

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 15, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:35 a.m. in Room 415 of the State Capitol Building.

ROLL CALL:

All committee members were present except Senator Roberts who was excused.

WITNESSES PRESENT TO TESTIFY:

Senator Dover - District 24
Dr. Duncan D. Burford - Billings, Pres. of Montana Psychiatric Assn
Senator Lloyd Lockrem - District 32
John Frankino - Director of Montana Catholic Conference
Ron Sullivan - Coordinator, Montana Ind. Leg. Office
Senator Watt - District 49

CONSIDERATION OF SENATE BILL 417:

Since the consideration of this bill had not been completed on the previous day, Senator Dover was allowed to continue his testimony in support of S.B. 417 of which he is the sponsor. He told the committee that he is concerned because rural communities do not have the facilities in which to take care of mentally ill people and, therefore, they have to be transported to the larger cities. He also asked that "seriously mentally ill" be defined.

Dr. Burford of Billings again spoke to the committee on this bill and asked that they define "seriously mentally ill" in the bill. He said that the guardianship provision was drawn to enlarge the definition of incapacitated person. He said he believed that there were some problems with the guardianship provision and suggested that it might be best to just broaden the provisions of Senate Bill 413.

The Chairman told the witnesses that the committee would consider the testimony.

CONSIDERATION OF SENATE JOINT RESOLUTION 19:

Senator Lockrem of District 32, chief sponsor of this resolution, said that in court decisions over the past decade victims have been denied the protection of the law. He offered as an exhibit a chart from Oregon dealing with this matter. (See Exhibit 1). He told the committee that this bill is not a substitute for HB 357 which deals with the same problem.

John Frankino, Director of the Montana Catholic Conference, asked for compensation of innocent victims of crime. He gave the committee a copy of the study which they had made on this subject. (See Exhibit 2)

There were no more proponents of this resolution present.

Ron Sullivan, coordinator for the Montana Indian Legal Office questioned line 11 and said that it should include non-Indian's offenses against Indians on reservations.

Merle Lucas of the Indian Affairs office agreed with Mr. Sullivan's testimony and asked that the bill be amended.

There were no more opponents to SJR 19 present to testify. Therefore, the Chairman allowed the committee members to ask questions of the witnesses. Consideration of SJR 19 was then closed.

CONSIDERATION OF SENATE JOINT RESOLUTION 30:

Senator Watt, sponsor of this resolution, explained this resolution and said that it was a simple one-time resolution. He further told the committee that state agencies need to be challenged now and then in the courts and that this resolution is a reminder to the courts that they must tread lightly. He then said that sometimes they lay down rules and regulations they should not.

The Chairman thanked Senator Watt.

At this time, since there were no more bills for consideration, the committee went into executive session. (10:20 a.m.)

EXECUTIVE SESSION

The following action was taken on Senate Bill 318: Senator Towe moved that the attached amendments be adopted. (See attachment #1) The motion carried unanimously. Senator Towe then moved that S.B. 318 as amended DO PASS. The motion carried with Senator Regan voting "No".

There being no further business before the committee at this time they adjourned at 11:00 a.m.

SENATOR JEAN A. TURNAGE, Chairman

Respectfully report as follows: That.....**SENATE**..... Bill No. 318,
the introduced bill, be amended as follows:

1. Amend title, line 9.

Following: " ; "

Strike: "AND"

2. Amend title, line 11.

Following: line 10

Insert: "AND TO PROVIDE THAT NO MORE THAN 15 DAYS GOOD TIME ALLOWANCE
PER MONTH MAY BE GRANTED TO A PRISONER;"

Following: "SECTIONS"

Insert: "80-1905,"

3. Amend page 10, section 7, subsection (1)(d), lines 3 and 4.

Following: "assign"

Insert: "each parolee to"

Following: "officer"

Strike: "to each parolee"

4. Amend page 2x 5, section 1, subsection (5)(b), line 7.

~~XXXXXX~~ Following: line 7

Insert: "(c) This subsection (5) does not affect eligibility for the
prisoner furlough program or the good time allowance provided for
in 80-1905."

Renumber: subsequent subsection

5. Amend page 11, section 8, lines 18 through line 3 on page 12.
Following: line 17.
Strike: section 9 in its entirety
Renumber: subsequent sections
6. Amend page 12, section 10, subsection (1), lines 8 and 9.
Strike: "the administrator of the halfway house to which the prisoner has been assigned or by"
7. Amend page 12, section 10, subsection (1), line 10.
Following: line 9
Strike: "administrator or"
8. Amend page 12, section 11, subsection (1), lines 20 through 25.
Following: "supervision."
Strike: lines 20 through 25 in their entirety
9. Amend page 13, section 11, subsection (2), lines 1 and 2.
Strike: "(2)" Following line 25 on page 12
Following: "director"
Strike: "made under subsection (1) and his decisions"
10. Amend page 13, section 11, subsection (2), lines 3 and 4.
Following: "prisoners"
Strike: "who have not been assigned to a halfway house"
11. Amend page 17, section 13, line 18.
Following: line 18.
Insert: "Section 13. Section 80-1905, R.C.M. 1947, is amended to read as follows:
'80-1905. Good time allowance--forfeiture--probationers and parolees--application of prior law. (1) The state department of institutions shall adopt rules and regulations providing for the granting of good time allowance for inmates employed in any prison work or activity. The good time allowance shall operate as a credit on his sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules and regulations made by the department or the warden. The rules adopted by the department may not grant good time allowance to exceed:
(a) ten (10) days per month for inmates assigned within the confines of the walls of the prison;
(b) thirteen (13) days per month for those inmates placed outside the confines of the walls of the prison;
(c) fifteen (15) days per month for those inmates who have been assigned outside the walls of the prison for an uninterrupted period of one year on a minimum status.
(d) thirteen (13) days per month for those inmates enrolled in school inside the walls who successfully complete the -course of study or who while so enrolled are released from prison by discharge or parole;
(e) ten (10) days for each pint of blood donated by an inmate;
(f) five (5) days per month for those inmates participating in self-improvement activities designated by the department of institutions.

(2) Effective July 1, 1977, no inmate may be granted more than a total of 15 days good time allowance per month.

~~(2)~~ (3) In the event of an attempted escape by an inmate, or a violation of the rules and regulations prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of institutions of any attempted escape or violation of rules and regulations on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the department.

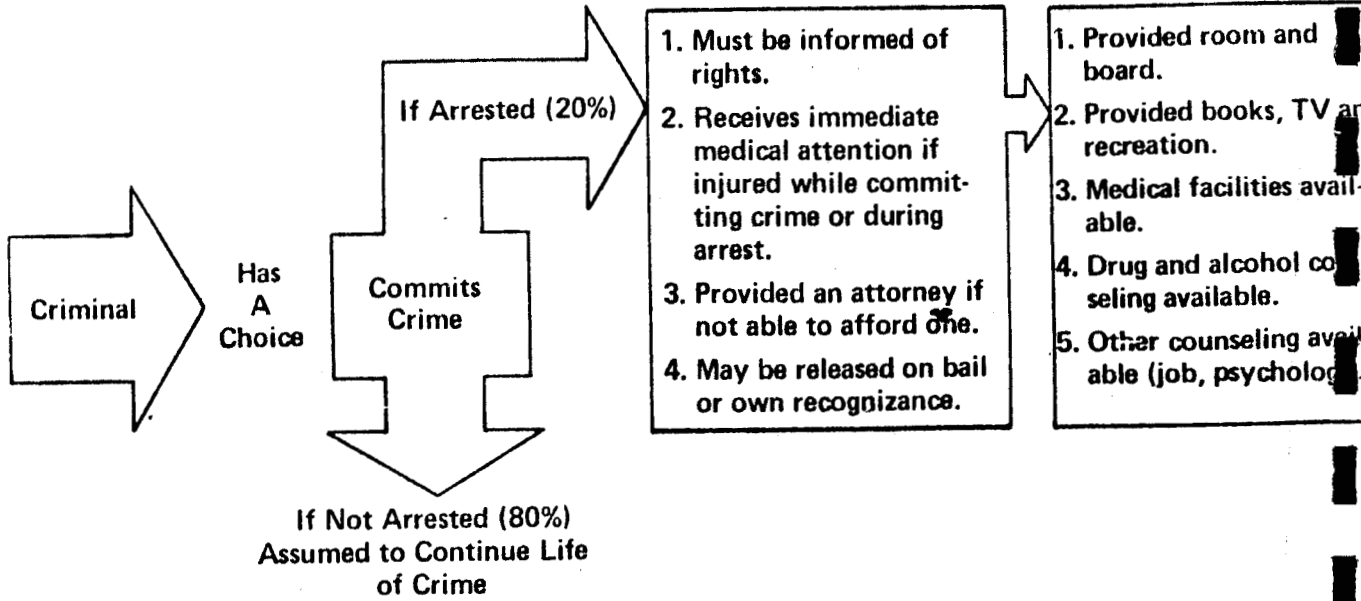
~~(3)~~ (4) This section applies to all persons who are on probation or parole or eligible to be placed on probation or parole. No person convicted and sentenced before April 1, 1955, shall have his good time allowance reduced as a result of this section."

THE CRIMINAL

OFFENSE

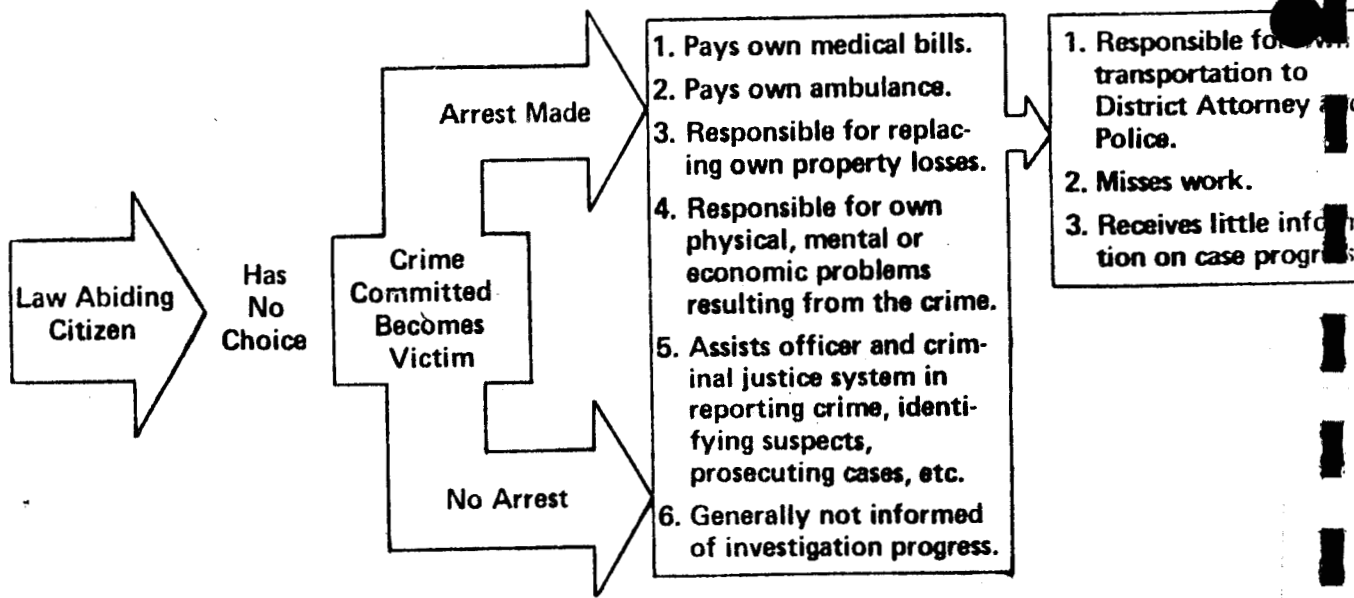
ARREST

PRE-TRIAL



1. Must be informed of rights.
2. Receives immediate medical attention if injured while committing crime or during arrest.
3. Provided an attorney if not able to afford one.
4. May be released on bail or own recognizance.

1. Provided room and board.
2. Provided books, TV and recreation.
3. Medical facilities available.
4. Drug and alcohol counseling available.
5. Other counseling available (job, psychological).



1. Pays own medical bills.
2. Pays own ambulance.
3. Responsible for replacing own property losses.
4. Responsible for own physical, mental or economic problems resulting from the crime.
5. Assists officer and criminal justice system in reporting crime, identifying suspects, prosecuting cases, etc.
6. Generally not informed of investigation progress.

1. Responsible for own transportation to District Attorney and Police.
2. Misses work.
3. Receives little information on case progress.

INJUSTICE SYSTEM

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TRIAL

SENTENCING

SENTENCE

POST RELEASE

1. Provided with State appointed attorney.
2. Can plea bargain.
3. Can change venue.
4. Can delay trial.
5. Can invoke Fifth Amendment.
6. Can move to suppress evidence.
7. May be acquitted by reason of insanity.
8. In only 3% of all committed crimes is an offender convicted.
9. Can appeal.

1. A presentence study is conducted to aid judge in sentencing.
2. Alternatives to incarceration are numerous.

1. Provided room and board.
2. Access to medical and psychological treatment.
3. Opportunity to improve education.
4. Opportunity to develop job skills.
5. Can participate in work release and other minimum security programs.
6. Numerous rehabilitation programs.
7. Eligible for early parole.
8. Good time credit available.

1. Many transitional programs available.
2. Personal loans available.
3. Large percentage continue life of crime.

1. Provides own transportation and parking costs.
2. Pays own babysitting or other costs.
3. Must recount criminal incident.
4. Subject to cross-examination.
5. The "victim's attorney" represents the State (general public) not the individual victim.
6. Victim has no right to appeal verdict.
7. No victim waiting room.
8. Paid \$10 a day for their time in court.
9. Treated like a piece of evidence.

1. Has no voice in court decisions, pleas, presentence or sentencing.
2. Usually are not notified or present at time of sentencing.

1. Often unsatisfied with results of criminal justice system.
2. May fear retaliation.
3. Continues life with fears, damages, injuries, traumas.
4. Is expected to continue to support a system that treated them with less respect than for the offender.



HARL HAAS
DISTRICT ATTORNEY
MULTNOMAH COUNTY
PORTLAND, OREGON

SJK 19 (Ex. 2)

VICTIMIZATION AND OFFENDER

RESTITUTION STUDY

