

MINUTES OF THE MEETING OF
HOUSE APPROPRIATIONS SUBCOMMITTEE ON ELECTED OFFICIALS
MONTANA HOUSE OF REPRESENTATIVES

February 17, 1977

8:10 a.m.

Attorney General's Office
State Capitol Building

The meeting was called to order by Chairman Lynch with all members present, except Representative Wood who was excused. The subject of the hearings for today: Department of Justice: Crime Lab; Legal Services and County Attorney Coordinator Program.

Crime Lab: Arnold Melnikoff of the Crime Lab in Missoula distributed the attached information regarding the budget for the lab only, not investigation. (Pat Driscoll, Chief Assistant Attorney General, said the investigation would be in a combined program to be discussed later in the hearings.) The lab is staffed with a chemist, lab personnel and one secretary; they are requesting an addition of one more chemist in 1979. Their services keep increasing and the costs are continually rising. Their work is about 70% drug related and the remainder in other criminal areas. It is not a complete crime lab yet. It started out as a drug analysis unit about 7 years ago while in Missoula, with the intention of moving to Helena. But their small budget and heavy, increasing workload would not permit the move. Attorney General Greely said that the lab and Mr. Melnikoff have been very effective and have put out a lot of work with a minimal budget. There is no charge for their services, but the users must be from a law enforcement agency or working with a criminal type of case.

House Bill 461 would expand the lab and provide funding. The Division is trying to upgrade the lab in the next four years, by which time they expect to have a complete crime lab. The division is now requesting funds to get two microscopes for the lab; these would cost about \$20,000 each plus the photographic equipment that goes with it.

Mr. Greely said that if a medical examiner system is set up, the labs would be working together, yet they would be separate. It would be good to have them in the same community. The closer the lab is to the law enforcement community it serves, the more effective it will be. As it is now, the lab has been in the community it serves most often as the majority of their work has come from the Missoula area. If the medical examiner program goes through, there will be a committee set up to look into the best locations for the labs. Helena might be the recommended community, but other areas would be considered including Lewistown.

Senator Lockrem suggested that it might be advisable to wait on making capital investments and equipment procurement to see what happens with the labs. He also asked if LEAA funds would be available for the

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purchasing of equipment. Mr. Greely indicated there might be some money available and he would check into this. Mr. Melnikoff said that LEAA funds are not available for equipment like they used to be as the federal government has changed their guidelines. At the present time the LEAA says they cannot be depended upon for equipment. There is some equipment that is over six years old and must be replaced and LEAA funds are not granted for replacement costs. It was suggested that general funds be used for replacing equipment and LEAA funds, if they could be available, be used for purchasing new equipment. Mr. Greely said that the emphasis of LEAA is on personal contact in law enforcement and that is why they are not allowing funds for equipment now; the labs lost out when they tightened up their guidelines to prevent certain types of spending.

Senator Regan asked the division to give the committee a list of their priorities.

Legal Services: Mr. Gosnell explained that this budget request is for their current level of 10 attorneys (including Mr. Greely) and 5 clerical; they are requesting 1 additional attorney and 1 additional secretarial position. They also want to restructure the salary level within this division; Mr. Gosnell has allowed for this within his recommendation. The add on is the \$33,900 and \$35,500. See the attachments. Mr. Gosnell indicated he has no problems with the one attorney, but questions the need for another secretary.

Les Simpkins of the Budget Office also indicated he has no problems with the attorney but questions the other secretary.

Mr. Driscoll reported that based on comparisons from their predecessors and their experience since they came into office on January 3, 1977, they have found the secretary situation is really a bottleneck and must be remedied. They have one attorney position they have not filled yet because the legal services budget for this fiscal year was expended 55% when they came in in January; they did not have the funds to pay an additional attorney. They have concluded that an attorney would justify a half a secretarial position. They would like to hire an anti-trust attorney, and Mr. Driscoll explained the workload that is involved in & the type of work anti-trust law is. They will be authorized some funds for anti-trust work which they expect this summer and want to be prepared for that funding to make the best use of it. This work would not be done by one attorney exclusively, but they would probably have two on a half-time basis, because these cases can last for three to five years. These positions would pay for themselves, as they would be bringing in money. Right now this is being handled by a private attorney and he gets the fees for the case. If the position was granted, the money would come in to the state as well as the attorneys' fees in the legal services division. They would be able to get involved in these areas on a larger scale than in the past. The secretary would be used half-time here and half-time in the other areas in the office.

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In the area of corporate dissolutions the new staff has found a great need for work; there are about 13,000 corporations that have to be dissolved as their predecessor handled only about 20 cases during his term in the office. These are very time consuming cases and require a lot of work and paperwork are involved. Utah has had a similar situation and tried, successfully, a legislative approach to the problem. This office may also try that approach, taking all of them and provide for a number of corporations at one time. This area of work would create a great deal more work for the staff, especially clerical. Quite of bit of the work could be done by a paralegal.

It was explained by Mr. Driscoll that they presently have a secretary on their staff with eight years legal experience and she could take a considerable amount of the workload off the attorneys, especially in this area, if she could be used to her full capability. They would like to call her a legal assistant and use her as such (she is the highest paid secretary on the staff), but they also need the secretarial help.

Chairman Lynch asked if they could live without the secretary. Mr. Driscoll responded that they will live with whatever they are funded with, but feel very strongly that this position is justified and they could make better use of the people if they are granted the additional secretary. Under the previous attorney general, a priority system was set up for the work put out by the secretaries, but they often had to wait as long as ten days to have something typed.

If the legislature granted the division only one FTE, rather than the two requested, they would prefer to have the attorney position as it would provide more money and they would be able to cut it in half.

County Prosecutor Services Program: The criminal investigator and the county attorney coordinator positions would be combined in one program under the legal services division.

The escheated estate program should be left flexible for the time being as they are not certain how heavy the workload could be in this area. The attorney for this work has been on a retainer, under contracted services, but is shown as an FTE in the office.

The County Prosecutor Program is being proposed by Mr. Greely, as a priority item. They would use the funding of the criminal investigation unit and are requesting an additional \$127,000 per year in general funds to set up the program. See the attached handout.

Senator Regan said that she and Mr. Greely have discussed this before; she has felt this position was only a public relations man. Mr. Greely said he has always had different views, although he could appreciate the views of Senator Regan. The position is more than a p.r. man and lobbyist for the legislature, he said.

The program would consist of seven (7) positions, as proposed. Two are already there; five would be new. Mr. Greely explained how the

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criminal investigators worked under his predecessor and in connection with the workmen's compensation cases and how he intends to use them. He has appointed law enforcement people to a panel to select the persons for the division; that should relieve problems the law enforcement people have with the program.

All the functions of the county attorney coordinator would be done through this program and under this office; there has been a physical separation in the past which has curtailed the effectiveness of the position. The staff would also assist the county attorneys with the prosecution of criminal trials and felony trials when requested. The county attorneys in some counties have had problems in the past when they have had a prosecution trial only once every five years, for example. They often have to call in a special prosecutor with more experience and the county then has to pay the attorney fees in addition to the county attorney's salary. This program would take some of the responsibility off the counties to pay some of this money.

Mr. Greely and Chairman Lynch discussed the salary proposed for the program's staff, and compared it with that of the attorney general and other elected officials. Mr. Greely explained that in order to get the right person to fill the position, they would have to hire an individual with about ten years of trial experience to get the expertise and experience necessary. If he could not find the right person, the position would not be filled; they would continue to look for the proper person to fill the slot and accomplish the job.

Representative John Scully, who is a county attorney in Bozeman, testified in support of the program and asked that it be funded. He discussed the situation of the county attorneys now throughout the state. He feels it is not possible for a county attorney to keep up-to-date on criminal law to satisfactorily handle a major criminal trial if he has a private practice in addition to his county attorney duties. That is the situation for all but four in the state. He feels it is a very good idea to have two people (a main prosecutor and an assistant) available at the state level to assist in the prosecutions and to get a handle on the work in the counties.

Senator Lockrem stated he has a different philosophical approach to the prosecutions in the state and, therefore, has problems with this program. Senator Regan said she can only see this blossom to where all the prosecutions in the state would take place out of this office.

Representative Scully added that the county attorneys throughout the state are strongly in support of this program, as long as the service is provided on an "as requested" basis.

Mr. Greely assured the committee members that his office would not take over the counties. They would not go into the counties unless so requested by the county attorney; and the county attorney would be involved in the case along with the special prosecutor through the whole process. He said that this program may not be the answer to the problems, but it is a start. They will report back to the legislature in the next session on the progress and where and how it is or

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not working. He will present details and "hard, concrete evidence" of where money was saved.

Presently, the county attorneys are able to call the Attorney General's Office for assistance, but the staff attorneys are always so busy that have little time to take a major criminal trial in addition to all their other work, and then often do not have the experience that a special prosecutor (as proposed) would have.

There is a public defenders program in a piece of legislation that has been presented to the legislature for consideration.

The previous attorney general had not kept an accurate record of cases being handled throughout the state. As of January 3, 1977, when Mr. Greely and his staff took office, they have a docket book with every case listed and information pertaining to it through its disposition.

Mr. Greely was asked if they would need all the FTEs since this is a new program; he said that he would think about it and discuss this later with the committee and Mr. Gosnell. His main feeling is that there could be problems develop if it is not done right in the first place.

The meeting was adjourned at 9:30 a.m.



J.D. Lynch, Chairman

jlm