

April 25<sup>th</sup> 2013, PIB comments

Submitted by Barbara and Robert Rose

### **COMMENT #1**

Although not directed or authorized by the legislature to do so, MCE manages the inmate hobby program at the Montana State Prison, to include the downtown Hobby Store. However, this was not always the case. Many years ago the inmates through the inmate council and/or Wardens Forum managed the store and sale of hobby items. Inmates agreed to donate a 5-10% tax to help pay for insurance, theft and upkeep of the store. At certain periods in the past, they even paid the salary of someone to clerk the store. An inmate from the work dorm now clerks the store.

In 2006 MCE made an arbitrary decision as a matter of policy to tax inmates 25% of the hobby items downtown. It was then asserted that the extra monies would be spent on advertising on a website. At that same time MCE took over the hobby Store account that had existed under the authority of the Inmate Committee Bylaws. There was more than \$30,000 in the account. MCE assumed it's authority to spend it as it may. Yes there was some remodeling completed to expand the store. Nothing was approved or voted on by the inmates who contributed to the accounts (then) balance.

Then in 2010, the long time Hobby Director Tim Mueller was replaced by the new Hobby Director who had worked for MCE for many years. When Tim was pushed out the door, there was a bountiful amount of hobby supply inventory at the low-side hobby office. Hundreds of pounds of horse hair, beads and other supplies. Inmates spent many hours loading supplies on trailers to watch it be removed. Some say it went to warehouse #14, or maybe #4. Items of value that get removed from the prison under false pretenses often to get momentarily stored here until an employee finds it a home. Nonetheless, the large hobby inventory disappeared after being deemed contraband. The account, the hobby supplies, were all paid by the inmates, not the tax payers.

So now here we are in 2013. MCE has totally taken over the entire program. Inmates used to be able to order directly from approved vendors. The horsehair vendors would give inmates discounts according to larger quantities of supplies purchased, as do most businesses. MCE stepped in the middle of that process now requiring inmates to send their orders through the MCE warehouse purchase administrator, who charges a service fee. For example, a service fee of \$3.50 is assessed for an order under \$50.00. An order of more than \$50.00 is \$5.00. There is then a shipping fee, even though multiple orders may be combined in one. The individual inmates are

not given the benefit of any discount passed down from the vendor for larger orders.

The above history and practice has opened up to class action litigation with good cause. What's more bothersome is that the Legislative Audit Division has repeatedly warned the Department of Corrections about charging fees without prior legislative authorization. (See 2007-2008, Internal Service Fund Rates p. 16)(Leg. Audit Report).

## **COMMENT #2**

Attached is the Montana State Prison Television Programming Services contract between the Department of Corrections and Correctional Cable TV-Tyler, Texas.

As you will see on page 9, the contract will terminate on June 30<sup>th</sup>, 2013, absent any renewal. The renewal period, upon mutual agreement, may not exceed two additional years. It's important to note that the inmates and their families are the sole contributor's for the expense of the prison TV program through the Inmate Welfare Fund.

The inmates at MSP have found out the Amy Vanalstyne has refused to consider drawing up a request for proposal (RFP) that would allow the possibility for a better contract for the prison TV program. Such decision appears to have been made at a non-public IWF meeting at the prison during the week of April 8, 2013. This decision was made despite inmate representative correspondence to Gary Willems (DOC Procurement Officer). This decision was also with disregard for any public participation in violation of Article II, Sec. 8-9, Mont. Const.

One would naturally assume that inmates and families who pay for the inmate TV system would be provided an opportunity to be included in the selection process with respect to the programming they watch. The current contract has been in place for almost five years. It's plain language includes the benefit that allows the department to add or delete channels during the course of the contract. Inmates have repeatedly requested changes and are told the contract precludes any changes. Such information comes at the behest of Ms. Vanalstyne who is the liaison to the contract. Not allowing the inmates to have some participation in the selection process is beyond logic. They are the ones who pay for and watch the TV.

We therefore respectfully encourage the department to only extend the contract from month to month until Ms. Vanalstyne might draw up an RFP following inmate participation.

### **COMMENT #3**

MSP is one of the very few prisons that does not issue inmates state issued t-shirts and long johns for adverse weather conditions. This, despite Montana Mistreatment of Inmates Criminal Statutes that requires MDOC officials to supply all reasonable necessities. This despite the fact that MSP no longer allows care packages that included clothing from families.

Inmates should be allowed to receive clothing care packages from home if the department continues to not include state issued t-shirts and long johns. Many states still consider this option.

### **Comment #4**

To a large degree, inmate wages at MSP are covered by appropriations from the legislation in combination with contributions from the inmate welfare fund.

Year after year the legislation allocates monies from the general fund described as "inmate raises". We wonder if the legislation would be interested to know that inmates have not been given inmate pay raises but pay decreases at MSP. Inmates who work for MSP(not MCE) make anywhere from 65 cents per day to \$3.25 per day. A couple years ago the women's prison in Billings brought an equal protection law-suit claiming they were not receiving equal pay in regards to their male counterparts at MSP. Rather than the department taking the advice of prison supervisors who encouraged pay raises, it was decided to lower inmate wages across the board, DOC wide. If this is not retaliation, what is? This is despite the fact that inmate pay at the end of each month is taxed by at least 16% for paying victim restitution.

If one tallies up the allocated monies from the general and special state funds, minus wage expenditures to inmates, the numbers don't add up. Are there any accountants at the meeting today?

### **COMMENT #5**

MDOC/MSP Correspondence procedures require inmate packages to be sent out at least every 48 hours. For many-many years Tim Mueller complied with such policy by sending hobby packages out twice weekly.

Today however, this practice is lost to the winds of change. Inmate hobby packages sit unnecessarily in the hobby shop for sometimes weeks before making it to the mail room. Even absent extraordinary circumstances (such as staff illness), the packages are only sent out once weekly. This practice violates clearly written and defined correspondence mail and package policies and procedures.

Inmates, families and victims are adversely affected under such unnecessary practices. Simply put, the more hobby sent for sale, the more family support and restitution to victims.

Hobby program at MSP has been declared a privilege and not a right by the administration. This should be redefined due to the fact that inmates in Montana have an explicit constitutional right to rehabilitation under Article II, Sec. 28, Mont. Const.

Likewise, under the same Constitutional Section, inmates are entitled to carry out part of their sentence condition of restitution, especially considering the people of Montana voted in favor of amending the section to add restitution as a definition of punishment in Montana. Why would the department want to slow or restrict hobby sales? An inmate's means to make and participate in the hobby program at MSP should not be restricted.