

I am here today to talk about a few things. The first and most important thing is the forgotten stage of corrections according to Montana's Constitution. It is rehabilitation. I know with that you may all think wait a minute, we have all these prerelease centers, and a successful nexus and watch program. I agree, however, what about the forgotten 1400 inmates in MSP, 500+ in Shelby, 140+ in Glendive, and the 150+ in Great Falls?

Why would you create the volatile environment of the pre 91 riot again? Most assuredly it is worse today than back then. You have dismissed the recommendations of the max riot report and gone back to the lock 'em up and throw away the key policy that even a layman such as myself knows is not the way you rehabilitate inmates. Inmates that at least 80% of which will be reentering society.

The taking of property that started a few years ago and the continued ridiculous policies that pop up daily within the institution have done nothing to encourage and rehabilitate.

I, and many others are going to be asking that the Legislature make the appropriate changes to the well-oiled corruption of this department. We, as citizens of this state are allowed to PARTICIPATE in your decisions, whether you like it or not. If you are unwilling to see the harm you are doing and the situation you are creating then, we, the people will bring it to light. Maybe that is why there is the restriction against visitors talking to each other in the visiting room according to these visiting room rules. Remember back a few years ago when I brought this to your attention? You, Mr. Ferriter told me that that is not what you meant when you said no visiting of other inmates. Of course we are not supposed to sit at the table and visit with other inmate and their visitor. Nor are we allowed to huddle in a corner and congregate. But you, Mr. Ferriter said that we were able to say hello and have brief conversations as long as we kept them short. Captain McNeil was even brought in to clarify this to visiting staff the next time I visited. Now, it is clear that the officer who rewrote this has not gotten that memo. I believe you are trying to silence us. As visitors we see and are subjected to arbitrary rules that serve no penological interest and are an exaggerated response to a perceived threat. Officers are silenced because they would lose their job if they dared to protest the goings on there and inmates themselves, have always been silenced and are further silenced by new mailroom policies. What are you afraid of? Where is your transparency? It does not exist in MDOC.

That brings me to the talk of potential drastic changes to visitation. VIDEO CONFERENCING for visits. That would be the worst mistake that you could ever do. Taking away the one thing that most all inmates look forward to would be like putting a match on gasoline doused kindling. I understand that if you do accept this change you are going to try to implement this without public PARTICIPATION first. You are to have a penological interest in doing any changes to policy. Using the drugs coming into the institution from the visiting room is not a good enough interest seen as how it, dare I say, NEVER HAPPENS or at the very least happens so rarely that it should not be to the detriment of the policy. I've gotten the statistics on that from Mr. Anez and 4 people getting caught bringing in drugs in one year throughout the whole institution is so few but you'd think it was 4 a week by the way visitors are treated. I, and others, maintain that the bulk of the drugs come from the officers. The ones, who don't get shook down, can move from unit to unit at will, and the ones who have vastly more time one on one with an inmate than we, the visitors, do. If you were to really look at an officer's ability to bring drugs in

and catch one at it would you do away with all officer contact with inmates? Of course not. Neither should you try so hard to get a bust in the high side visiting room so you can shut it down, but rather deal with such an individual through the disciplinary policy already in place. Why punish us all for the bad judgment and deeds of a very small few?

REHABILITATION comes in many forms. Social programs that help inmates to see a different view, schooling to help inmates with obtaining GEDs or diplomas that will greatly improve their ability to get jobs once released from prison, vocational training that enhances our job base and keeping the family unit together once a loved one is taken from the home. In some instances these ties are broken by the individuals themselves but for the ones who remain in the lives of the incarcerated it is probably the single most important part of an inmate keeping clear conduct and staying out of trouble which aids in the safe and smooth operation of the facility.

Some states such as Washington and California have family councils that help the administration in their smooth operation. Discounting family and friends as viable parts of rehabilitation is a mistake, and one, at this point, you can no longer ignore.

Some states with far more crime and violence then anywhere in Montana even have conjugal visits. These visits are recognized as very beneficial for inmate incentive and growth through the process. I believe we need to look harder at what we can do to BENEFIT families and inmates then where we can hurt and destroy them.

We are asking that you stop trying to punish us for having a voice in our government and how it runs its business. Stop hiding behind the SECURITY issue that you paint with a broad stoke. Start to really look at the issues YOU have created and fix the problems before another news making riot happens. Or is that the plan all along? Most of us feel that is exactly what you intend so you can lock the facility down. There really is no need for it. Tax paying citizens are waking up to this fact. Your security threats are created by you and inmate behavior is a direct result of the treatment of them. Example- you do not need a high support building. You need another low side compound. If your classification system wasn't broken and you allowed a step down program in which it gave more incentive to an inmate to progress through the housing units and you didn't hold inmates in close 1 for 2 ½ years before they could move to the low side, the overcrowding wouldn't be a problem on the high side. LOOK AT WAYS TO HELP INMATES SUCCEED RATHER THAN WAYS TO WAREHOUSE THEM.

I believe in the good of most all inmates. Sure there are always ones that spoil the milk so to say but isn't that true with officers and people in general? Deal with individuals instead of lumping them all together. I believe when you change your attitude about them AND take the officers who spoil the milk out of the equation then you will have the smooth and safe running of your institution once again and that should always be your goal and is in the best interest of the citizens of this state.

Pursuant to Montana's Constitution and Montana Open Meeting and Participation Laws, Robert and Barbara Rose submit the following comments as a method of participating in the operations of their government. We fully expect that the comments presented by us and other members of the public, will influence the MDOC's final actions with respect thereto.

"Agency Action" means: "the whole or part of the adoption of any agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof. 2-3-102 (2) MCA.

"Rule" means an agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule". 2-3-102 (3) MCA.

AGENDA ITEM #1 (DOC policy 3.3.6 Correspondence, Publications and Packages)

Although this policy was on the agenda and discussed there was no specific mention of the revisions the department intended on making before the meeting. The agenda was without enough specificity to encourage public participation; therefore, we include our participation now as the new policy is not due to go into effect until Dec 12, 2011.

First of all, we find no statutory authority that grants the Department power to restrict a publisher's right as this policy does. Inmates and publishers rights are severely restricted. The Publisher cannot sell hard back book to the inmate or books that are more than 2" thick.

An inmate's wife has no means by which to communicate sexual expression to her husband. Also, the inmate is now restricted from healthy sexually stimulating dialog with his wife. An inmate in Montana retains all of his rights except those necessarily suspended by a sentencing Judge, or by a necessary condition of confinement. A man and wife should be free to express themselves sexually, in writing or with pictures when the institution restricts physical sex. But then again, maybe conjugal visits would be the better option to avoid offending mail room personnel... as is the real reason for the restriction. (see warden Mahoneys response to Barbara Roses comments at the June 23rd 2010 PIB meeting.)

The Prohibited Image definition is too vague and too broad. It leaves arbitrary staff with more unbridled arbitrary reasons to reject valid and legal sexual expression from the outside world. It's perfectly healthy and normal for a man to enjoy sexual stimulation. There is no court decision in the United States that recognizes such a restrictive definition as being valid. Although there may be issues surrounding sexual offenders, they can be dealt with individually. The current definition "depicting an image designed to arouse the viewer" could potentially and eventually restrict basic T.V. viewing. Such a result is ridiculous.

The reason the department is making such a definition is to give their staff unbridled authority to reject sexy pictures in the mail. Also see: General Correspondence (b)(3)(g): material, drawings, or photographs which promote sexual arousal or actually include pinup type pictures and those of partially clad female wearing thongs.

This goes farther that the nudity definition on page one, which is also overbroad. The department and staff have no lawful delegated authority to write or enforce such a policy.

If the Department believes it is doing male prisoners any favors by restricting his access to seeing a sexy woman or an image of a sexy woman. Its belief system needs to be challenged by a little common sense and a few law suits. Again, at tax payer expense.

Common sense would suggest the best place to test inmates sexual behavior is in a controlled environment away from society. His behavior is monitored by staff and cameras. If he has sexual dysfunction, it can be identified and addressed in a controlled environment that has been funded by the tax payer. On the other hand, taking all of his sexual stimuli could promote homo sexuality and disease to be spread to the community upon release. It could also cause sexual problems not yet studied. Why play with such a possible result? The negatives far outweigh the positives. Who benefits? Who loses? Society in the end.

If the state of Montana so chooses to outlaw male prisoners from being exposed to sexual stimulating images, then the Legislation should be the one to write the Law, not the Department.

At the present time, this implication of policy violates the separation of powers clause of Montana's Constitution. The department is usurping power from the Legislative Branch. It needs to stop and desist from such action.

Ironically, the policy format lists no authority to guide the policy writer.

Subsection C pg12 Cell Posting area has never been a part of this policy. The public had no knowledge or ability to participate in this. The area in the cell which have been diminished down to a 2'X2' area on the wall have always been for pictures of families, loved ones, or sexy girls. It needs to remain. As new policy reads it will only allow State documents to be placed there. Now, if an inmate hangs a picture anywhere in his cell it will be seized. This is wrong. Way to go MDOC.

Subsection (b) Incoming Legal Correspondence. ACA Standards should be applied which recognize more than attorneys and courts as privileged. It includes mail to and from state law makes and department heads. The MDOC makes such restriction to know what inmates are exposing to lawmakers. For retaliatory reasons otherwise, why would the department need to

read such correspondence before leaving the prison? We all know the common sense answer. To conceal corruption.

Subsection A (3)(5)(j): Copies of facebook or other type of internet communication maintained for the inmate by a member of the public is prohibited. Why? The state of Montana has not written any law allowing such a condition or restriction. If an inmate so desires to open his own web-page to express himself, or meet people, so be it. The department can read and monitor the communication, stopping any such activity can only come by way of the courts and legislation.

Subsection E: Undeliverable mail. Policy as written is constitutionally invalid. Federal Court decisions require provisions for a second level of review to ensure due process is followed before mail can be rejected as undeliverable. MDOC attorney Colleen Ambrose's is fully aware of this. FIX IT!!! As written mailroom staff is invited to violate inmates' due process rights.

If this is not fixed there will be successful litigation against the department at tax payer expense. Note: previous DOC policy directives mandated a second level of review. A person other than the one making the decision has to review it. Courts have already made clear rulings about this.

NON AGENDA ITEM #1 (Family Council)

Most prisons throughout the United States have publicly recognized the benefits to inmates maintaining family relationships during incarceration and supervision. Research has clearly shown the benefits to inmates and their children when the family can maintain contact with the loved one during the time of incarceration. However, there are many barriers to maintaining these connections. In an effort to address these barriers, we invite the MDOC to aid and assist the concerned public and inmates to establish policy allowing Family-Inmate Councils.

The state of Washington has recognized the importance of family councils by allowing Family Councils at every prison. The local Family Council holds meetings that are open to all interested persons. The only restriction being, the participation must be by approved visitors. The council meetings have proven to be a great opportunity for family members to ask questions and get information, and share their ideas and perspectives about the operation of the facilities. The family members run the meeting and establish what will be on the agenda.

The council meetings are attended by the facility Superintendent or Associate Superintendent, the Visiting Lieutenant or Lieutenant or Sergeant, the program staff responsible for family centered programming, and other people as needed.

See Washington DOC Policy 530.150

The State of California Prison system has also recognized the importance of Inmate Family Councils (IFC) which are also comprised of a group of approved visitors who meet regularly with the prison administration to try and resolve issues that come up relative to family and friends staying connected to offenders. The administration assists the board by providing information concerning the board, and also provides the names of the members of the board to interested persons, as well as a comment box for submission of comments to the IFC.

Making provisions for such a board in Montana would not be at all inconsistent with Montana's explicit Public Policy. 2-15-101 (2) MCA states the following:

"It is the policy of this state and the purpose of this chapter to create a structure of the executive branch of the state government which is responsive to the needs of the people of this state and sufficiently flexible to meet changing conditions; to strengthen the executive capacity to administer effectively and efficiently at all levels; to encourage greater public participation in state government (emphasis added); to provide that the responsibility within the state government for the implementation of programs and policies is clearly fixed and ascertainable."

Adopting policy that would make provisions for a family board, would demonstrate the MDOC's willingness to be responsive to the needs of the inmates and their families and would encourage greater public participation in State Government. To deny it would clearly show the lack of encouragement of public participation.

At present time, the Montana State Prison system appears to have missed the importance of allowing those interested persons the ability to participate in its operation concerning Family-Inmate interaction within the institutions.

Furthermore, we and other members of the public, remind the department that the Inmates within the Montana State Prison system are to be punished only under the following principles: prevention; reformation, public safety and restitution. ART, II, Sec 28 Mont. Constitution (Criminal Justice Policy).

We further remind this board and MDOC officials that the family members who interact with the offenders have not been sentenced to any punishment, although the departments treatment of them often reflects otherwise.

In consideration of the above comments, we ask the MDOC to adopt policy and procedures that make provisions for inmate family council similar to those in Washington and California to include allowing members of the board to establish the agenda of the meetings, that the members be approved visitors, voted in by themselves.

Before this can be rejected or accepted by the MDOC, it must first be placed on a subsequent agenda of an MDOC meeting for public participation under Montana's Open Meeting Law Act.

NON AGENDA ITEM #2 (adoption of Policy allowing conjugal Visits)

It is not beyond the department's authority to enhance the current visiting program by allowing provisions for conjugal visits at MSP.

Other states have adopted such policies to enhance their visitation program as a means of reducing recidivism and to encourage rehabilitation. Those states have benefited from such a program by using it as a tool to curb prisoner misconduct and they have found it is one of the best behavioral management tools within the prison system.

Currently there are six states that allow conjugal visits; California, Connecticut, Mississippi, New Mexico, New York and Washington. See: Conjugal Visits in Prison by: Burstein (New York; Lexington Books, 1977).

The operation of a visitation program is an integral element of any prison system. Hundreds of thousands of relatives and friends visit inmates in prison each year. Experienced correctional managers know that visitation improves the prison environment, so all successful institutions should encourage such visits and continue to enhance visitation programs rather than diminishing them. Visits give inmates something to look forward to, an incentive to participate in rehabilitative programs, and a mechanism with which to cope with prison life. While there are challenges to security of prisons while providing such programs when visitors are allowed into the security envelope of an institution, and an elaborate system of rules and regulations govern the process, the benefits greatly outweigh the drawbacks. After all, it is the tax payer who pays for the administration to provide security for such a program, not the administrators themselves. See: Visiting in Prison, By: Reginald A. Wilkinson, Director Ohio department of Rehabilitation and Correction; Tessa Unwig, Public Affairs Ohio Department of Rehabilitation and Correction. Published in Prison Jail Administrators Practices and Theory (1999).

As far as funding for establishing provisions and housing for conjugal visits, Montana has a unique ability for the families and inmates themselves to bare the cost through the inmate welfare which is generated mostly from inmate and family telephone charges. The monies

generated are specifically set aside for the benefit of the inmates and families. What better investment than to pay for a conjugal visitation program. The IWF currently maintains a collective balance of more than a half a million dollars and upwards to as much as three quarters of a million dollars.

Additionally, Montana Statutes mandate that the wardens first consult with the inmates about the expenditures of the fund before they can be spent on anything. In adherence to Montana Open Meeting and Participation Laws, the public as well as the inmates can weigh in on a decision to spend the fund for enhanced conjugal visit program.

NON AGENDA ITEM #3 (Inmate Transfers)

The MDOC should change its policy and practices concerning the way in which inmates are selected for transfers because the current practice is a disruption to the orderly operation of the facility (MSP).

As with most states it has been found through experience that choosing inmates from the receiving unit for transfers to other state regional prisons is more efficient and provides little disruption to the prison and inmates.

The current practice is chaotic and a waste of resources and tax monies. How? Take for example the inmate who arrives on reception and is held for the average of 70-90 days before being put into his MSP housing unit. He then buys his property, gets a job, and engages in other programming. He's just being trained by MSP staff in his new kitchen job. At the same time, MSP staff have just processed applications, and put time and resources into training the inmate then one morning, only to find, without notice, the new employee is gone. The meal is late, and the kitchen supervisor is again looking for another inmate worker to start the cycle all over again. Shipping inmates from the intake population before an inmate acquires property and a job would better utilize Department resources and makes COMMON SENSE!

NON AGANDA ITEM #4 Why are non-agenda items from previous meetings not on any subsequent MDOC meeting agenda?

The PIB is not adhering to the statutory provisions of Montana's open meeting Law Act when it refuses to put non agenda on a future meetings agenda. They can be placed on future PIB meetings or on other meeting agendas such as the management Meetings. Either way the law requires it. So we hereby once again specifically request that all non-agenda issues that were raised at previous meetings that have not been placed on an agenda be put there. The Departments failure to do so is inviting future litigation at tax payer expense. It's also violating our Constitutional right to participate in the agencies decisions compelling we and other tax payers to file a money damages suit.

The department is required to embrace public participation, not figure out every loop hole it can to diminish it. The discussion that took place at the last meeting amongst members of this Board indicates this and is disgusting to say the least!

You have to make provisions allowing a "method" of public participation in your decision making process before you make them. At current time you allow comment that goes ignored.

All of you have an obligation to a code of ethics which requires you to follow state and federal laws. It's part of your job. Malfeasance and negligence are currently at play. All we ask is you do your job!

NONAGENDA ITEM #5 (Roses Litigation Response)

During the last PIB meeting, DOC legal counsel commented about two of Robert Roses cases being dismissed. True statement. What failed to be mentioned is the reason. DOC legal attorney, Colleen Ambrose, and other DOC defendants in Roses case caused or participated in the confiscation and destruction of necessary legal papers involved in the case. Robert Rose made this part of the record in Federal Court. Most tellingly is that he expressed to the court the need for a protective order against the department to stop the abuses while he litigated. The court refused, leaving Rose unprotected. So, Rose followed his fears of further retaliation and stopped his claims in both causes. Rose v. Swanson CV-10-48-h-dwn , Rose v. MDOC 10-CV-00002-dwn U.S. Fed.Dist.Ct. Helena Division). They were subsequently dismissed for failure of Roses to prosecute. Anyone who wants more information can contact Barbara Rose at rose_msp@yahoo.com.