



## ***Issue Brief:*** ***Wyoming State Prison Populations***

03 IB 003

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by:

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### **ISSUE**

Provide an assessment of the population of prisoners currently ordered by the State of Wyoming to serve time in a correctional facility. Identify the prisoner populations for both out-of-state and in-state prisoners. Identify potential options for future prison construction.

### **PURPOSE**

This report presents current statistics pertaining to Wyoming's inmate population, projections for growth, and options for accommodating this growth. This report does not recommend any one alternative over another. The Legislature asked the Department of Corrections (DOC), in cooperation of with the Department of Administration and Information (A&I), to consider construction for up to two new minimum or medium security male facilities ('03 Laws, Ch. 179, Sec. 1(c)). The Legislature should soon receive a report from DOC and A&I that assesses options for providing adequate space for inmates. Additional research would be required in order to independently analyze executive branch recommendations.

### **SUMMARY**

Wyoming currently houses nearly 1,800 inmates. Approximately 90 percent of Wyoming's inmates are males. The average daily population of male inmates in the state is expected to reach 1,780 by the year 2015. Wyoming has the capacity to house 1,046 male inmates in current state facilities. The state already sends about 26 percent (or 424 inmates) of its male inmates out-of-state and houses another five percent (or 79 inmates) in Wyoming county jails. There are

already more inmates than beds in Wyoming correctional institutions, and the problem is expected to get worse. There are multiple options to the state for new prison construction. Should the state decide to build a new correctional facility, it must decide how many facilities will be built and at what capacity; where the new facility or facilities will be located; and whether or not the state will want to work with outside developers in the construction and management of the new facility or facilities.

### **BACKGROUND**

Senate File 16 was passed by the Fifty-seventh Wyoming Legislature and signed by Governor Freudenthal on March 7, 2003. The law ('03 Laws Ch. 179) requires DOC, in cooperation with A&I, to evaluate the need for *up to two* new minimum or medium security facilities, each with a minimum capacity of 400 beds, expandable to 600 beds, and each with 32 additional beds for intensive alcohol and substance abuse treatment and 15 additional beds for special management inmates. The law also authorizes minor expansions at the Wyoming State Penitentiary, Wyoming Honor Farm, and Wyoming Women's Center. The state has been attempting to meet growing demand for appropriate places to house the state's inmates for quite some time.

### **THE HISTORY OF PRISONS IN WYOMING**

Wyoming built its first penal institution, the Territorial Penitentiary, in 1872. It was not long afterward that Wyoming recognized that the facility would not be adequate to house the growing number of inmates. As Wyoming approached statehood, it was already necessary to

consider building a new facility or transporting prisoners out of the territory to other territorial or state prisons and paying for the out-of-territory prisons to keep the Wyoming prisoners.

On July 10, 1890, Wyoming became a state. The Wyoming Constitution, Article 7, Section 18, and related statutes, established the Wyoming State Penitentiary and defined its functions. It states that, "Such charitable, reformatory and penal institutions as the claims of humanity and the public good may require, shall be established and supported by the state in such manner as the legislature may prescribe. They shall be supervised as prescribed by law." In Article 7, Section 23, the Constitution states that, "A penitentiary shall be located at or near the City of Rawlins, in the County of Carbon. The legislature may provide by law the location of other public institutions, including correctional facilities."

#### **CORRECTIONAL FACILITIES IN WYOMING**

The Board of Charities and Reform was originally responsible for the management of Wyoming's penal institutions. The Wyoming Department of Corrections was created in the government reorganization of 1991 and given responsibility for the supervision, control and custody of incarcerated felons located in four state-run correctional facilities, privately run adult community corrections facilities and out-of-state placements. Current correctional facilities are located in Rawlins (the Wyoming State Penitentiary), Riverton (the Wyoming Honor Farm), Newcastle (the Wyoming Honor Conservation Camp), and Lusk (the Wyoming Women's Center).

**The Wyoming State Penitentiary.** The original Wyoming State Penitentiary (WSP) was opened in 1901. It was remodeled and enlarged on numerous occasions to accommodate the growing prisoner population and changing needs for inmate management.

**The North Facility.** In 1976, the Legislature authorized construction of a new prison at Rawlins. The "new" facility was opened in 1980 and inmates were transferred to "C" Block. The

original housing capacity of this facility, later to become known as the "North Facility," was set by DOC at 550 inmates. The West Tower was built in 1983 and the East Tower in 1984 to add to the security of the facility. Other modifications to the facility added approximately 275 beds by 1995. DOC, however, determined that the safe and appropriate housing capacity was 780 inmates. In 1995 the Intensive Treatment Unit (ITU) for long-term alcohol and substance abuse treatment was put into operation.

**The South Facility.** When the High Security Special Needs facility at the WSP opened in 2001, the 1980 facility became known as the "North Facility," and the new facility came to be called the "South Facility." The South Facility originally had a capacity of 648 inmates and was intended to house maximum and special management inmates, while the North Facility was to be used for lower security prisoners. However, DOC vacated the North Facility upon completion of the South Facility. Inmates were either transferred to the new facility, other DOC facilities, out-of-state institutions, or Wyoming county jails. A number of factors contributed to the closing of the North Facility. In the end, the DOC determined that the North Facility had safety and habitability issues that could not be immediately resolved.

In addition to the construction of the South Facility, two other buildings, a warehouse and an administration building, were constructed at the WSP in 2000. Both were designed to service the entire complex (i.e. the North and South facilities). In 2002, the new Central Production Facility opened, and the old kitchen and laundry facility at the North Facility were closed.

Today, inmates of all security levels are housed at the South Facility. The ITU is also housed at the South Facility. According to DOC, it has a capacity of 648 inmates, with 28 additional beds for ITU. As of June 2003, the South Facility housed 672 inmates. The North Facility now stands abandoned.

**Wyoming Honor Farm.** In 1931, the Legislature authorized the establishment of one or more penitentiary farms. Within a year, land had been

purchased near Riverton and prisoners were used to construct the Wyoming Honor Farm (WHF). WHF was built as an alternative to the WSP for minimum-security prisoners. According to the DOC, it has a capacity of 176 inmates with a population of 156, as of June 2003. The WHF offers a variety of agricultural and work programs for adult male offenders. It also provides educational, vocational, and treatment programs in line with its mission.

**Wyoming Honor Conservation Camp.** In the late 1980s, the state authorized construction of the Wyoming Honor Conservation Camp (WHCC) near Newcastle. Again prisoners were used in the construction of the facility. Modular buildings were reconstructed to build the kitchen and dining facility, inmate barracks, and offices. The WHCC was built as a minimum-security forestry camp for adult male offenders. While originally home to the 25 inmates that helped to construct the facility, the WHCC has grown numerous times and currently has a capacity of 222 inmates. According to DOC, the population as of June 2003 was 202 inmates. Reconstruction through the late 1990s replaced most of the original facility. Today, the facility is also home to the Wyoming Boot Camp, a program for youthful offenders. Inmates at the WHCC assigned to forestry crews fight wildfires in Wyoming, South Dakota and Colorado. They also do forestry work on state lands and provide community service.

**Wyoming Women's Center.** In 1977 the state began work to establish Wyoming's first female correctional facility, the Wyoming Women's Center (WWC). Prior to the construction of the WWC, the majority of female inmates were housed in out-of-state facilities. From 1977 to 1984 the female prisoners were housed at a women's correctional program, known as the Wyoming Women's Center, located on the grounds of the Wyoming State Hospital in Evanston. When the program opened in 1977, the inmate population was 38.

In 1981 the Legislature authorized the establishment of a permanent facility in Lusk. The permanent facility was built in 1984 with a capacity for 84 inmates. The population of female

offenders continued to grow and the facility was modified to accommodate the growing population. The inmate population hit a high in August 1999, with 151 inmates. The following month, 50 inmates were shipped out-of-state. The current capacity of the WWC is 130 inmates with 16 beds in the female ITU. As of June 2003, DOC reported a population of 110 inmates at WWC. The Wyoming Women's Center is the only prison in Wyoming for adult female offenders. The facility houses all security levels, minimum through maximum.

**Adult Community Corrections.** Certain inmates are allowed to participate in the adult community corrections (ACC) program as defined in W.S. 7-18-101 through 7-18-115. There are currently programs in Casper, Cheyenne and Gillette. These facilities are not run by the DOC, but are managed by a local community corrections board. The facilities may house federal and local offenders in addition to state inmates. Therefore, the total number of beds available at each facility may not be the total number of beds available to DOC. The DOC reported that there are a total of 344 beds available in the three facilities; however, bed space is not delineated by gender. The Casper program has a capacity of 188 beds; the Cheyenne program has a capacity of 72 beds; and the Gillette program has a capacity of 84 beds. As of June 2003, 83 inmates were in ACC programs.

To obtain an ACC placement, an inmate must be within 24 months of his or her minimum sentence, have demonstrated appropriate conduct throughout confinement, and be accepted by the provider and the local community corrections board. As inmates become eligible for parole when completing the minimum sentence, the ACC provides the inmate with an opportunity to transition back into the community. In addition to time eligibility, inmates must meet the statutory requirements related to risk, aptitude, and attitude (W.S. 7-18-106(b)). Finally, there are inmate specific criteria for admission to an ACC program, such as risk of escapes, conviction history, and appropriateness for placement. (See W.S. 7-18-102 and 7-18-109.)

**County Jails.** The DOC currently has contracts with five Wyoming counties to house state inmates in their detention facilities. However, facility space is contingent on the needs of the county and may be unavailable to house state inmates. However, county jails may not provide a reliable source of beds for state inmates. The current contracts allow for *up to* 42 inmates in Big Horn County; 28 inmates in Goshen County; 25 inmates in Platte County; 12 inmates in Washakie County; and 21 inmates in Weston County. DOC reported 79 inmates in Wyoming county jails as of June 2003.

### CIVIL RIGHTS OF INCARCERATED PERSONS

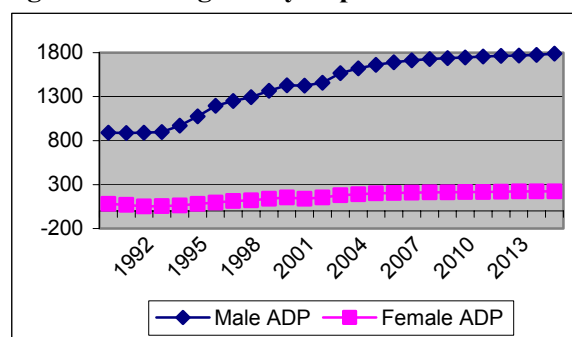
In October 1998, the U.S. Department of Justice (DOJ) made the first of several site inspections to Wyoming DOC facilities under the Civil Rights of Incarcerated Persons Act (CRIPA). The DOJ identified a number of problems with the North Facility at the WSP. The DOJ told DOC, in a letter of findings following its visit, that the conditions at the North Facility were such that they could amount to a violation of the constitutional rights of prisoners. They identified a number of facilities issues that represented health, safety, and/or habitability risks to inmates and directed DOC to address the issues. The state took exception to the claim that inmate constitutional rights had been violated but agreed that the issues needed to be resolved.

In April 2002, DOC announced that the DOJ and the Department had entered into a final agreement regarding the Wyoming State Penitentiary. It was noted that the State had two years to reach compliance: one year to obtain substantial compliance with the terms of the agreement and one year to maintain compliance. DOC has taken steps toward compliance and has submitted regular reports to the DOJ. In late August 2003, DOJ officials made their first site visit to WSP since entering into the settlement agreement with the State and will be issuing a report of their findings in the coming months.

### POPULATION STATISTICS FOR CORRECTIONAL FACILITIES

While maintaining a relatively flat rate in the early 1990s, Wyoming's inmate population has been on the increase over the last decade. In 1990, the state had an average daily population (ADP) of 889 male inmates and an ADP of 79 female inmates. While the ADP for male inmates remained relatively steady over the next three years, there was a slight decline in the ADP of female inmates. From 1993 through 2003, there has been a pattern of growth in the ADP for both male and female inmates. (See figure 1.) That trend is expected to continue. The DOC projects that the ADP for male inmates will reach 1,780 by the year 2015. They anticipate that the ADP for female inmates will reach 224 by that year.

**Figure 1. Average Daily Population.**

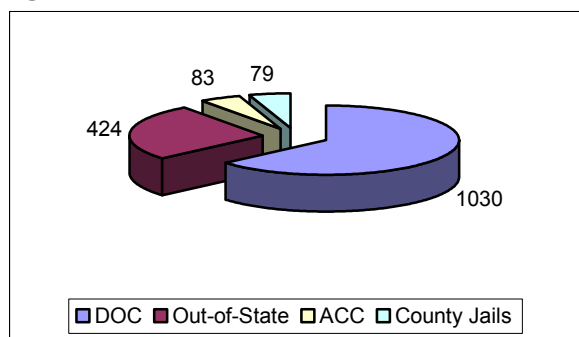


**Source:** Wyoming Department of Corrections.

**Male inmate statistics.** As of June 2003, the DOC reported 1,616 male inmates in the custody of the state. (See figure 2.) The majority of those inmates (1,030 inmates or 64 percent) were in DOC facilities. The WSP housed 672 of those inmates; the WHCC housed 202 inmates; and the WHF housed 156 inmates. The next largest contingent of male inmates, 424 (or 26 percent) were housed in out-of-state facilities. The Crowley County Correctional Facility in Colorado had the largest share of out-of-state inmates with 285 prisoners from Wyoming; 110 Wyoming inmates were placed in Nevada; and 29 Wyoming inmates were sent to the Kit Carson facility in Colorado. Eighty-three (or 5 percent) of the male inmates in the state were in Adult Community Corrections programs around the state (60 in Casper; 12 in Cheyenne; and 11 in Gillette).

Finally, 79 male inmates (or 5 percent) were placed in Wyoming county jails (40 in Big Horn County; 7 in Goshen County; 1 in Laramie County; 17 in Platte County; 9 in Washakie County; and 5 in Weston County). Figure 3 illustrates the custody levels of the male inmate population.

**Figure 2. Location of Male Inmates.**



Source: Wyoming Department of Corrections.

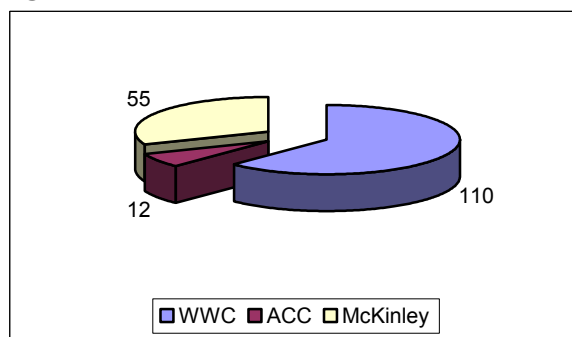
**Figure 3. Male Inmate Custody Level.**

Custody Level	Number of Inmates	% of All Inmates at Custody Level
Minimum	394	24
Medium	626	38
Maximum	27	2
Close	323	20
Close Restricted	57	4
Special Management	106	7
Community	83	5

Source: Wyoming Department of Corrections.

**Female inmate statistics.** As of June 2003, the DOC reported 177 female inmates in the custody of the state. (See figure 4.) The majority of those inmates (110 inmates or 62 percent) were placed in the WWC. The next largest contingent (55 inmates or 31 percent) were located out-of-state in the McKilney facility in New Mexico. Finally, the remaining inmates (12 inmates or 7 percent) were placed in Adult Community Corrections programs around the state (8 in Casper and 4 in Cheyenne). Figure 5 illustrates the custody levels of the female inmate population.

**Figure 4. Location of Female Inmates.**



Source: Wyoming Department of Corrections.

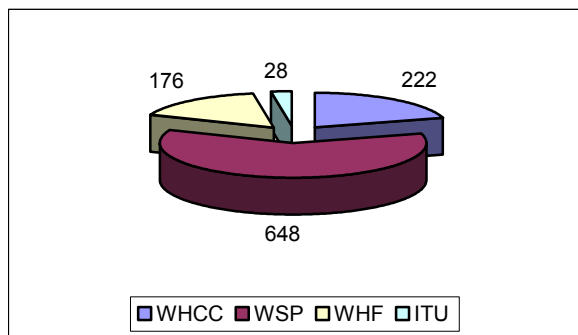
**Figure 5. Female Inmate Custody Level.**

Custody Level	Number of Inmates	% of All Inmates at Custody Level
Minimum	73	41
Medium	49	28
Maximum	3	2
Close	24	14
Close Restricted	5	3
Special Management	11	6
Community	12	7

Source: Wyoming Department of Corrections.

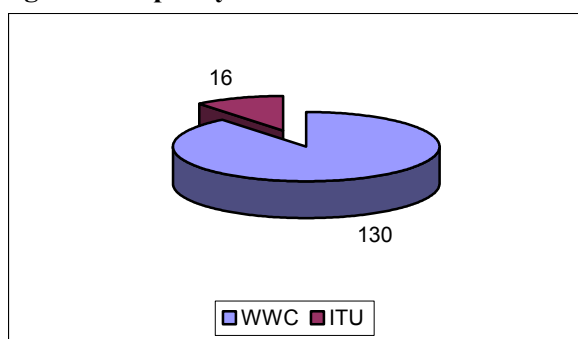
**Capacities of facilities.** The DOC reported that it had a total capacity of 1,074 male inmates, as of June 2003. (See figure 6.) The majority of that capacity (648 beds or 60 percent) was at the WSP. WHCC has a capacity of 222 beds (or 21 percent). Sixteen percent (176 beds) were at the WHF. The DOC also has a capacity of 28 male beds (or 3 percent) for its Intensive Treatment Unit (ITU). The total capacity for female inmates was 146 beds at this time. (See figure 7). The majority of these beds (103 beds or 89 percent) were at the WWC. An additional 16 beds (or 11 percent) were in the female ITU. It should be further noted that there are a total of 344 beds available in three ACC facilities. However, the bed space is not delineated by gender.

**Figure 6. Capacity of Male Facilities.**



Source: Wyoming Department of Corrections.

**Figure 7. Capacity of Female Facilities.**



Source: Wyoming Department of Corrections.

**Costs.** The DOC provided a summary of the current costs for housing Wyoming inmates on a per day basis. (See figure 8.) The ITU has the highest per day cost. The contract, however, is based on services, not just the number of inmates in the program. The DOC facilities are next most expensive and include both operational and medical costs. The lower security facilities are less expensive than the higher security facilities. County jail costs per day include monitoring, medical, transportation and related costs. Out-of-state costs include monitoring and off-site medical costs. For the ACC program, DOC pays \$40.00 per day for the first 21 days to provide the inmate time to locate employment. Following the 21<sup>st</sup> day, DOC pays \$31.50 per day and the inmate pays \$10.00 per day for housing. Other costs include administrative costs, monitoring, and transportation.

**Figure 8. Daily Costs by Facility per Inmate.**

Facility	Operational Cost	Medical Cost	Total Cost
Female ITU			\$129.05
Male ITU			\$121.71
WWC	\$91.57	\$29.30	\$120.87
WSP	\$102.65	\$18.06	\$120.71
WHF	\$54.78	\$12.71	\$67.49
WHCC	\$48.85	\$10.01	\$58.86
County Jails			
Big Horn			\$68.01
Goshen			\$60.19
Platte			\$70.36
Washakie			\$64.89
Weston			\$72.46
Out-of-State			
Crowley			\$59.54
Kit Carson			\$63.74
Nevada			\$71.72
ACC			
Casper			\$48.42
Cheyenne			\$53.21
Gillette			\$53.15

Source: Wyoming Department of Corrections.

**SENATE FILE 16**

The Wyoming State Legislature's Joint Judiciary Committee undertook an interim corrections system review at the close of the 2002 Budget Session. This was in response to the studies they received in December 2001 as well as in response to continuing overcrowding and out-of-state placements. "In light of prison overcrowding and the transfer of inmates out-of-state, the Committee will look at sentencing and the state-wide handling of corrections, including parole and alternative corrections. The Committee will tour current facilities and consider alternatives that could move more prisoners out of the existing facilities and into more productive environments." The Committee learned that Wyoming would likely not be able to continue to send prisoners to the Crowley facility in Colorado after 2005. Since Crowley represented the largest out-of-state placement for Wyoming inmates, the Committee considered the need for additional inmate beds.

The Committee produced legislation for the 2003 General Session (Senate File 16). The legislation required the DOC, in cooperation with A&I, to begin looking at the issue of design and

construction or expansion of correctional facilities and programs. The legislation directed the DOC and A&I to plan for expansion of current facilities as well as to explore the possibilities for up to two new minimum or medium-security male facilities. The improvements planned for the current facilities include the addition of 59 minimum security beds at WHF in Riverton; 32 beds at WSP in Rawlins for the ITU; 108 minimum security beds at WWC in Lusk; 16 ITU beds at WWC; enlargement of the kitchen and dining facilities at WWC; and construction of treatment program space at WWC. The legislation requires the dismantling of the portion of the North Facility of the WSP that is no longer usable, ensuring that materials are salvaged or recycled where possible. The legislation also calls for the construction of a secure treatment alcove at the Niobrara County hospital building in Lusk to include two secure treatment beds to allow for the medical treatment of inmates from WWC. Finally, the legislation calls for an independent evaluation and programmatic critique of the corrections system.

#### **ALTERNATIVES**

There are at least three general options available to the state in dealing with the increased inmate populations. If the DOC projections are correct, the total inmate population will exceed 2,000 by the year 2015. Without the construction of new facilities, but including the improvements called for in Senate File 16, the total capacity for DOC facilities will be 1,435, with 270 beds reserved for female inmates. This will mean that the state may need to find a way to house over 600 male inmates. Because Senate File 16 requires contemplation of the construction of up to two new facilities, this report does not consider options for building more than two new facilities.

**Option one.** The first alternative available to the state is to maintain the status quo. This would mean that the state would not construct any new facilities. Inmates beyond the capacity of DOC facilities would need to be housed in out-of-state facilities with a portion potentially in Wyoming county jails. Given that the Crowley facility is not expected to be available to house Wyoming

inmates after 2005, the state would need to look elsewhere for out-of-state placements.

There are a number of policy considerations that may influence this alternative. Out-of-state placements can be difficult as many out-of-state entities are only willing to contract to take inmates that are in good health and require less monitoring. Wyoming county jails also pose a potential problem as all facilities are subject to reduction of beds based on the county's need. Placement in facilities other than DOC facilities may also subject the state to possibilities for litigation over which it has less control. The state may be liable for inmate maltreatment under CRIPA, even though the inmates are not located in facilities of the state. The DOC has virtually no control over the number of inmates in the custody of the state. Increasing the rate or number of inmates in state facilities versus those monitored under probation and parole introduces an entirely new set of issues.

**Option two.** The second choice available to the state is to build *one* new correctional facility. The state would need to determine the best location for the new facility. Senate File 16 requires an evaluation of the adequacy of infrastructure and availability of potential workforce when considering new construction. Because the state constitution requires the "state penitentiary" to be placed in Rawlins, the name of the facility may need to be considered. One site that may be considered if a new facility is to be constructed is Rawlins. Specifically, it may be possible to build on the infrastructure of the existing penitentiary or to rehabilitate the North facility. However, in a 2001 report by the Economic Analysis Division of A&I, an economist suggested that it would be "quite difficult" to recruit and retain an expanded staff at the WSP. In addition to considering the existing infrastructure, it may be prudent to evaluate the factors that impact a potential workforce and evaluate a community's ability to provide and maintain a qualified and adequate workforce.

Additional considerations would need to be made as to how the facility would be constructed. This means that the state would have to decide on a

process for the planning, constructing, and equipping of the new facility. The array of construction and management options is discussed below.

**Option three.** The final option available to the state is the construction of *two* new correctional facilities. The state will still need to consider where to build the facilities. It may be possible to build both facilities in a single community or to locate them at different communities within the state. The existing infrastructure and the availability of a potential workforce at each community could influence the decision. It may also be beneficial to consider how the new facilities would contribute to the overall correctional facilities of the state. Consideration should be given to the method for constructing the new facilities. The state may select different methods for constructing each of the facilities. Finally, it will be necessary to decide on a time frame for the construction of the new facilities. For example, it may not be necessary for both facilities to be built at the same time.

**Methods for constructing a facility.** There are at least three basic options for constructing a new facility.

- It would be possible for the state to engage in the *traditional method* for building a public facility- to go it alone. The state would need to do such things as select and acquire a site, advertise for and select architects, approve work drawings, advertise for general contractors, review bids and select a contractor, advertise for and select an underwriter, issue bonds, execute a construction contract, supervise construction, and acquire and install equipment. This method would likely take longer and may be more expensive, but the state would maintain control over all phases of construction.

Dominion Correctional Services, a firm specializing in the privatization of corrections, presented the 2002 Joint Judiciary Interim Committee with a estimate for such a project, suggesting

that it would take about 38 months to complete and cost between \$75 million and \$118 million. The Wyoming State Prison Construction Project made its own estimate in December 2001, projecting a \$117 million cost for an 870 inmate capacity facility.

- The state could *fully privatize* the construction of the facility. The state would need to issue a request for proposals for the development of a fully-contained and equipped prison, citing American Correctional Association design criteria and specific performance requirements. Following the receipt of proposals, the state would need to select a developer offering the best combination of price, financing terms, design, materials, equipment, and qualifications of the developer's team. The state would award a contract and monitor the construction and installation of the facility. The developer would design, build and finance the facility. They could either operate the facility under a contract with the state or provide for a transition for state management. This option may allow for a quicker time frame and may be less expensive for the state. However, the state may lose control over some elements of the new prison construction.

Dominion told the 2002 Joint Judiciary Interim Committee that such an endeavor would likely take 27 months to complete and would cost between \$46 million and \$55 million dollars. In doing so, Dominion offered the Committee a conceptual site design for an 870 bed medium security correctional and treatment facility for an unidentified site in Wyoming. Dominion is the company that developed the Crowley facility for the Colorado Department of Corrections. However, there are a number of companies in the privatized corrections market.

- The state could engage in some *hybrid* of the above models. There may be flexibility in the terms of what the state is responsible for and what the developer is responsible for. This option would allow for a medium range time frame and cost for the construction of a new facility and could allow the state more control over how the prison is built.

## **CONCLUSION**

The state faces a choice of what it will do in response to the growing number of inmates. It appears that the construction called for in Senate File 16 will come close to meeting the need to house female inmates through the year 2015, given current estimates. However, the problem of the increasing male inmate population presents a more difficult choice. Should the state decide to build one or more new correctional facilities, it will have to decide where to build them, how they should be built, and to what degree the state will control the construction.

The DOC and A&I will be issuing a report with specific recommendations in the near future. This report was required pursuant to Senate File 16 and will likely inform these decisions.

## **CONTACTS FOR MORE INFORMATION**

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