

HJR 16: State-Operated Institutions

Potential Costs and Considerations for Forensic Community Facilities

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for the Children, Families, Health, and Human Services Interim Committee
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Background

During the House Joint Resolution 16 study of state-operated institutions, much of the testimony has focused on options for people who have been convicted of a crime but found to be mentally ill at the time the crime was committed. These individuals are sentenced to the custody of the Department of Public Health and Human Services (DPHHS) for placement in an appropriate correctional or mental health facility. Most are placed at the Montana State Hospital (MSH) in Warm Springs.

Unlike people who are involuntarily committed to MSH for periods of up to 90 days, these forensic patients are serving criminal sentences that are measured in years. They cannot be released from custody until they have served their sentences or been paroled. The Children, Families, Health, and Human Services Interim Committee has heard about the pressures created by the growing forensic population at MSH.

In May, committee members asked for information about the costs of operating a prerelease center or group home to serve forensic patients outside of an institutional setting. This briefing paper provides information about Montana's community corrections system, steps taken in other states to establish forensic community facilities, and options and estimated costs for using this approach in Montana.

Montana's Current Community Corrections System

The Department of Corrections oversees a system of community corrections that includes six prerelease centers. The centers provide housing, treatment, and supervision of individuals who have been:

- paroled and are making the transition from a correctional setting to the community; or
- sentenced to the center as an alternative to placement in a prison.

The department contracts with providers to operate the facilities and pays a flat daily rate for each offender. The department remains responsible for the offenders' medical costs and makes some special payments for certain offenders. For example, offenders must pay a daily amount toward their room and board. However, if a person is unable to work or has other extenuating circumstances, the state pays those costs in addition to the daily rate.

The centers are located in Billings, Butte, Bozeman, Great Falls, Helena, and Missoula. They serve more than 800 offenders, about three-fourths of whom are male.

The Legislature tried to expand prerelease options to northwest Montana in 2007. Lawmakers appropriated \$1.2 million to build and operate a 40-bed prerelease center in the region. The department awarded a contract to a company that planned to build a center in Kalispell. However, local residents opposed the proposed prerelease, and it was never built.

Local Control in Community Corrections

State law gives local communities a clear role in the siting of prerelease centers and requires the Department of Corrections to adopt rules for placing a prerelease center in a community. Among other things, the rules must prohibit siting of a prerelease in any location without community support, must create a mechanism for determining that local support exists, and must require a public hearing on the proposal.

Rules adopted by the department require the agency to:

- determine if local officials are interested in having a prerelease center in the community;
- notify the media if local officials express an interest;
- create a working committee with local officials to provide public education and gauge the level of public support; and
- conduct a comprehensive and statistically valid survey to determine the level of support.

If a nongovernmental agency operates a prerelease center, state law requires that the community create a local board to set standards for the program. The local board, as well as the provider, may accept or reject any proposed resident or reject a person after acceptance into the program.

Approaches in Other States

Mental health advocates have suggested that many forensic patients at MSH or Montana State Prison could be paroled if appropriate community services were in place. They note that other states have created community forensic programs, pointing to Colorado, Louisiana, Washington, and West Virginia as examples.

Following is a summary of approaches in those states.

- **Colorado:** Over time, the state has created a system of designated community corrections beds for people who have been charged with or convicted of a crime and who have co-occurring mental illness and substance abuse disorders. The state makes enhanced payments to private contractors who provide specified treatment services for these individuals. Some providers set aside 10 percent or so of a facility's beds for this purpose, while one 40-bed facility in Denver serves only individuals with co-occurring illnesses. The facilities have the secure features of a correctional prerelease center but also have mental health professionals on staff or under contract to provide ongoing mental health and substance abuse treatment.

The state pays the facilities a daily rate of \$76.04 per offender for the designated treatment beds. The facilities receive the flat rate of \$41.34 paid to all community corrections facilities, as well as an additional \$34.70 for providing the treatment services. The state general fund also pays the full cost of psychiatric medications.

Operating costs for the 40-bed Denver facility were not available. However, the state's enhanced daily rate for 40 offenders would total about \$1.1 million per year. Medication costs were estimated in the range of \$18,000 to \$36,000.

- **Louisiana:** The state has created a system of services for people found not guilty by reason of insanity. The system includes inpatient treatment at state psychiatric facilities, placement and treatment in community residential facilities, and supervised community release. A person who obtains a conditional release from a state psychiatric facility is considered to be on probation and is under the supervision of both the Division of Probation and Parole in the Department of Corrections and of the Department of Health and Human Services. Louisiana contracts for 111 forensic residential beds for people who have been conditionally released from state facilities. It also operates community programs that include forensic coordinators who supervise people who have been conditionally released to the community.

The state pays \$104 per day per person for a 22-bed facility that provides in-house mental health services, for an annual cost of \$835,120. It pays \$98 per person per day for 85 beds in another facility, where half of the residents receive mental health treatment in house and the other half receive services in the community. Annual costs for the facility would be slightly more than \$3 million, with additional payments to the community mental health providers. And it pays \$68 per day, or slightly less than \$100,000 a year, for a four-bed facility in which all mental health services are provided in the community, rather than in the residential setting.

- **Washington:** Under Washington law, people who have committed crimes but are mentally ill are found not guilty by reason of insanity and are sent to a state psychiatric hospital for treatment. Once there, they are treated in the main hospital until they are ready for a transitional program designed to prepare them for eventual return to the community. The transitional program is housed in a separate area of the hospital with its own treatment staff. When a person enters the transitional program, Department of Corrections staff members become involved in monitoring the person's treatment and progress. Those staff members develop the conditions that a person must follow when released to a community. When a court approves a person's release to the community, the court also can require that the person continue to be supervised by the Department of Corrections. The state does not operate or contract for community-based forensic facilities.

In western Washington, about 95 people are in the transitional program at Western State Hospital. The estimated costs of serving those individuals, including staff members who work with them after return to the community, is \$6 million to \$7 million a year.

- **West Virginia:** The state Department of Health and Human Services is responsible for people who have committed a crime but who have been found to be incompetent to stand trial or not guilty by reason of insanity. They are first admitted to a state psychiatric hospital until they are determined by treatment professionals, an administrative review board, and a court to be stable enough for community placement. At that point, a community treatment plan is developed, similar to a parole plan for a person in the corrections system. A person may then be placed in one of four privately operated forensic group homes, a state-run halfway house, or an independent community placement with oversight from a forensic community coordinator. The group homes and halfway house have alarms, and group home residents must be within eyesight of a staff member at all times, even when working.

Three of the four forensic group homes have seven beds, while the fourth has eight beds. The state budgeted an average of \$583,400 per group home for the upcoming fiscal year. Personnel costs make up the bulk of the budgets, ranging from 65 percent to 72 percent of the total budget. Building-related and other operational costs — such as utilities, maintenance, and supplies — make up anywhere from 8 percent to 13 percent of the budgets.

Potential Costs in Montana

Because a community facility would serve people who have been criminally committed to DPHHS custody, the offenders would be served through the community corrections system operated by the Department of Corrections.

Costs for creating community options would depend on whether the state contracted for a forensic facility or operated its own facility. Costs also would vary depending on the factors involved. For instance, if the state contracts for beds, the cost would depend on the daily rate paid per offender and the number of beds in the facility. If the state operated a facility, the staffing, food, utility, and maintenance costs would depend on the number of people served and the size of the facility.

Potential costs are outlined below.

- **Contract for a designated forensic prerelease center:** The department pays varying rates to prerelease centers based on contracts with each provider. Rates currently average \$56.41 per day for male offenders and \$67.06 per day for female offenders.

If Montana were to contract with a provider for a forensic prerelease center and pay an enhanced rate similar to Colorado's rate, the per-day rate would increase by about \$35. That would result in rates of \$91.41 per day for male offenders and \$102 a day for female offenders.

Currently, 87 people who have been found to be guilty but mentally ill are at either MSH or correctional facilities — 66 at MSH, 10 at the Montana State Prison, and four in regional prisons. The table on P. 5 shows an estimated cost of serving various percentages of the forensic patients in a forensic community facility. The cost is based on a daily rate of \$91.50 per day.

Potential Costs of Contracted Forensic Community Beds

Percentage	# of Residents	Potential Cost	
		Annual	Biennial
10%	9	\$300,578	\$601,155
20%	17	\$567,758	\$1,135,515
30%	26	\$868,335	\$1,736,670
40%	35	\$1,168,913	\$2,337,825
50%	44	\$1,469,490	\$2,938,980

Initial costs may be higher if the provider incurs — and passes on to the state — costs to build a facility. The selected community also would need to support the proposal.

- **Establish a state-operated forensic prerelease center or group home:** If the state were to operate a forensic community facility, it would need to hire employees with a correctional background for secure supervision and hire or contract with mental health staff for the treatment component. The 2007 attempt to develop a new prerelease center in northwestern Montana gives an idea of potential costs of creating a new facility. The Legislature appropriated \$1.2 million for the biennium to contract with a private provider to build and operate a 40-bed facility. Because a forensic facility would include a mental health treatment element not required for a nonforensic prerelease, operating costs would be higher.

Using staffing ratios similar to those for the 40-bed facility in Colorado, staffing costs for a 20-bed Montana facility could total about \$400,000-500,000 a year. The estimate includes costs for around-the-clock staffing by a correctional officer and psychiatric aide, as well as one advanced practice registered nurse, 1.5 social workers, a case manager, and a psychiatrist working under contract at least one day a week.

Other costs would include lease or construction costs, furnishings for a new facility, maintenance, and food costs.

Sources:

- Discussions and e-mail correspondence with:
 - Dan Tapia, Director, Office of Community Corrections, Colorado Department of Public Safety
 - Glen Mauro, Community Corrections Director, Denver Department of Public Safety
 - Rose Rodriguez, Chief Operating Officer, Independence House Fillmore, Denver
 - Georgette Bradstreet, Statewide Forensic Coordinator, West Virginia Department of Health & Human Resources
 - Michelle Bonnelycke, Community Corrections Officer, Washington Department of Corrections
 - Jen Katzman, Director of Research & Special Projects, Office of Behavioral Health, Louisiana Department of Health and Hospitals
 - Pam Bunke, Administrator, Adult Community Corrections Division, Department of Corrections
 - Jill Buck, Mental Health Director, Montana State Prison
 - Cathy Orrino, Montana State Hospital

- "Introduction to Eastern Louisiana Mental Health System (ELMHS)," *Louisiana Department of Health and Hospitals*, available at <http://new.dhh.louisiana.gov/index.cfm/directory/detail/219>, accessed June 10, 2014
- Articles 654-658, Louisiana Code of Criminal Procedure
- Title 10, Chapter 10.77, Revised Code of Washington
- Rachel Weiss, "The 1990 Criminal Justice and Corrections Advisory Council," *Legislative Services Division*, February 2014
- Rachel Weiss, "Supervision Fees and Administrative/Programming Costs Charged to Parolees," *Legislative Services Division*, April 2014
- "Sex Offender Services," Procedure No. ACCD 3.5.100, Adult Community Corrections Division Standard Operating Procedures, *Montana Department of Corrections*, July 1, 2005
- Title 53, Chapter 30, Part 3, MCA, and 53-1-203, MCA
- Title 20, Chapter 7, Subchapter 500, Administrative Rules of Montana

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