



Justice

[as an Afterthought]

WOMEN AND THE MONTANA PRISON SYSTEM



by Ellen Baumler

BESSIE FISHER claimed she only borrowed the pistol to scare Chick Malone into returning her ten dollars. He had taken the money from her for safekeeping, so she could get her dress out of pawn. But when Bessie rapped on Chick's door in the Owl lodging house that Sunday morning in Butte in 1901, Cassie "Big Eva" Frye answered—and Big Eva was a jealous woman. The two exchanged words. Big Eva lunged at her, and Bessie fired.¹



IN THE SENSATIONAL court case that followed, Bessie claimed self-defense. After all, she weighed less than 100 pounds, and Big Eva carried 190 on her nearly six-foot frame. The prosecuting attorney led the all-male jury to the Richards undertaking parlor to view Big Eva's remains, laid out in a cream-colored burial robe in a silver-trimmed casket. Big Eva's crib-row coworkers wept over banks of floral offerings sent by family and friends. Apparently the displays of sympathy influenced the jurors. Despite the coroner's corroborating evidence of self-defense and Bessie's attorney's confidence of acquittal, the jury convicted the nineteen-year-old "mulatto" of murder in the second degree. Upon hearing the verdict, Bessie slumped to the floor. A morphine addict, she feared that she would not survive a prison term. Bessie's jailers took pity on her, and while she awaited sentencing in the Butte jail, they periodically allowed a doctor to administer the drug to ease her agony. Judge John McClerman, however, showed no sympathy and sentenced her to

twenty years in the Montana State Prison at Deer Lodge. Fisher entered the prison on June 20, 1901, and served half her sentence before being paroled in 1911, at which point she disappeared completely from the historical record.²

Bessie Fisher and Big Eva Frye—and hundreds of women like them—faced overwhelming odds in eking out an existence in late-nineteenth- and early-twentieth-century Montana. The factors against them included their gender, their race (both were black), and their demimonde lifestyle. When the women—many of them women of color—who worked the streets of Butte, Helena, Bozeman, or any Montana community came into the courts, they could usually count on the all-male juries to sentence them to prison.³

Contemporary newspapers carried lurid descriptions of crimes in red-light districts, but prostitutes were not the only women affected by society's prejudices. The frontier West quickly had become a melting pot that "absorbed the cultural baggage of the nation." The baggage included biases not only against minorities but against women in general and, in particular, those whose social circumstances made them vulnerable. Abandonment, poverty, domestic abuse, and lack of education were endemic. When women lived in these conditions, it often led them to make bad choices, take up unsavory lifestyles, and run afoul of the law. Comparatively few did time in western penitentiaries, but for those whose crimes were serious enough to lead to prison time, social circumstances were usually a determining factor in their sentences. And once incarcerated, women inmates in western prisons generally served their time in isolated conditions, neglected by prison staff and forgotten by people on the outside.⁴

The pattern for women incarcerated in Montana prisons was no different from that elsewhere in the West. Gender prejudice and the neglect of female inmates were well entrenched in both the legal system and penal institutions by the time the western territories began to build penitentiaries in the 1860s and 1870s.⁵ In Montana, the need for a federal territorial prison arose in the mid-1860s as it became clear that the miners' courts in the booming gold camps were unprepared to deal with violent crimes and indirectly encouraged the illegal activities of vigilante groups. The establishment of the federal penitentiary at Deer



MHS Photograph Archives, Helena, PAC 85-91.1185

Women convicted of crimes in the West often found justice difficult to obtain. Factors that worked against them included gender, race, social circumstances, and moral character. Comparatively few did time in western penitentiaries, but once incarcerated, they were generally an afterthought for prison staff and forgotten by people on the outside. Bessie Fisher (above)—female, mulatto, and a morphine addict—served ten years in the Montana State Prison after being convicted of second-degree murder in 1901 in Butte.

Lodge in 1871 thus placed the punishment of criminals within the arena of a professional institution. But the institution made no provision for women, even when the inmate population began to include them. Women were housed, at best, in cramped and makeshift quarters, and they had no contact with the world outside these confines. While wardens provided the male population with at least limited work such as maintenance and prison chores, female inmates, incarcerated in what were men's facilities, could not leave their cells and rarely had such diversions. Some prisons put women inmates to work mending clothing and doing prison laundry, but there are no indications that Montana female inmates participated in these kinds of activities.⁶

The women who entered Montana's early prison system were both victims and perpetrators of crimes against men, crimes against other women, and in some cases, crimes against their own children. Though they were few, their stories speak to the difficulties many women faced in western communities. Margaret Smith was the first woman incarcerated under Montana territorial law, and her case is the first to underscore the fate of women charged with serious crimes and the lack of adequate facilities to incarcerate them.

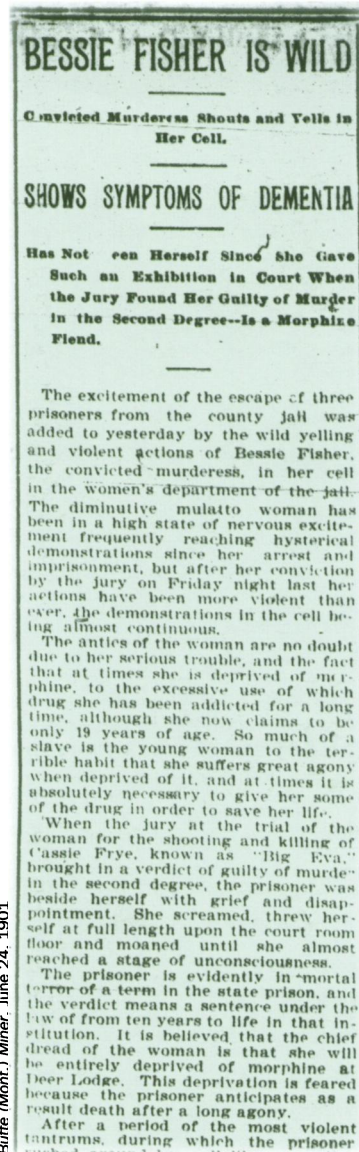
Margaret Smith and her brother David owned a cabin just below the boomtown of Nevada City in Alder Gulch. David worked as a miner, and Margaret took in boarders. Their neighbors suspected the relationship between brother and sister was not what it should have been, and when the Smiths sold their cabin early in 1867, the new owners discovered the remains of two stillborn infants wrapped in dirty rags and buried beneath the floor.⁷

The case went before a grand jury at the territorial capital in Virginia City, and brother and sister both

pled guilty to incest. Several days later, Chief Justice Hezekiah Hosmer handed down their sentences. The sensational nature of the crime and the lack of funds for legal counsel—plus the lack of support from family or friends—guaranteed that the defendants would receive harsh treatment before the bar of justice. Commenting on the heinous nature of the crime and the absence of mitigating circumstances, Judge Hosmer sentenced the Smiths to the maximum ten years each in the territorial prison, adding that, in his view, the punishment the law provided was entirely inadequate. A reporter for the *Montana Post*, however, expressed sympathy for Margaret, describing her as a victim and her brother as a brute who frequented the saloons of Nevada City. The court of public opinion concurred with Judge Hosmer's belief that the siblings shared full responsibility for the crime.⁸

Since Montana had no permanent territorial prison until 1871, the Smiths were incarcerated in a temporary facility, a crude log building in Virginia City. The expense of housing prisoners at that time seemed exorbitant. For boarding the Smiths and two other prisoners, Madison County sheriff A. J. Snider submitted claims of four dollars a day each, which may explain Margaret's early release sometime before 1870.⁹

Consideration of costs also affected the construction of Montana's federal penitentiary, and when the first prisoners arrived at Deer Lodge on July 2, 1871, the building consisted of a one-story structure with fourteen six-by-eight-foot cells rather than the three multistoried sections specified in the plans. In fact, the building was little more than a shell with grates for windows. Cell walls, buried eighteen inches into the ground, were always damp. At first, the facility had no security enclosure; U.S. Marshall William F.



Butte (Mont.) Miner, June 24, 1901



Throughout much of its early history, the Deer Lodge prison made no provisions for women, warehousing them in makeshift, cramped quarters and offering no occupational or educational options to fill their time. The historical prison, photographed here in 2007, closed its doors in 1979 after more than one hundred years in operation. Women inmates served their time there for more than eighty years.

Wheeler, the federal official in charge of operating the prison, joked that he had no need for a security fence because he never let the inmates out of their cells. The cells themselves were uncomfortable and hardly humane. Stinking buckets for human waste and smoky kerosene lighting fouled the air, and conditions deteriorated as the prison population climbed. By 1873, the Montana Territorial Penitentiary housed twenty-one male inmates in the fourteen cells, each meant for a single occupant. Only one of these men was a federal prisoner. Montana Territory paid the federal government one dollar per day for the upkeep of a territorial prisoner—a noticeably smaller sum than Sheriff Snider had estimated for his costs a few years previously.¹⁰

No woman saw the inside of the dismal Montana Territorial Penitentiary until December 1878, more than seven years after its opening. Twenty-year-old Felicita Sanchez, of Hispanic descent, was the first female inmate to enter the dank and stinking institution. She went by several aliases and was well known for her skills with a pistol and knife. Arriving

in Missoula, she found a vacant house, which she intended to turn into a brothel. Her first act was to evict a fellow who had taken up quarters in the front room. As he was gathering up his blankets, Felicita drew her small pistol and shot him three times for reasons never clearly established.¹¹

On December 3, 1878, Missoula's deputy sheriff, Thomas K. Andrews, escorted Felicita to the penitentiary to begin serving her three-year sentence for manslaughter. The lesser charge of manslaughter may have been a concession to allow Felicita a shorter sentence. The judge certainly understood that a woman inmate in a male prison would be disruptive on many levels. At Deer Lodge, Felicita took a seat in the warden's office, put both feet up on the stove, and expertly rolled herself a cigarette. Extremely uncomfortable with such unladylike behavior, the warden took half an hour to fill out the receipt-of-prisoner form, delaying as long as possible his next task—to search his new convict for concealed weapons and contraband. He finally decided to forgo that step and showed Felicita to her cell. Three guards promptly

tendered their resignations, while a fourth agreed to stay on the condition that Felicita be held in a cell especially well fortified.¹²

Felicita had served a year of her sentence almost to the month when Mary Angeline Drouillard joined her at Deer Lodge. Though only twenty-four years old, Mary had already been married three times and divorced twice. She was a battered woman whose multiple partners implied loose morals, a perception that would work against her in the courtroom. Born Mary Angeline Tebeau (or Thiebeau) in Missouri in about 1854 to French-speaking Canadian parents, she had married Cyrus McWhirk when she was only fourteen or fifteen and he thirty-three. The stormy marriage produced two daughters, Clara and Georgia. Mary divorced Cyrus in 1878, citing cruel, inhuman, and tyrannical treatment. In granting the divorce, the court awarded her five hundred dollars in alimony and fifty dollars in legal costs. Two months later, Mary Angeline McWhirk married sixty-three-year-old Dr. John Buker. William McWhirk, Cyrus's brother, took Clara to live with him in Corvallis while Georgia remained with her mother. Mary's second marriage was short-lived. By September 1878, she had divorced Buker and married Moses Drouillard, the sheriff of Missoula County. She was nearly six months pregnant.¹³

Early in December 1878, Mary gave birth to a son at the family's quarters in the Missoula County jail. Although the infant, Albert, was given the last name of Drouillard, Moses was not necessarily his biological father. Like Mary's previous two marriages, this one was troubled. But no one knew how troubled until County Clerk Frank Woody answered Mary's plea for help on December 14, 1878, and found Drouillard lying in the jail with a bullet wound above the left ear. It was obvious that the sheriff had been shot outside and dragged inside, a task that Mary, still recovering from Albert's birth, could not have accomplished alone. Both three-year-old Georgia and newborn Albert were in the family apartment at the time of the shooting.¹⁴

Authorities arrested Mary two weeks later and held her in the Missoula County jail. Little Georgia went to stay with her uncle and sister in Corvallis; the Sisters of Charity in Missoula took in the baby. Mary sat in jail for nearly a year before she went to trial, and the court interviewed more than one hundred

potential jurors before empanelling the jury. Mary's story had changed several times in the year since her husband's death. In court, she claimed that John Fisher, an employee at the jail, had encouraged her to shoot Drouillard. She further testified that William McKay—an acquaintance who was aware of the abuse Mary suffered at the hands of her husband—had cocked the gun and handed it to her, then helped her drag the body into the jail. Both men were charged as accomplices in the crime.¹⁵

The district attorney entered a nolle prosequi in Fisher's case, and the jury acquitted McKay. However, Mary's reputation, her two divorces, and her French-Canadian roots aggravated her situation. The all-male jury found her guilty of second-degree murder, and the judge sentenced her to fifteen years in the penitentiary. On the trip from Missoula to Deer Lodge, Mary reputedly answered the escorting deputy's question as to whether she had lied about McKay's involvement: "Yes, plenty, you bet," she offered. This account apparently made the rounds, prompting a letter to the editor of the Deer Lodge *New North-West*: Mary was an "unfortunate, half-witted woman" who spoke a pure form of English that would not have included such slang, the letter writer asserted. Further, the writer knew that little Georgia, soon after her removal to Corvallis, had described the crime exactly as her mother had testified, but authorities never questioned the child.¹⁶

Mary Drouillard joined Felicita Sanchez at the Montana Territorial Penitentiary on December 4, 1879. Felicita had been housed at first in the men's cellblock, but officials moved her, probably because of severe overcrowding, to one of the primitive log outbuildings that stood within the fenced prison yard. The two women did their time confined in cells within the log structure, with no access to fresh air or outdoor activity because of their close proximity to the men. There were no women attending to them; male guards took care of their needs. Mary's entry into the system caused the guards additional problems since she arrived several months pregnant. Her prison intake form does not note her condition, and officials were probably not aware of it at first, but it soon became obvious that Mary had become pregnant during her incarceration in the Missoula County jail. The identity of the child's father was not known.¹⁷

When Mary went into labor in spring 1880, the

guards removed her from her cell and took her to the prison hospital, where she delivered a baby girl. While some prisons allowed women to keep newborns and nursing children with them, Montana's institution made no such allowances. Adoptive parents immediately took the infant, and Mary returned to the log cabin at the penitentiary. However, she concealed on her person vials of opium and chloral hydrate prescribed for postpartum recovery, and once back in her cell, she swallowed the drugs in a suicide attempt. When the guards discovered her, they kept her awake and walking, and Mary survived.¹⁸

Both Felicita Sanchez and Mary Angeline Drouillard caused their male guards considerable consternation, even if unintentionally, and to the guards' great relief, they both received early releases. Territorial Governor Benjamin Potts signed Felicita's release after she had served twenty-one months of her three-year sentence. Two years later, on August 26, 1882, Potts pardoned Mary Drouillard. Gubernatorial pardons and early releases were commonplace during this era—only 1 percent of prisoners between 1871 and 1885 served out their sentences—in an effort to ease overcrowding. By 1879, the twenty-seven single-person cells housed forty-four inmates, and in 1880, there were fifty-two inmates, including the two women.¹⁹

Through the lens of nineteenth-century society, Margaret Smith, Felicita Sanchez, and Mary Angeline Drouillard were fallen women whose sexual conduct made them unredeemable. Guilt or innocence hardly mattered in courtrooms where male judges, lawyers, and juries meted out punishment. All three women were poorly educated, and two of them—Felicita and Mary Angeline—carried the added stigma of minority status.²⁰

In 1884, Congress appropriated fifteen thousand dollars to complete the unfinished cellblock at Deer Lodge and alleviate overcrowding. However, when studies showed that the existing brick structure could not support an additional tier of cells, Governor John Schuyler Crosby directed the funds be used instead to erect an administration building to house the warden's office, a visitors' reception area, and dormitories for the guards. A year later, Congress again appropriated funds, this time allocating twenty-five thousand dol-

lars and specifying that it be dedicated to building a three-story cellblock with forty-two double-occupancy cells. The women's cells were to be located on the third floor. After the release of Felicita Sanchez and Mary Drouillard, there were no more female prisoners at Deer Lodge until 1889.²¹

As Montana approached statehood, the federal government prepared to hand over authority for the prison. The Montana legislature created the State Board of Prison Commissioners—made up of the governor, secretary of state, and attorney general—to oversee and manage the institution, and the Montana Territorial Penitentiary officially became the Montana State Prison in November 1889. Neither statehood nor the transfer of authority made much difference in the lives of women inmates. Rose Bennett, an Anaconda prostitute who began serving a twelve-year sentence for second-degree murder in May 1889, was at that time the only female inmate. Whether she spent her time locked in a single cell tucked into the attic-like third story of the men's cellblock or in one of the makeshift log buildings is not a matter of record. While the men benefited from fresh air and exercise in the yard, took their meals in a dining hall, and kept to a regimented schedule of work detail, Rose had no such diversions.²²

In the late 1880s, the needs of the old penitentiary became critical. Inmate and staff safety concerns and deplorable living conditions continued to plague the prison. Montana's population, booming since the completion of the Northern Pacific Railroad in 1883, would only increase with statehood. More citizens meant more crimes and more inmates to house, but the new state could afford neither to sink money into the old complex nor to operate it properly. After studying other states' prison management practices, the solution of the Board of Prison Commissioners was to contract operation of the prison to private enterprise. In 1890, the board hired partners Thomas McTague and Frank Conley as prison business manager and warden, respectively.

Warden Conley believed that only hard labor could rehabilitate prisoners, and he put the male prisoners to work, first adding a log cellblock and various outbuildings. One of Conley's first brick buildings in the complex was a simple, one-story "female department" at the northwest corner of the yard, where Rose Bennett and one or two other



Crude log buildings and the third floor of the territorial prison, the building on the left in this photograph, housed female inmates before the completion of a brick “female department” in the early 1890s. The other building shown is the men’s cellblock built in 1896. A 1959 earthquake damaged the cellblock, and it was torn down the same year; the territorial prison had been demolished in 1931.

women inmates relocated sometime before 1894. Meanwhile, activity boiled around the women’s quarters as prison crews built a massive prison wall to enclose the complex. While the men brought quarried stone into the yard on a rerouted railcar, cut it, and assembled the wall, the women remained locked inside their building. Finally, in 1895, the men completed a new two-story “women’s department” separated from the men’s dining hall by a brick firewall sixteen inches thick. The women prisoners had three rooms upstairs, three downstairs, and a bathroom. The simple structure would serve its function for only a dozen years.²³

Even as prison officials carried out custodial improvements at Deer Lodge, there were some attempts at rehabilitation for women under way in other parts of the state. Because of its mining industry and rail lines, Montana provided a ready market for prostitu-

tion and other forms of vice. Among the early social reformers who took note of this trend were the Catholic Sisters of the Good Shepherd who came to Helena in 1889 to establish a home for “wayward women and girls.” It was one of the first rehabilitative facilities for prostitutes and drug addicts. Four years later, in 1893, the legislature established a reform school at Miles City for boys and girls between the ages of eight and twenty-one. Now the courts had the option of sending juveniles—except those convicted of murder or manslaughter—to a “safe house” rather than prison. In 1896, Florence Crittenton Homes opened in Butte and Helena, their mission being the rescue of “fallen women and wayward girls.” The Butte home soon closed, but the Helena home continued to take in women from communities across the state.²⁴

Despite these trends, at Deer Lodge there were no reforms aimed at rehabilitating women

prisoners. Between statehood, in 1889, and 1910, sixty women, including nine teenagers, did time at the prison. The majority (75 percent) were in their twenties and thirties. Crimes against persons—including murder, manslaughter, robbery, and assault—comprised 36 percent of the crimes. Thirteen women served sentences for murder and two for manslaughter. Grand larceny accounted for a full 50 percent of female crimes, and burglary totaled another 10 percent. Of the perpetrators, a full third worked in prostitution-related occupations—variously noted in the prison intake records as demimonde,

streetwalker, sporting woman, and sporting-woman keeper—bringing the total number of crimes in some way related to prostitution to 45 percent.²⁵

However, professions other than prostitution were represented as well. The occupations of the incarcerated women ranged from teacher and ranchwoman to candy store clerk, milliner, and “capitalist.” Emma Bell, a ranchwoman from Fort Benton; Lulu Allen, a Butte waitress with a morphine habit; and Ina Trask, a Miles City dressmaker, were among many who went to prison for grand larceny. Lida Gould, a black domestic worker from Havre, landed at Deer Lodge



In the 1890s, the prison replaced its twelve-foot-high wooden fence with a twenty-four-foot-high stone wall and towers (above, 1893). While male inmates built the prison walls and buildings, women prisoners remained locked inside their quarters. Despite state trends toward rescue and rehabilitation of “wayward women and girls” at the time, there were no reforms for women at the Deer Lodge prison.

in 1903 for stealing five hundred dollars. Although she was not illiterate, she was profoundly deaf, and it is hard to imagine what she understood of the court proceedings without a translator.²⁶

Although prison records do not always note inmates' race, intake records for the period 1889 to 1910 show twenty-three inmates out of the total sixty, or 38 percent, as "Negro" or "mulatto." In Montana, where black women were few in number (776 out of a total of 376,053 Montana residents in 1910), this represented a huge proportion of the black female population.²⁷

Unsurprisingly, women often fared better at the hands of judges and juries when they had financial support and good legal counsel. The spectacular case of Missoula madam Mary Gleim, a colorful character who amassed a fortune conducting business along Front Street, illustrates this point. Gleim reigned over Missoula's skin trade for nearly a quarter of a century. She was highly ambitious, fiercely competitive, and not afraid to use violent methods to retain her status as queen of the Missoula underworld.

Her prison intake form clearly stands out since Mary came to prison dressed to the nines, or, according to the record, in a "complete outfit."²⁸

Mary Gleim had a long history in the civil courts and frequently showed her contempt for the law. However, she was undone when dynamite leveled the home of her archenemy, C. P. "Bobby" Burns. Although Burns escaped unharmed, Missoula officials indicted Mary as the mastermind behind the explosion. Expensive lawyers kept her out of jail while she awaited trial, but when she appeared in court, her incorrigible behavior weighed against her as heavily as did her business associations. A jury convicted her of assault with intent to commit murder and, on September 16, 1894, sent her to Deer Lodge under a fourteen-year sentence. The Montana Supreme

Court overturned the verdict on the grounds that two of the witnesses for the prosecution were convicted felons and one of the jurors was not a citizen of the United States, and Mary won a new trial. When Helena attorney Edwin W. Toole, brother of former territorial governor Joseph K. Toole, got her bond reduced from fifteen thousand dollars to seven thousand, Mary promptly covered the bond and left Deer Lodge. She had served just over a year of her fourteen-year sentence. By the time her new trial should have started, the prime witnesses in the case had disappeared, and Bobby Burns had died. All legal action was dropped. Luck and money saved Mary Gleim from a long prison term.²⁹

The case of Mattie Lee also involved reputation and money, but the outcome was different. "Dutch Mat" was well known in Virginia City in the 1890s as the onetime mistress of saloonkeeper Frank McKean but also the beloved of Jack McDonald. When the two men quarreled over her affections, McKean shot and killed McDonald. Mattie came immediately to McKean's rescue, hiring a

defense attorney who was able to win his acquittal. Mattie subsequently made her way to Philipsburg, where her hard-driving lifestyle eventually robbed her of her charm and beauty. At forty, she was an alcoholic, a "dissipated-looking woman" of little means. In December 1903, in a Philipsburg saloon, Mattie threatened Charles Hillman with a revolver, demanding payment of a small sum she claimed he owed her. When Hillman ignored her, Mattie fired, aiming for his feet and hitting his ankle. Hillman still showed no response, even to the wound, and Mattie went into a frenzy, aimed the revolver at the man's head, and pulled the trigger. The bullet struck Hillman in the eye, and he died instantly.³⁰

With few friends and no supporters, Mattie sent word to Frank McKean that she needed his



Many of the woman who committed crimes showed signs of mental illness. One of them was Mattie Lee (above), convicted of murder in 1904, in the death of a man she shot point-blank in a Philipsburg saloon over a small debt she claimed he owed. Her counsel was not able to convince the jury that she was insane and shouldn't be imprisoned.

help. Feeling obligated to her, McKean secured the services of William A. Clark, a Virginia City attorney. Clark claimed that Mattie was insane when she killed Hillman. Good counsel could not win over the jury, however, which convicted Mattie of manslaughter. The judge sentenced her to the maximum ten years in the penitentiary.³¹

Not all women sentenced to Deer Lodge lived dissolute lives, were involved in violent crimes, or practiced prostitution. Mabel McCall's case emphasizes the dire circumstances from which some women fled, only to fall into patterns that led them down unfortunate paths. Mabel left her parents in Kansas City when she was about sixteen because, according to accounts in the press, her father "misused her." She came to Butte and there met and married a man named Hancock, who, like her father, abused her. Because she was not of legal age at the time of the wedding, Hancock claimed that he was not legally married to her. His aged mother, who lived with the couple, reinforced that idea. Therefore convinced

that she was not encumbered, Mabel fled Butte, and soon she met a man she liked better. In Helena, she married Edward McCall. Arrested for bigamy, Mabel sat in the Lewis and Clark County jail for a month, awaiting trial. She initially pled not guilty, but upon her appearance in district court, she changed her plea to guilty and asked the judge to sentence her immediately.³²

The eighteen-year-old had shown no intent to commit a crime, and the Helena judge called the case the strangest he had ever come across, telling Mabel, "I want to be lenient with you. . . . At least you are entitled to credit for getting married to this man before living with him. . . . I hope when you get out, you will . . . make a respectable woman of yourself." So saying, he fined her ten dollars and sentenced her to three months at Deer Lodge. She merited hard time only because she was a married woman. Under any other circumstances, the judge could have suspended her sentence or remanded her to the girls' industrial school at Miles City.³³

Completed in 1896, this prison building housed facilities for male inmates, including the laundry, band room, shops, library, and a kitchen-dining room that seated 425. Until circa 1907, women inmates lived in the near wing, still confined to quarters. The photograph was taken in the late 1920s.



MHS Photograph Archives, Helena, 950-027

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Detail, MHS Photograph Archives, Helena, 950-019

Following prison warden Frank Conley's recommendation that the women's quarters be "wholly segregated from the ground in which are located the Men's cell houses," a new women's facility (above, 2007) was opened circa 1907. The small building was situated on the west side of the prison complex, within its own enclosure (left, circa 1964). For the first time, the women had access to a small yard of their own and a female matron to oversee them.

In 1906, Warden Conley and his partner, Thomas McTague, submitted a report to the Board of State Prison Commissioners recommending that the women's quarters be "wholly segregated from the grounds in which are located the Men's cell houses." They informed the board that three thousand dollars would build the new quarters and that the present women's building could then be converted to a prison hospital. Further, moving the

women out of the men's yard and outside the prison enclosure would relieve the male guards of policing the female inmates.³⁴

The Board of Prison Commissioners acted upon the recommendations, and a new women's facility opened circa 1907. The small building stood within its own walled enclosure on the west side of the complex. On the east, it shared the main prison wall, and access was originally possible only through the men's



Martha Daems (above) of Ennis stood accused of a sensational crime in 1916: handing her twelve-year-old daughter to a local cowboy for immoral purposes. He received an eight-year sentence, and she got a relatively light two years at Deer Lodge.

prison yard. The women's yard was so small and the wall so high that the women confined there saw only sky, but at least they could leave their building and enjoy periods of fresh air. The building included dining facilities and a kitchen where the women cooked their own meals, a matron's apartment (for the first time, the prison employed a woman to oversee the inmates), a laundry room, and two dormitory-style rooms. Still, women were not given the opportunity to work outside the walls or engage in the industrial work inside the prison as were men, and aside from maintenance and chores in their facility, they had nothing to occupy their time. In 1910, three women occupied the women's quarters: Bessie Fisher, Alta Jackson, and Mattie Lee. Bessie and Mattie were seasoned prisoners—forgotten by the outside world, expensive for the State to maintain, and like all the women who entered Deer Lodge, little more than afterthoughts of the judicial system.³⁵

From 1911 to 1943, the small women's facility at the Montana State Prison housed 126 women. Inter-

estingly enough, statistics show that during this period the types of crimes attributed to women began to change. Only 25 percent of inmates served time for grand larceny, compared with 50 percent previously. Crimes against persons—murder, manslaughter, assault, and robbery—stood significantly reduced at 24 percent, compared with 36 percent between statehood and 1910. Possession and selling of drugs, at 23 percent, had become a significant category of crime. This statistic can be partially explained by changes in the law. In 1921, the sale of opium and coca leaves became illegal, and in 1923, state legislation criminalized possession of narcotics. Other crimes for which women served time included arson, rape, and sedition.³⁶

Incarceration for prostitution-related offenses disappears from the records at this time. In 1917, federal law closed all cribs across the United States and forced red-light activities underground. After 1918, only a few prison intake forms labeled women as "prostitutes." Federal census records also stopped recording prostitution-related occupations. Half of the women entering Deer Lodge during this period were recorded as housewives. For the balance, there was a much wider diversity of occupations—file clerk, entertainer, music teacher, proofreader, cashier, and student.³⁷

One of the strangest cases from this period is that of Martha Daems. Her unfortunate story demonstrates the tangled lives some women lived and the consequences of flawed judgment and tarnished reputations. Martha was on her second marriage when she left her husband and five children in 1913, taking up with Ennis cowboy Frank Daems. The *Virginia City Madisonian* covered the resulting scandal and nasty divorce. Martha subsequently married Daems, but the honeymoon soon ended, for Daems was charged with, and pled guilty to, grand larceny. He received an eight-year sentence to Deer Lodge. At the same time, his bride and another local cowboy, Thomas Griswold, were jointly charged with rape.³⁸

Martha Daems stood accused of handing her twelve-year-old daughter, Ida, over to Thomas Griswold for immoral purposes. Griswold, nineteen and married, pled guilty, but Martha maintained her innocence. Juries found both of them guilty. Judge William A. Clark—who had served as Mattie Lee's attorney in 1904—sentenced Griswold to eight years.

Virginia City attorney Lyman Bennett defended Martha. The jury found her guilty, but the *Madisonian* speculated that because of Bennett's able defense, she received only two years at Deer Lodge, a relatively light sentence given the crime with which she was charged. Martha did her time. By 1920, she was living in Butte with her three younger children, supporting them as a domestic worker. Ida, the alleged victim of the rape, had completely disappeared from the public record.³⁹

Among the small population of women the Montana State Prison there are several examples that suggest mental illness factored prominently into both the perpetration of crimes by women and the sentences they received. One of these women was Edith Colby of Thompson Falls, a proofreader for the local newspaper, the *Independent-Enterprise*. In 1916, the paper printed several politically motivated, personal attacks on A. C. Thomas, chairman of the Republican County Central Committee, and Edith, an aspiring journalist, joined in these published attacks, pestering Thomas for interviews and baiting him in public. In return, Thomas suggested that Edith had come to Thompson Falls from Spokane's red-light district. Angered by the imputation, Edith took a loaded revolver from a neighbor and concealed it in her purse. Both the paper's owner, attorney A. S. Ainsworth, and its editor, John Manire, knew she had the gun. In fact, Ainsworth had called Edith a coward when she suggested that she might go back to Spokane, urging her instead to stay and finish what she had started. Manire, Edith would later maintain, had showed her how to use the gun and had suggested that shooting Thomas would be good for the newspaper.⁴⁰

In any event, when Edith met Thomas on the street, she fired three times, killing him. The coroner's inquest found that both Ainsworth and Manire shared the blame with Edith, and all three were taken into custody. Burton K. Wheeler of Butte, later a well-known political figure, acted as special prosecutor, and J. M. Clements was the sitting judge at the trial. Manire and Ainsworth both testified that, though they knew Edith had a gun, they had no idea that she would actually pull the trigger. Ainsworth was cleared for lack of evidence, and the judge directed the jury to find Manire not guilty. That left Edith alone in the dock. She pled not guilty, and her attorneys tried to prove insanity. Edith's elderly mother testified that mental illness ran in the family; others testified that Edith's behavior in public was odd, even inappropriate, and that her thoughts seemed sometimes disconnected. One witness felt Edith was unstable enough to need a guardian.⁴¹

The jury nevertheless found Edith Colby guilty, and she entered Deer Lodge on December 14, 1916, to serve a term of ten to twelve years for second-degree murder. Her attorneys appealed the verdict, citing inflammatory newspaper coverage across the Northwest and irregularities in Wheeler's prosecution. They claimed that Wheeler's description of Edith's character during the trial as well as remarks he made in public while the court was in recess prejudiced the verdict. In 1918, the Montana Supreme Court denied the motion for a new trial, but Edith Colby was released from prison not long thereafter. She returned to her work as a newspaper proofreader. She died in Los Angeles in 1942.⁴²

Lucy Cornforth's case came before the court in 1929, and her sentence and subsequent treatment

Another notorious case was that of Thompson Falls newspaper proofreader Edith Colby (right), who, encouraged by the paper's owner and editor, in 1916 shot and killed a man who impugned her reputation. Neither man was convicted of anything, but Colby, in spite of testimony regarding odd public behavior and family history of mental illness, received a sentence of ten to twelve years.



MHS Photograph Archives, Helena, Pfc 85-91 5276



Poor, uneducated, and unmarried, Lucy Cornforth (above) also exhibited questionable mental stability when she told her daughter Mary she was contemplating suicide. When Lucy changed her mind and set aside her cup of strychnine, Mary seized it and drank, saying she “wanted to go.” Though described as “of the marked type” and “intellectually deficient,” the judge found her guilty of poisoning Mary and she spent the rest of her life in Deer Lodge.

in prison underscore the continuing need for penal reform. Lucy had reputedly been married twice but took her maiden name, calling herself Mrs. Cornforth. Lucy’s troubles began when Wallace Holbrook, a local sheepherder, wrote a note to the eleven-year-old daughter of the Cornforths’ neighbors. Lucy delivered the note to the child at Holbrook’s request. The contents of the note were undisclosed, but apparently Holbrook’s intentions were improper. The child’s parents confronted Lucy and threatened to ruin the lives of her and her eight-year-old daughter, Mary. Lucy, fearing that she would go to prison, prepared

to take Mary’s life and then her own. She purchased strychnine, poured it in a cup with some water, and told the child what she intended to do. When she changed her mind and set the cup aside, Mary, knowing what was in it, seized the cup and drank the poison, saying that she “wanted to go.”⁴³

Lucy first pled not guilty to poisoning her daughter, then changed her plea to guilty. The judge had the option of handing down the death penalty or life in prison with no possibility of parole or pardon. Lucy’s attorney argued for the lesser penalty, saying that she was “of the marked type” and “intellectually deficient.” The judge opted to follow the attorney’s recommendation, and Lucy Cornforth went to Deer Lodge. Lucy’s brother, John Cornforth, a well-known minister, would have nothing to do with his sister after her imprisonment. Like so many of her fellow inmates, there were

no family members to keep track of her. After Lucy had served almost fifteen years, the clerk of the prison board wrote to Judge F. D. McKinnon, the presiding judge in the case, noting that Lucy had been a model prisoner and that the warden was ready to approve her parole—if the judge and county attorney agreed. A Polson attorney stepped forward and agreed to sponsor Lucy, offering her a job in his household if she was paroled. The board rejected the offer on recommendation of the judge because, in his view, Lucy was mentally deficient and posed a threat to the children in the attorney’s household.⁴⁴



When a new state law made drug use illegal in 1923, many women went to Deer Lodge for selling or possessing narcotics. Butte housewife Frances Steele (left) served a little over a year in prison for morphine possession in 1925 and returned in 1929 on the same charge. The prison record for her second incarceration is reproduced at right.

DESCRIPTIVE LIST OF THE PRISONER

Required by the Consolidated Boards upon Receipt of the Convict at the Penitentiary

OFFICE OF THE WARDEN OF THE STATE PRISON

Deer Lodge, Montana, February, 28th., 1929.

To the President of the Consolidated Boards:

In accordance with the requirements of the Consolidated Boards, I have the honor to report:

1. That* Steele, Frances # 9144., a Convict, was received at the penitentiary on the 27th. day of February., 1929.
2. Age 30. years.
3. Born in Butte. State of Montana. or Foreign Country
4. Occupation Housewife. 5. Complexion Light.
6. Height 5' feet, 3 1/2" inches. 7. Weight 146. pounds.
8. Convicted of Unlawfully Possessing Morphine. 9. Sentenced 2-23-29., 1929.
10. Term of sentence is serve at \$2.00 per day. Years and Months.
11. Crime committed in Butte. Town, Silver Bow. County.
12. Number of previous convictions in this or any other State, and in what County and State. 12-11-25, Montana State Prison #8215, as Francis Steele. POSSESSION OF MORPHINE, from Silver Bow County. 1-2 Years & \$500. Fine. Paroled 2-16-27.
13. Where and by whom employed, previous to coming to Montana Native of Montana.
14. Date of arrival in Montana, and by whom employed, since arrival Not out of state. No work.
15. If married, Husband. address Henry J. Klugkist. Address unknown.
16. Names and Addresses of Parents James A. & Sadie Steele. 711 South Wyoming St. Butte, Mont.
17. Health of convict, whether free from disease. Good.
18. Did you plead guilty? Yes. or stand trial?
19. Was the sentence fixed by the jury, or by the court? Court.
20. War Service None.
21. Warden's Remarks Hair: Yes. Eyes: Blue. Hair: Light Brown. Features: Reg. Read: Yes. Write: Yes. Religion: Cath. Education: High School. Teeth: O.K. Scars: None Visible.

Date of charge: Possessing Narcotics, at Butte, Montana.



Warden.

22. Date of expiration 2-26-31., 1929.
*Full name of Convict to be inserted here.

In 1954, twenty-five years after Lucy Cornforth's incarceration, a retired teacher from Butte wrote the parole board, asking for a review of her case. The clerk of the board replied that, because of her mental condition, Lucy had been in and out of the state hospital at Warm Springs. "She would not be able to cope with society on the outside," he wrote. "She only has the mentality of a twelve-year-old." No one else spoke on her behalf.⁴⁵

Women in prison frequently had drug addictions that led to their crimes, but until 1923 drug use itself was not a crime. With the change in the law, many women went to Deer Lodge for selling or possessing narcotics. Since there were no rehabilitative programs, these same women became repeat offenders. In December 1925, for example, Butte housewife Frances Steele entered Deer Lodge to serve a one- to two-year sentence for possessing morphine. She served a little over a year, paid her five hundred dollar fine, and was paroled. She returned on the same charge in 1929. This time she served less than a year, again paid her fine, and was again paroled. Under a year had passed before she stole a watch, for which she spent thirty days in the Silver Bow County jail. A year later, in 1932, the Butte police reported Frances Steele's death.⁴⁶

Short sentences and parole were the norm for these new drug-related crimes. Mabel Garner, a black

housewife from Rochester, Minnesota, entered Deer Lodge in 1926 to serve a sentence identical to Frances Steele's. Mabel's previous record showed her arrest at Winnipeg and subsequent deportation to the United States in 1916. She, too, was out on parole in less than a year. Mary Brown likewise served less than a year of her one- to two-year sentence for possession, paid her five hundred dollar fine, and was released.⁴⁷

In 1926, visiting inspectors expressed dismay at the rotting floors and unsanitary conditions in the women's facility at Deer Lodge. As a result of their report, the building received some needed attention, and a small hospital room was added. In 1929, however, the *Handbook of American Prisons* published another negative review of Montana's women facility. At the time, there were nine women housed in the small building at the rear of the men's yard, and the women had no work except minor maintenance. The report concluded that a separate state institution should be provided for female inmates. Citing Deer Lodge's isolation and the overall conditions there, the authors urged Montana's prison officials to attend national meetings of the American Prison Association in order to inform themselves of advances in the field. Montana's backwardness was partly due to a continuing lack of funds, but also it was a result of the years under warden Frank Conley.⁴⁸

In 1931, when inspectors again found conditions shameful, they advised closing the facility. The State ignored the advice. This was, after all, the Great Depression, and there was no money for a new prison. The Depression also triggered some desperate acts by desperate women. Forty-seven-year-old Bessie White, longtime Bozeman resident and a recent widow, attempted to forge a ten-dollar check. Her ineptitude earned her a year in the state prison. Bessie White and the forty-one others who did time in the 1930s were not much different from those who had gone before them. They were mostly poor and alone, and once they had served short sentences, they continued to live at the margins of society.⁴⁹



Destitution brought on by the Great Depression triggered desperate acts. Longtime Bozeman resident and recent widow Bessie White tried to forge a ten-dollar check and earned a year in the state prison. As was the case in earlier years, the women incarcerated in the 1930s were marginal members of society, mostly poor and alone.



One of the few cases involving women prisoners that ended well was that of fifteen-year-old Muriel Murphy (left). She and her boyfriend accidentally killed a man they were allegedly trying to rob in 1936. Though sentenced to life when the State waived the death penalty, the young criminals were both granted conditional paroles after three years. The couple eventually married, left Montana, and started a family.

Few stories of women inmates at Deer Lodge had happy endings, but the youngest person ever sentenced to life in prison in Montana is an exception. In 1937, fifteen-year-old Muriel Murphy stood accused, with her boyfriend William Newman, eighteen, of robbing Gust Anderson. Luring him out of a Great Falls bar, they allegedly hit him over the head and left him lying on the sidewalk. Anderson died in the hospital two days later. Because the robbery resulted in a death (although Anderson technically died of pneumonia), the charge against the pair was first-degree murder. The teens claimed that Anderson had grabbed Muriel and would not let her go and that in defending her Newman hit the man over the head. The state waived the death penalty, leaving Judge H. H. Ewing no option but to hand down the sentence of life in prison. Upon pronouncing sentence, the judge addressed the teens: "This sentence does not really mean what it says. You may apply to the executive department and when the time comes, I will do all I can."⁵⁰

The case prompted a public outcry. One citizen, Fred L. Anderson of Bismarck, North Dakota, wrote to the Board of Pardons that he did not know the girl or her family but wanted to say that this verdict was a miscarriage of justice. "How could that little girl of 15 years," he asked, "be guilty of *premeditated* murder?" Both Muriel and William served three years and then left Deer Lodge on conditional paroles. The couple eventually married, left the state, and started a family. W. L. Fitzsimmons, clerk of the State Board of Examiners, periodically corresponded with the New-

mans as a condition of parole. After ten years, he wrote them a final letter, informing them that they had fulfilled the conditions and that all rights of citizenship lost by reason of conviction were officially restored. In a rare expression of goodwill, Fitzsimmons wished the Newmans every success and assured them that he was not tracking them but hoped that they would stay in touch.⁵¹

Women's reformatories operated in New York, Indiana, and Massachusetts at end of the nineteenth century as an alternative to men's prisons and the neglectful treatment of female inmates there. Separation from men, feminine care, and management under the control of women staff were the guiding principles of women's reformatories. However, there was only one women's reformatory in the western United States, the Institution for Women in California, which opened in 1933. In other western states, except for Washington, where a women's building opened outside the men's prison in 1930, men's facilities sufficed for women into the late twentieth century. In Montana, women continued to be incarcerated in the small quarters within the men's prison. Then, on April 16, 1959, a riot in the men's prison brought the deplorable conditions there to the public's attention. Four months later, while the staff was still considering a list of complaints, an earthquake severely damaged the facility, and the women were finally moved outside the walls, to a building across Main Street from the prison grounds. The old women's quarters became the maximum security area. But this arrangement for female prisoners did not last. Relocated from one



By the 1930s, conditions in the Montana State Prison were deplorable, but it was not until after a 1959 earthquake that the women prisoners moved outside the prison and into a series of makeshift quarters. The former Rivendale Psychiatric Center in Billings was remodeled to become the new Montana Women's Prison in 1994. In 2005, ceramic artist Chip Clawson installed *The Great Mother Arch* in the prison visitors' courtyard, above. The arch was designed with the theme "strong, positive, and feminine" and built with the participation of women prisoners. The project was part of the Percent for the Arts Program for public buildings.

makeshift facility to another, they were housed, first, in a room above the warden's garage; then in the old prison's laundry building; next, in what was once the guards' dormitory; and finally, in the basement of the guards' quarters. In the two decades between 1970 and 1989, sites at Warm Springs, Fort Missoula, and Billings housed some women prisoners while others were sent out of state.⁵²

In 1994, female inmates moved to the present women's facility at Billings, a building that had served originally as the Rivendell Psychiatric Center. Today, the Billings prison accommodates a population of more than 250. Theft and drug possession have become the most common female offense, and 90

percent of the inmates participate in educational or vocational programs. Housing costs for inmates have drastically increased since Sheriff Snider submitted his 1867 invoice listing charges of four dollars a day for a prisoner's keep; the current cost of incarceration adds up to between sixty and ninety-two dollars per day.⁵³

Demographics have also changed radically. When Bessie Fisher did her time in the early twentieth century, African Americans were the most prevalent minority among women inmates, and there were no Native American women in Montana's prison. Today, while American Indians make up only 6 percent of Montana's overall population, they make up 27 percent of women inmates. Lucy Leptich Cruz, who served time at Billings for possession of methamphetamine, says that racism is rampant within Montana's judicial system. "I spent my whole life being proud of being Native," Cruz recalls, "but it didn't take very long [for corrections officials] to reverse that pride."⁵⁴

Despite many positive changes during the century that separates Bessie Fisher from Lucy Cruz, there is still need for improvement. Poverty is a significant factor in women's involvement in criminal activity. Women incarcerated are more likely than men to be mentally ill, and the vast majority of women inmates have been abused. Gender, ethnicity, and lack of economic opportunities thus continue to be major issues in the incarceration

of women in Montana—and in the U.S. as a whole. Until these issues are resolved, the prison system will continue to be a repository for women whom society finds it difficult or inconvenient to help.

Ellen Baumler is the interpretive historian at the Montana Historical Society and a frequent contributor to *Montana The Magazine of Western History*. This article is an extended study stemming from her latest project undertaken in partnership with Society photographer J. M. Cooper. *Dark Spaces: Montana's Historic Penitentiary at Deer Lodge* is forthcoming from the University of New Mexico Press in October 2008.



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In the late 1970s, the State replaced the Montana State Prison with a modern facility a few miles west of the town of Deer Lodge. Now a museum, the old facility offers visitors a chilling glimpse at what life was like behind prison bars. Included is a tour of the former women's quarters, which became the men's maximum security area after a 1959 prison riot.

Air Force Service pilots, or WASPs. See Jean Haskell Cole, *Women Pilots of World War II* (Salt Lake City, 1992), ix–xvii. Many of those delivered factory-fresh aircraft, especially fighter planes such as the P-39 Airacobra, to U.S. air bases. By the time the WASPs were “inactivated” in December 1944, thirty-eight women military pilots had lost their lives in the course of duty. The presence of Captain Cass Standish’s “flying women” at East Base, on the Seattle route, and ultimately on the route to Edmonton, Alberta, is the author’s creation. However, many women did work as mechanics and ground crews at the air base.

8. The toll on Montana in World War II is summed up by Michael P. Malone, Richard B. Roeder, and William L. Lang, *Montana: A History of Two Centuries*, rev. ed. (Seattle, 1991), 309: “As in World War I, Montana contributed more than its share of military manpower—roughly forty thousand men by 1942—and the state’s death rate in the war was exceeded only by New Mexico’s.”

9. Playwright Robert E. Sherwood was a speechwriter for President Franklin D. Roosevelt; Elmer Davis, Columbia Broadcasting System newsman, became the director of the U.S. Office of War Information.

Justice as an Afterthought

1. *Butte (Mont.) Miner*, May 16, 1901.

2. *Ibid.*, May 13, 14, 15, 20, June 24, 25, 1901; *Anaconda (Mont.) Standard*, May 20, 1901; Bessie Fisher, photo no. 1185, Montana State Prison Convict Records, State Microfilm-36 (hereafter MSPCR MF-36), Montana Historical Society Research Center, Helena (hereafter MHS).

3. Anne Butler, *Gendered Justice in the American West* (Urbana, Ill., 1997), 113. Women in Montana could not legally serve on juries until suffrage, achieved in 1914, but even after the constitutional amendment granted all women the right to vote in 1920, Montana law continued to define “jury” as “a body of men temporarily selected from the citizens of a particular district.” The language did not change from “men” to “persons” until 1939. *Laws, Resolutions and Memorials of the State of Montana*, 26th Legislative Assembly (Helena, Mont., 1939), chap. 203, sec. 8883, p. 508–9.

4. Butler, *Gendered Justice*, 4–5. See also Estelle B. Freedman, *Their Sisters’ Keepers* (Ann Arbor, Mich., 1992), 10–11, for the reasons that women convicts were historically so few in number.

5. In 1867, Congress approved a bill that allowed western territories to build federal penitentiaries with funds from

internal revenue sources. Territorial penitentiaries were thereafter established at Boise, Idaho (1870); Canon City, Colorado (1871); Deer Lodge, Montana (1871); Salem, Oregon (1872); Yuma, Arizona (1875); and Walla Walla, Washington (1885). In Montana, the territorial legislature appointed a committee to research the location for the penitentiary; the committee chose Argenta because a smelter had just opened there and there was the potential for putting convicts to work, but the legislature instead chose Deer Lodge because of the lobbying of influential citizens, including Granville Stuart.

6. Keith Edgerton, *Montana Justice: Power, Punishment, and the Penitentiary* (Seattle, Wash., 2004), 18.

7. *Virginia City (Mont.) Montana Post*, April 13, 1867.

8. *Ibid.*

9. Margaret Smith Vertical File, MHS, includes Snider’s invoice. Boarding costs for January–May 1867 totaled \$1,792. *Ninth Census of the United States, 1870, Montana Territory*, Madison County, p. 10, line 21, lists Margaret Smith as a domestic in the household of C. D. Everett in Virginia City.

10. James R. McDonald, “Historic Structures Report: Montana State Prison,” p. 7, unpublished report, 1981, in the files of the State Historic Preservation Office, Helena, Montana (hereafter SHPO, Helena). Because of the paucity of federal inmates, an 1873 congressional mandate transferred authority for the penitentiary from Washington, D.C., to Montana Territory. However, Congress restored the prison to federal authority a year later. Clark Spence, *Territorial Politics and Government in Montana, 1864–1889* (Urbana, Ill., 1975), 267.

11. Felicitia Sanchez, p. 34, “Untitled Prisoner Records, 1871–1885,” MSPCR MF-36, MHS; *Missoula (Mont.) Missoulian*, November 22, 1878.

12. *Deer Lodge (Mont.) New North-West*, December 6, 1878.

13. *Missoula (Mont.) Weekly Missoulian*, September 13, 1878. Daniel Meschter, “Seven Pioneer Women in Old Montana,” pp. 47–58, an unpublished manuscript in the MHS Research Center, gives a full account of Mary Drouillard’s marriages and divorces. See also Butler, *Gendered Justice*, 124–26. For the life of Moses M. Drouillard, see Robert O. Raffety’s “The Sheriffs of Missoula County and Their Times” (master’s thesis, University of Montana–Missoula, 1968), copy in MHS.

14. *Missoula (Mont.) Missoulian*, December 20, 1878.

15. *Tenth Census of the United States, 1880*, Montana Territory, Missoula County, Missoula, e.d. 25, sheet 9, line 49; *Deer Lodge (Mont.) New North-West*, December 12, 1879.

16. *Deer Lodge (Mont.) New North-West*, December 12, 1879.

17. Mary Angeline Drouillard, p. 46, “Untitled Record of Prisoners, 1871–1885,” MSPCR MF-36, MHS.

18. *Deer Lodge (Mont.) New North-West*, June 7, 1880.

19. Edgerton, *Montana Justice*, 43; Meschter, “Seven Pioneer Women,” 57–58. Reunited with her children Georgia and Albert—Clara had died of mountain fever five months earlier—Mary, like Felicitia, disappeared from the public record.

20. Freedman, *Their Sisters’ Keepers*, 17, explains that female convicts were considered beyond help.

21. *Anaconda (Mont.) Standard*, October 6, 1895; *Helena (Mont.) Independent Record*, March 9, 1975.

22. Edgerton, *Montana Justice*, 45; *Deer Lodge (Mont.) New North-West*, May 10, 1889.

23. McDonald, “Historic Structures Report,” 48; Sanborn-Perris Fire Insur-



MHS Photograph Archives, Helena, Pnc 85-91 11829

Muriel Murphy, 1926

ance maps showing Deer Lodge (New York, 1888, 1890, 1894), copies in MHS.

24. Carol J. Zottnick, "House of the Good Shepherd Historic District," National Register of Historic Places nomination form, June 1993, copy at SHPO, Helena; "An Act for the Establishment and Location of a State Reform School," *Laws, Resolutions and Memorials of the State of Montana Passed at the Third Regular Session of the Legislative Assembly* (Butte City, Mont., 1893), 183–89; Ellen Baumler, "The Making of a Good Woman," *Montana The Magazine of Western History*, 53 (Winter 2003), 50–63.

25. Susan Byorth, "History of Women Inmates: A Report for the Criminal Justice and Corrections Advisory Council," 1989, <http://www.cor.mt.gov/about/HistoryofWomenInmates.pdf>, accessed February 8, 2008; Butler, *Gendered Justice*, 113.

26. Emma Bell, p. 40, "Unindexed Prisoner Records, 1902–1910," MSPCR MF-36, MHS; Lulu Allen, photo no. 1510, "Descriptive List of Prisons, 1890–1904," *ibid.*; Ina Trask, p. 40, "Unindexed Prisoner Records, 1896–1904," *ibid.*; *Miles City (Mont.) Yellowstone Journal*, March 25, 1898; Lida Gould, photo no. 1510, MSPCR MF-36, MHS.

27. Anne M. Butler, "Still in Chains, Black Women in Western Prisons, 1867–1910," *Western Historical Quarterly*, 20 (January 1989), 34; *Thirteenth Census of the United States, 1910*, Montana, Population.

28. Mary Gleim, p. 34, "Descriptive List of Prisoners, 1892–1895," MSPCR MF-36, MHS.

29. Jodie Foley, "Missoula's Murderous Madam," in *Speaking Ill of the Dead: Jerks in Montana History*, ed. Dave Walter (Helena, Mont., 2000), 85–98.

30. *Philipsburg (Mont.) Call*, December 23, 25, 1903.

31. *Ibid.*, March 30, 1904.

32. *Anaconda (Mont.) Standard*, April 5, 1901; *Helena (Mont.) Daily Independent*, April 6, 1901.

33. *Helena (Mont.) Daily Independent*, April 6, 1901.

34. Frank Conley and Thomas McTeague, *Montana Board of Prison Commissioners Reports* (Helena, Mont., 1906). See Edgerton, *Montana Justice*, 69–111, for the history of warden Frank Conley's tenure.

35. McDonald, "Historic Structures Report," 55.

36. Byorth, "History of Women Inmates." For the laws on sale of drugs, see *Revised Codes of Montana, 1923–1927* (Helena, Mont., 1929), chap. 227, secs. 3186, 3189, pp. 380–81; for possession laws, *ibid.*, sec. 3200, p. 381.

37. Byorth, "History of Women Inmates."

38. *Virginia City (Mont.) Madisionian*, May 2, 23, June 14, 20, 27, 1913.

39. *Ibid.*, July 13, 1913; Martha Daems, photo no. 4248, MSPCR MF-36, MHS.

40. *Thompson Falls (Mont.) Sanders County Ledger*, September 29, November 24, December 6, 1916.

41. *Thompson Falls (Mont.) Sanders County Ledger*, September 29, October 13, November 24, December 6, 15, 19, 1916.

42. Edith Colby, photo no. 5726, MSPCR MF-36, MHS; *State of Montana v. Edith Colby*, case no. 4148, Montana Supreme Court Records, State Microfilm-18, MHS; Edith E. Colby, SSI 563123532, March 28, 1942, in *California Death Index, 1940–1997*, published by the California Department of Health Services, Sacramento.

43. *Miles City (Mont.) Daily Star*, September 17, 18, 20, 1929.

44. *Ibid.*, October 19, 1929; Lucy Cornforth, photo no. 9373, MSPCR MF-36, MHS; W. L. Fitzsimmons to Hon. F. D. McKinnon, July 31, 1944, file 6, box 74, Montana State Prison Convict Records, Record Series-197 (hereafter MSP RS-197), MHS; T. R. Delaney to Board of Prisoners, August 14, 1944, *ibid.*

45. Lucy Cornforth, photo no. 9373; Mrs. J. Prendergast to W. L. Fitzsimmons, March 22, 1954, file 6, box 74, MSP RS-197, MHS; W. L. Fitzsimmons to Mrs. J. Prendergast, March 26, 1954, *ibid.*

46. Frances Steele, photo no. 8215 and photo no. 9144, MSPCR MF-36, MHS.

47. Mabel Garner, photo no. 8398, *ibid.*; Mary Brown, photo no. 8274, *ibid.*

48. Paul W. Garrett and Austin H. McCormick, eds., *Handbook of American Prisons and Reformatories: 1929* (New York, 1929), 546–52; McDonald, "Historic Structures Report," 19.

49. McDonald, "Historic Structures Report," 55; Paula Petrik, "Beyond the



MHS Photograph Archives, Helena, 950-027

Montana State Prison, late 1920s

Bounds of Misery: Montana's Female Prisoners in the 1930s," *Plainswoman*, 9 (September 1985), 6-8; Bessie White, photo no. 11079, MSPCR MF-36, MHS; *Bozeman (Mont.) Daily Chronicle*, October 9, 1934.

50. *Great Falls (Mont.) Tribune*, May 21, 1937, December 20, 22, 1936.

51. Muriel Murphy, photo no. 11829, MSPCR MF-36, MHS; William Newman, photo no. 11828, *ibid.*; W. L. Fitzsimmon to William Newman, May 1950, file 6, box 74, MSP RS-197, MHS.

52. Nicole Hahn Rafter, *Partial Justice: Women in State Prisons, 1800-1935* (Boston, 1985), 98; Freedman, *Their Sisters' Keepers*, 46; McDonald, "Historic Structures Report," *passim*.

53. Department of Corrections website, Montana Women's Prison, <http://www.cor.mt.gov/MWP/MontanaWomensPrison.asp>, accessed March 21, 2008; Montana Government, Quick Facts, <http://www.cor.state.mt.us/Resources/QuickFacts.asp>, accessed March 21, 2008. Because of parole violations, there is a 37 percent recidivism rate among female inmates today.

54. John Stromnes, "Sociologist: Indian Women in Prison Need Respect," *Missoula (Mont.) Missoulian*, June 28, 2006. See also Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin, Tex., 1998), 55; "Women's Rights: Violence against Women" and "Women in Prison: Overview," <http://www.aclu.org/womensrights/violence/25829res20060612.html>, accessed March 23, 2008.

'Peas That Please'

1. Quote from *Bozeman (Mont.) Republican Courier*, July 16, 1912. Information about the Gallatin Valley pea industry can be found in Robert G. Dunbar, "The Economic Development of the Gallatin Valley," *Pacific Northwest Quarterly*, 47 (October 1956), 17-123; John G. Parker, interview with Robert G. Dunbar, *Bozeman (Mont.) Gallatin County Tribune*, May 2, 1979; Melbourne C. Parker, interview with Robert G. Dunbar, *ibid.*, June 11, 1979; Monson and Wilford, *Irrigation of Seed and Canning Peas in the Gallatin Valley, Montana*, Agricultural Experiment Station, Montana State College, no. 405 (Bozeman, Mont., 1942); Melbourne C. Parker, "Seed Pea Industry in Gallatin County," letters to Robert G. Dunbar, June 13-24, 1979, Robert G. Dunbar Papers, 1930-86, Collection 2437, Merrill G. Burlingame Special Collections, Montana State University Libraries, Bozeman (hereafter BSC, MSU); "Pea Growing Marks the

Beginning of New Industry for the State of Montana," *Great Falls (Mont.) Montana Farmer*, September 6, 1913; "Wonderful Crop for the Gallatin Valley," *Bozeman (Mont.) Republican Courier*, July 16, 1912; "What Seed Peas Do in Gallatin," *ibid.*, July 30, 1912.

2. Keeney was located at 407 North Broadway, Clark at 204 South Wallace, and Peninsular on North Broadway, near the railroad.

3. The Davis company's first warehouse was at the foot of Ida Avenue near the railroad; in 1917, the growing company moved into a new building at 209 South Wallace that was one of the largest seed warehouses in the West.

4. In 1927, three companies—Keeney and Son, Everett B. Clark, and the Allan Seed Company—merged to form the Associated Seed Company. From then on, when someone mentioned the "seed house," it was understood to mean the Associated Seed Company at 407 North Broadway. In 1932, the Associated Seed Company, located at 407 North Broadway, absorbed Brotherton-Kirk and was often thereafter called the Asgrow Seed Company.

5. Robert G. Dunbar, "Seed Pea Industry," *Bozeman (Mont.) Daily Chronicle*, March 30, 1980.

6. The Bozeman cannery also canned potatoes, carrots, green beans, and sometimes meat. During World War II, canned peas from Bozeman were again sent to military installations throughout the world.

7. Clyde McKee, *Producing Seed Peas in Montana*, Agricultural Experiment Station, Montana State College, circular 128, vol. 21 (Bozeman, Mont., April 1925); Joe McKay, "Warehouse Memories," *Bozeman (Mont.) Daily Chronicle*, October 6, 1991. McKay recalled that, at lunchtime, the rogues would run to the East Gallatin River and dive in to get away from the heat, flies, and mosquitoes. In later years, one rogue pea plant became notable as the sugar-snap pea, a most desirable product.

8. Della Doyle interview, box 1, Gallatin County Bicentennial Oral History Project Collections, 1974-76, BSC, MSU. The men who worked the heavy equipment brought in as much as fifty cents an hour.

9. Jake Mast interview, *ibid.*; Doyle interview.

10. *Pseudomonas syringae* was commonly known as "caterial blight." *Ascochyta* was another common seed-pea disease.

11. B. Derek Strahn, "Pea Capital for a Nation," *Bozeman (Mont.) Daily Chronicle*, August 12, 2003, At Home sec. The Bozeman Canning Company at

various times operated under the name PictSweet, Inc.

12. "Group Selects Larry Cooper as Pea Cannery Manager," *Bozeman (Mont.) Daily Chronicle*, April 28, 1954. The cannery occasionally canned meat for the federal government's program to distribute food to needy families.

13. "Bozeman Cannery to Operate Again; Farmers through Valley Busy Planting Peas for 1950 Pack," *Bozeman (Mont.) Courier*, May 19, 1950; "Gallatin Grows Good Harvest of Peas as Nation Reports Canning Shortage; 210,000 Cases Packed Here in 39 Days," *Bozeman (Mont.) Daily Chronicle*, September 11, 1953; "Group Selects Larry Cooper as Pea Cannery Manager," *ibid.*, April 28, 1954; Barb Smith, "Cannery Made Valley's Peas Good Cash Crop," *ibid.*, March 30, 1980.

14. Joanne Heckford, "Old Pea Cannery . . . Once a Booming Business," *Bozeman (Mont.) Gallatin County Tribune*, June 5, 1970; Esther Nelson, interview by



author, October 24, 2007.

15. Robert Dunbar, "Seed Pea Industry," *Bozeman (Mont.) Daily Chronicle*, March 30, 1980. The Sweet Pea Festival, Bozeman's popular summertime celebration, has no connection to the commercial pea industry. It started as a town festival in 1906 and pretty well ended with World War I; the present Sweet Pea festival started in the late 1970s and is a celebration of the arts. See Phyllis Smith, *Sweet Pea Days: A History* (Bozeman, Mont., 1997).

16. Robert Dunbar, "Seed Pea Industry," *Montana Woman*, April 1927.

The Mining Law of 1872

1. See Gordon Morris Bakken, *The Mining Law of 1872: Past, Politics, and Prospects* (Albuquerque, N.M., forthcoming 2008).

2. Jon Christensen, "After the Gold Rush," *High Country News*, April 3, 1995.

3. "Pay Me to Be Good—or I'll Sue," *Los Angeles Times*, March 10, 1995.

4. "Timbisha Shoshone Tribe Challenges Plan for Inyo County Gold Mine,"

Gallatin Valley Seed Co., "Old Faithful Brand": Quality Seed for Gardeners and Freezers (Bozeman, Mont.: 1950)