4 only by virtue of a lack of resources and money at times
5 that we can't do everything all at once but we're attempting
6 at least to comply with most of everything we can.

7 Q But there is at this point no uniform procedure
8 relative to the passage of that law in, which took effect
9 in '74, is that correct?

10 A We have a uniform procedure but it, when it relates
11 to the individual populations of the respective institutions
12 it changes somewhat, because of the, you know, individualized
13 nature of that population, as to how we proceed with those
14 things.

15 MR. VANDIVER: Thank you.

16 THE MODERATOR: Judy Smith please?

17 Q (By Ms. Smith) As a person who's really interested
18 in community corrections, I wanted to focus on one point
19 that I don't think we really dealt with very well in this
20 consultation, which is the point of the interaction between
21 community attitudes and civil rights of people.

22 And when we call for community corrections, we're
23 basically calling for a community that agrees that everyone
24 should have civil rights because if the community doesn't
25 agree with us and we're saying power to the community, then

1 where are we going to be able to protect the civil rights
2 of the people that we want to put into the community?

3 And as someone who's interested in education, I
4 think this is something that all of us have to be very
5 aware of, that I think the education in Montana to prepare
6 people for community corrections has been very poor, I can
7 say that from Missoula certainly, with the halfway houses
8 that have gone in there.

9 And I think all of us that advocate community
10 corrections are going to have to realize that civil rights
11 and the rights of the people that go into the community
12 will either have to be judged as prior to community
13 attitude or that the community attitude will have to be
14 judged as prior to civil rights, and hopefully, those two
15 will work together through education.

16 But I think we have to be aware that that's a step,
17 that no one really here has dealt with in any significant
18 way.

19 When we did our first recommendations for women
20 offenders in the State of Montana we called upon the people
21 in the different institutions like the corrections and the
22 department of institutions, to come up with education
23 programs for the community and I'm still calling for that.

24 I think as long as we have the problems that we have
25 with community attitudes toward offenders, particularly

1 I can also think of the mentally retarded and other dis-
2 abled folks, as long as we have those attitudes in the
3 community, then how are we ever going to guarantee civil
4 rights for these people?

5 That was my first point.

6 The second one I want to reiterate something that
7 concerned me, it really bothered me to hear Mr. Estelle
8 call back to those kinds of traditional values that he was
9 harkening to. I'm also glad to hear Native American people
10 feel that their traditions were so strong that they would
11 like to return to them. I don't feel that at all about my
12 culture, as a woman I don't think my traditions are at all
13 something that I want to return to and Mr. Estelle was basically
14 harking back to a patriarchal Christianity and a patriarchal
15 nuclear family as perhaps a way to solve our problems
16 in society and I'd just like to say I'd like to have
17 nothing return to that kind of, return to some kind of
18 simplistic system that solves people's problems by giving
19 them no options.

20 As I say, I want to work closely with Native
21 Americans that's an important thing to do but I also want
22 to say returning for traditions can work for some people
23 and won't work for others, and I would say for women within
24 our culture it won't work.

25 And for his allusion to juvenile delinquency related

1 to the fact your mom's home when you get home, my mom
2 wasn't home when I got home, no one's ever called me a
3 juvenile delinquent.

4 I did manage to go to 22 years to school. I think
5 a lot of us that haven't had mothers at home are well
6 aware that our mothers were doing things that perhaps
7 they wanted to do and for themselves were very important
8 to do. I really hate that kind of simplistic approach
9 particularly when we're trying to talk about civil rights
10 for people to hark back to those kind of doctrines, I don't
11 think does any kind of good at all.

12
13 (Applause)

14
15 THE MODERATOR: Thank you.

16 We have just a few minutes left, I understand that
17 Geraldine Travis has a question.

18 Q (By Ms. Travis) I have several.

19 I would like to direct my questions to Mr. Roger
20 Crist. How many Blacks are assigned to the Montana State
21 Prison, and of these, how many came to Montana as the
22 result of being stationed at Malstrom (Phonetic) Air Force Base
23 in Great Falls, Montana?

24 And the second part of this question, I'll just
25 read it and then you can answer them as you wish.

1 If there are any provisions in the prison commissary
2 for the needs of Black inmates such as hair products and
3 other cosmetics, shaving lotion and so forth?

4 I would like to compliment the North American Indian
5 Leage, but I would like to know if they -- if any Black
6 organizations such as the NAACP, the National Urban League
7 have been contacted so that they may form an organization
8 within the prison?

9 And the second question and the first part to
10 that question is, how many Native Americans, Blacks or
11 Mexican American guards are employed at the prison, and
12 what is being done or has been done to recruit these
13 minority groups.

14 And lastly, I would like for you to explain your
15 views on the establishment of an inmate council?

16 A. (By Mr. Crist) Geraldine, you did have quite a few
17 questions there, didn't you?

18 The first thing I'm going to have to do is go to
19 my two consultants who are sitting at my right, how many
20 Black inmates do we have, fellows? I'd say six to ten.

21 A. (By Mr. Quigg) Three inside.

22 A. (By Mr. Blouffell) One outside now.

23 A. (By Mr. Crist) Four? Four, Geraldine.

24 Q. Well, I would like to dispute that because according
25 to the statistics that were published by the Montana Crime

1 Control Board, there are ten, and I recently read in the
2 paper where one other was admitted so I wanted to get some
3 verifications, according to my mathematics that would be
4 11.

5 A That changes from day to day, Geraldine, with
6 people coming in and going out. I, frankly, don't know.
7 I was going to say ten, I asked my two consultants and
8 they said four.

9 Q Well, do you count the people who are assigned to
10 the prison and who are sent out of state or how do you do
11 this?

12 A We would only be counting those, I thought you were
13 only referring to those that are currently at the Montana
14 State Prison.

15 Q I mean how many are assigned, that's what I said,
16 assigned to the Montana State Prison?

17 A Was your question how many then, we believe we have
18 four at the Montana State Prison, is your question, then,
19 how many do we have out of state?

20 Q Yes, four physically present at this time?

21 A Four.

22 Q You have four physically present at this time?

23 A That's what my consultants tell me, I was going to
24 say it was a little bit more.

25 Q But there are others who are assigned and who are

1 out of state?

2 A. Yes. I'm sure that we have at least one who is in
3 Nevada at his own request.

4 - Going on with your questions, you asked how many
5 were there as a result of coming into the state in the
6 air force and being at Malstrom Air Force Base.

7 Q. Yes.

8 A. I frankly don't know. I frankly don't know. Special
9 needs of Blacks and you alluded to hair preparation and
10 shaving and so on, so forth, all of this stuff, you know,
11 can be obtained through the canteen.

12 I don't know, frankly, if we stock it but if they
13 ask we certainly will. Black people have a particular
14 problem in shaving with ingrown hairs and a lot of times
15 rather than using a regular razor, you know, they will
16 use a cream-type substance that, you know, takes the
17 facial hair off.

18 Q. I asked that question because when I first came
19 to Montana as a Black woman, the lack of hair products
20 and other cosmetics posed a problem, and I found that very
21 often the majority population was not aware of this.

22 A. I'm sure you're right and I am aware of it, because
23 the deputy warden in Wisconsin, 30% of our inmates were
24 Black and that was a common thing there.

25 Going on then, how many Black employees are there at

1 the prison right now? You mentioned Spanish-speaking.
2 And minorities.

3 Q Native Americans.

4 A Yes. Okay, we don't have any Black employees working
5 at the Montana State Prison now. In the past we've had
6 two, one as a correctional officer, one as a recreation
7 director. We have Spanish-speaking people that are
8 employed, we have Native Americans that are employed,
9 we have an Oriental, we have had or now have just about
10 every representative of a minority that you can think of,
11 including an Eskimo.

12 Q How many Native American guards do we have? I
13 specified guards.

14 A How many Native American guards?

15 Q Yes.

16 A I frankly don't know. Guys, can you help me out?
17 Do we have --

18 A (By Mr. Plouffel) Two inside.

19 A (By Mr. Crist) Two inside? And how many Spanish
20 correctional officers?

21 A (By Mr. Plouffel) One questionable.

22 A (By Mr. Crist) One questionable?

23 THE MODERATOR: With that I'm afraid that we're
24 running overtime, I would like to introduce Mr. Ernest
25 Bighorn, Jr., who is the Chair of the Montana Advisory

1 Committee for some closing comments, please.

2 THE CHAIR: I'll just come over here, I guess.

3 Rather than have everybody move.

4 I don't have too much to say in making some closing
5 remarks, but I would like to say thank you for everybody
6 that participated in this meeting and particularly all
7 the experts that, experts that were here.

8 And to me it was quite interesting to see such a
9 diverse attitudes and opinions and concerns.

10 I'm quite pleased with the turnout and I'm hoping
11 that from this consultation that something will come about
12 to make some positive changes.

13 With that, I'd like to close the session and again
14 thank everyone for coming.

15
16 (Applause)

17
18 (Consultation adjourned)

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1 STATE OF ARIZONA)
2 COUNTY OF PIMA) SS
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6 I, JAMES E. BOULEY, do hereby certify that I am an
7 Official Shorthand Reporter; that I was present at the
8 hearing of the foregoing matter; that I took down in short-
9 hand all proceedings had and testimony adduced at said
10 hearing; that the same was thereafter transcribed under my
11 supervision, and the foregoing 498 pages represent a complete
12 and accurate transcription of my shorthand notes so taken.

13 WITNESS MY HAND this 31st day of December, 1977.
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18 Official Shorthand Reporter
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