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# Law and Justice Interim Committee

## 60th Montana Legislature

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TO: Law and Justice Interim Committee

FROM: David S. Niss, Staff Attorney

RE: Recommendations Regarding Mental Health Care in the Criminal Justice System Based on Legal Resources Distributed to the LJIC

DATE: December 27, 2007

At the close of the meeting of the Law and Justice Interim Committee (LJIC) on November 30, 2007, the Presiding Officer, Senator Dan McGee, asked that I put recommendations I made earlier, at the October meeting of the LJIC, into written form.

Remember that the constitutionally derived requirement for a state to provide treatment for serious mental illness of imprisoned or detained persons applies equally to adults and minors and also to state prisons and county correctional centers. However, there is no Montana case law similar to the opinion in Walker that applies specifically to juvenile corrections.

The following recommendations are a recasting of those recommendations that I made at the October LJIC meeting:

### **Recommendation No. 1**

Take limited testimony to determine whether legislative action is necessary for Montana to continue to implement the settlement agreements in U.S. v. Montana and Langford v. Racicot regarding mental health treatment of inmates or to otherwise operate mental health treatment systems at state correctional facilities consistent with the opinion in Ruiz v. Estelle.

### **Recommendation No. 2**

Take testimony to determine whether legislative action is necessary to address the concerns stated in the Final Report to the Court from the Monitoring Committee established pursuant to Judge Neill's order upon remand in Montana v. Walker (including whether legislative action is necessary to reduce the possibility of lack of psychiatric diagnosis, or psychiatric misdiagnosis, at state correctional facilities).

### **Recommendation No. 3**

Take testimony to determine whether to collect data regarding treatment of county detention center prisoners or detainees for serious mental illnesses.

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