

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 24, 1985

The sixth meeting of the Local Government Committee was called to order at 1:00 p.m. on January 24, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present with the exception of Senators Story and Mohar, who were excused.

CONSIDERATION OF SENATE BILL 116: Senator Gary Aklestad, District #6, is the sponsor of this bill. It was introduced to revise the pay structure for prosecuting attorneys, adjust the salary of part-time county attorneys, require the state to pay one-half of the salaries of authorized deputy county attorneys, and provide funding by imposing a charge on persons convicted of criminal offenses or who forfeit bond or bail.

PROPONENTS

A letter of support was submitted by James Nelson, Glacier County Attorney. The letter is attached as Exhibit A to these minutes.

John Pratt, representing the Montana County Attorneys' Association, spoke in favor of the bill. He stated that the prime purpose of the bill is to insure the quality of prosecutors in the State of Montana. He stated both the Attorney General and the Governor had indicated their support of the bill if they could provide a funding mechanism for the bill.

Robert Deschamps III, Missoula County Attorney, spoke in favor of the bill. He stated that the State of Montana has lost thirty-four county attorneys in the past year due to inaccurate salaries. Mr. Deschamps passed out a report entitled Prosecution Services in Montana which is attached as Exhibit B to these minutes.

Rae Kalbfleisch, Toole County Attorney, spoke in favor of the bill. He stated the bill would increase the experience and professionalism of county attorneys.

W.G. Gilbert III, Beaverhead County Attorney, spoke in favor of the bill. He stated that the funding mechanism for the bill is particularly attractive, and experience is necessary for a county attorney to be effective.

Bob McCarthy, Butte Silver Bow County Attorney, spoke in favor of the bill. His written testimony is attached as Exhibit C to these minutes.

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Ed Laws, Stillwater County Attorney, spoke in favor of the bill. He explained the various types of cases that county attorneys must handle. He said lawyers representing the other side in cases often make five times as much money as the county attorney. He said that conflicts of interest limit private practice tremendously for part time County Attorneys.

John Connor, Jefferson County Attorney, spoke in favor of the bill. He stated the funding mechanism is in the bill and it would be a tremendous asset if the bill were to pass.

John Potter, Meagher County Attorney, spoke in favor of the bill. His written testimony is attached as Exhibit D to these minutes.

Jim McCann, Roosevelt County Attorney, stated he was in favor of the bill.

Gary Higgins, Golden Valley County Attorney, stated he was in favor of the bill.

John Flynn, Broadwater County Attorney, spoke in favor of the bill. He said local governments put a large amount of money into training their attorneys and they subsequently leave due to low salaries.

Joe Roberts, representing the Department of Justice, stated the Department was in favor of the bill.

OPPONENTS

Bill Verwolf, representing the City of Helena, stated that, while they were not opposed to the bill in its total context, they had concerns about trying to collect the fees from the criminal. He would like to see police courts removed from the bill.

Jim Jensen, representing the Montana Magistrates' Association, spoke in opposition to the bill. He feels the philosophy of the bill is that courts are for the purpose of generating revenue rather than being neutral places where disputes are resolved. He stated it cannot be determined who is to receive the money collected by the courts as it is now and the clerks in Justice of the Peace courts have an overwhelming burden trying to collect revenues and properly distribute them. He feels the bill establishes a specific dependence on the judge of the court.

Questions from the Committee were called for.

Senator Crippen asked Mr. Verwolf how much a full time city attorney's salary is. Mr. Verwolf stated they have two attorneys and they pay the two of them thirty thousand dollars a year combined.

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Senator Pinsoneault asked if this type of funding was unique or if other states fund any costs in this manner. Mr. Deschamps stated that some other states do use this method of funding and that the State of Montana funds various law enforcement functions in this manner.

Senator Regan asked if they could not get help from the Attorney General's office. Mr. Racicot stated that they could but that they are also billed approximately thirty dollars an hour for services rendered.

Senator McCallum asked if a person would be entitled to an increase of one thousand dollars a year after completing four years or on their anniversary date. Mr. Deschamps stated the bill was intended to mean that a person would have to serve for four years before being eligible for the one thousand dollars -- if you were not reelected, you would not get the one thousand dollars. Senator McCallum felt the bill should be amended to clarify the difference between the four year term and an anniversary date.

Senator Eck asked Mr. Deschamps if he would prefer having the bill funded in this manner or out of the general fund. Mr. Deschamps stated he would prefer this method because there would likely be no general fund money to fund the bill.

Senator McCallum asked Mr. Deschamps what would happen if they were unable to collect money from someone. Mr. Deschamps stated that their fiscal analyst had estimated they would be able to collect somewhere in the neighborhood of two and one-half million dollars even realizing that there would be some fees they would have to let go uncollected.

Senator Aklestad closed by stating he would not be carrying the bill if it did not include some sort of funding mechanism. He stated this bill would not raise taxes or use money from the general fund. He feels we need to get salaries up to keep good people in the offices.

The hearing was closed on SB 116.

CONSIDERATION OF HOUSE BILL 76: Representative Mel Williams, District #85, is the sponsor of this bill. It was introduced to increase the fees charged by the clerk and recorder for filing notarial commissions and issuing certificates of official character to conform with the fee charged by the Secretary of State.

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PROPOSERS

Sue Bartlett, Lewis and Clark County Clerk and Recorder, spoke in favor of the bill. She stated the bill would increase the current fee for filing a notarial commission with the clerk and recorder's office from fifty cents to two dollars. This would make it uniform with the Secretary of State's fees for certifying to the character of notaries. She feels this is a housekeeping bill and would give the county an additional ten dollars a year in revenue.

Mike Stephen, representing the Montana Clerk and Recorders' Association, spoke in favor of the bill. He stated that there would be a limited amount of revenue collected from this bill, and it would be more of an illustration of what it costs to do business these days.

OPPOSERS

There were no opposers to House Bill 76.

Questions from the Committee were called for.

There were no questions from the Committee on HB 76.

CONSIDERATION OF HOUSE BILL 77: Representative Mel Williams, District #85, is the sponsor of this bill. The bill was introduced to revise recording fees charged by the county clerk.

PROPOSERS

Joanne Peres, President of the Montana Association of Clerk and Recorders, spoke in favor of the bill. She explained the difference between filing and recording and explained the various types of machinery used in the recording process. She said she has received many complaints from realtors and abstractors on the fifty cent charge due to the confusion it causes.

Bill Gowen, President of the Montana Land Title Association, and representing the Helena Abstract and Title Company, spoke in favor of the bill. He feels the fifty cent charge per name causes problems and confusion.

Sue Bartlett, Lewis and Clark County Clerk and Recorder, spoke in favor of the bill. She stated that it is not unusual to have to send documents back because the calculation of the amount due is fifty cents off. The postage eats up the fifty cent fee easily and causes a four day delay in processing documents. Ms. Bartlett submitted a list of current fees charged by her office. The list is attached as Exhibit E to these minutes.

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Mike Stephen, representing the Montana Clerk and Records' Association, spoke in favor of the bill. He stated there would be no change at all in the services to be provided other than the cost of doing business.

OPPONENTS

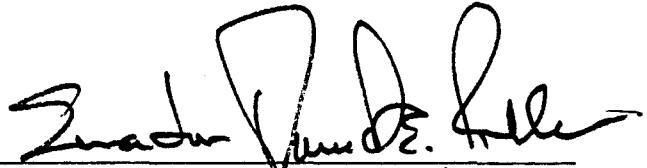
There were no opponents to House Bill 77.

Questions from the Committee were called for.

There were no questions from the Committee on HB 77.

ACTION TAKEN ON HOUSE BILL 76: Senator McCallum moved that HB 76 be concurred in. The motion passed unanimously. Senator Harding will be asked to carry HB 76.

The meeting adjourned at 2:50 p.m.



Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
LEGISLATIVE SESSION -- 1985

Date 01-24-85

NAME	PRESENT	ABSENT	EXCUSED
Senator Crippen, Bruce	✓		
Senator Eck, Dorothy	✓		
Senator Harding, Ethel	✓		
Senator Hirsch, Les	✓		
Senator McCallum, George	✓		
Senator Mohar, John (V. Chair)		✓	
Senator Pinsoneault, Dick	✓		
Senator Regan, Pat	✓		
Senator Story, Pete			temporarily
Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

XXX January 24

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

76

having had under consideration..... No.....

THIRD

BLUE

reading copy ()

HARDING WILL CARRY BILL color

**CHANGING FEE FOR FILING NOTARIAL COMMISSION WITH
COUNTY CLERK**

HOUSE BILL

76

Respectfully report as follows: That..... No.....

BE CONCURRED IN

XXXXXXXX

DO PASS

XXXXXX

NOT PASS

Senator Dave Fuller

Chairman.

1-24-85

LOCAL GOVERNMENT

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Robert L. Deschamps III	Missoula Co. Atty.	SB 116	✓	
John L. PVAH	Montana Co Attys Assoc	SB 116	✓	
Jim McCann	Roosevelt " "	SB 116	✓	
Ed LAWS	Stillwater Co. Atty	SB 116	✓	
Rae Kalbfleisch	Toole County Atty	SB 116	✓	
Robert Peterson	Jefferson County	SB 116	✓	
Robert M. McARTHUR	Butte-Silver Bow County Attorneys	SB 116	✓	
John Flynn	Broadwater Co. Atty	SB 116	✓	
John Connor	Jefferson Co Atty	SB 116	✓	
W. G. Galtner Jr	Beauregard County Attorney	SB 116	✓	
John V. Potter Jr	Meagher Co. Atty	SB 116	✓	
Bill Verwolf	Helena, City of	SB 116		✓
Judy Ruggett	Broadwater Co Clerk	HB 7677	✓	
Lee Heiman	Legislative Council	HB 8		
Sue Bartlett	Liberty & Clark Co. Clerk & Recorder & Clerks' Association	HB 76 77	✓	
Joanne Perez	Chouteau County C/R Mont. Assn. Clerks & Recorders	HB 76 77	✓ ✓	
Gerry M. Higgins	Golden Valley Co. Attorney	SB 116	✓	
Jim Jensen	MT MAGISTRATES ASSN.	SB 116		X
William F. Gowen	HELENA ABSTRACT & TITLE CO. & MONTANA LAND TITLE ASSN	HB 77	✓	
M. M. O'Leary	MT clerk & Recorders	HB 76 HB 77	X	

(Please leave prepared statement with Secretary)

LOCAL GOVERNMENT COMMITTEE
JANUARY 24, 1985
COUNTY OF GLACIER EXHIBIT A
OFFICE OF
COUNTY ATTORNEY

JAMES C. NELSON
COUNTY ATTORNEY

14 EAST MAIN STREET
P.O. BOX 438
CUT BANK, MONTANA 59427

PHONE 873-2278
(AREA CODE 406)

LARRY D. EPSTEIN
DEPUTY COUNTY ATTORNEY

January 21, 1985

Senator Dave Fuller
Chairman
Senate Local Government Committee
State Capitol Bldg
Helena, MT 59620

In Re: Senate Bill 116 (An Act Revising the Pay Structure
for Prosecuting Attorneys, etc.)

Dear Mr. Fuller:

I have been advised that the hearing on the above referenced Bill will be on January 24th, 1985, at 1:00 o'clock A.M. While I had planned to attend and testify at the hearing, nevertheless, the hearing date conflicts with the Board of Oil & Gas Conservation meeting in Billings, and as a member of that Board I will have to attend its meeting.

Nevertheless, as the two-term, part time County Attorney for Glacier County, Montana, I would like to express my complete support for the proposed Bill. The County Attorneys Association is concerned because of the large turnover rate among county attorneys and the fact that the work load of the office of the county attorney, especially in the part time offices, throughout the State is increasing tremendously each year. In addition to an increasing number of criminal cases, county attorneys are now required to prosecute and defend an ever rising number of civil cases on behalf of the county and its employees.

Notwithstanding the increase in our work load, our salaries have remained essentially the same, while other salaries within the judicial system have increased. Unless we are able to add to the salaries of the part time county attorneys and to provide longevity for prosecutors and their deputies, we are going to continue to lose prosecutors, with the result that the counties and the State of Montana and the public at large will suffer the consequences.

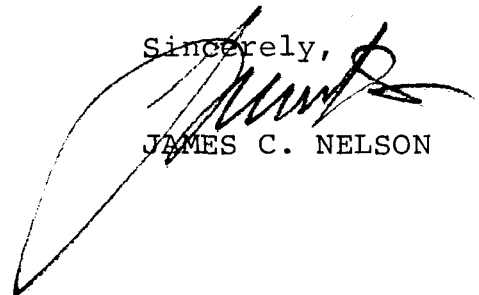
Senator Dave Fuller
Page Two
January 21, 1985

We believe that Senate Bill 116 is an innovative piece of legislation designed to increase salaries of prosecutors and increase our professionalism without any tax increase. The effect of the enclosed Bill will be to charge the costs of the increase in the county attorneys salaries against those persons involved in the criminal justice system who cause the prosecution work load.

In addition, the legislation would provide counties with tax relief inasmuch as counties now pay for the entire expense with respect to the deputy county attorneys salary.

In closing I heartily endorsed Senate Bill 116 and would respectfully urge the consideration of same by your committee. Will you please include this letter in the official committee hearing proceedings.

Sincerely,



JAMES C. NELSON

JCN:mjp

LOCAL GOV'T COMMITTEE
1/24/85
EXHIBIT B

DRAFT COPY
SUBJECT TO REVISIONS

Prosecution Services in Montana

A Report to the Subcommittee
on Judiciary

Prepared by:

Lois Menzies, Researcher
Montana Legislative Council
Helena, Montana

July, 1982

Senate Joint Resolution 2, adopted by the 1981 Legislature, requests a study on establishing a statewide district attorney system in addition to an examination of the state's judicial districts and the delivery of indigent defense services. Before considering any district attorney proposals, it is necessary to investigate the Montana county attorney system, the current method used to provide prosecutorial services in the state. The following report reviews the constitutional and statutory provisions concerning county attorneys, provides a profile of the county attorney system, discusses suggestions for improving the current system, and examines the benefits and disadvantages of creating a statewide district attorney system in Montana.

Constitutional and Statutory Provisions

Unlike the 1889 Montana Constitution that defined the qualifications and term of office for the county attorney, the funding sources for his salary, and the procedure for filling vacancies, the 1972 constitution makes one mention of the office of county attorney. Article XI, Sec. 3 of the new constitution provides that one optional form of county government includes the election of a county attorney. The qualifications, term, compensation, and duties of the county attorney are contained in Title 7, chapter 4, parts 22, 25, and 27 of the Montana Code Annotated.

Qualifications. Under Montana law, an individual must meet three qualifications to be eligible for the office of county attorney. He must be of voting age, a citizen of the state, and an elector of the county in which he is elected. A candidate for county attorney in a county with a population over 30,000 must meet two additional requirements: he must have lived in the state for two years immediately before taking office, and been admitted to practice law for at least five years before the date of election or appointment.

Term. The term of office for a county attorney is four years. Vacancies in office are filled by appointment of the county commissioners.

In each county with a population over 30,000, the county attorney must be a full-time official. He is prohibited from engaging in the private practice of law or sharing directly or indirectly in the profits of any private practice of law. In any county with a population under 30,000, the county commissioners may, upon consent of the county attorney, make the office a full-time position.

Compensation. The county attorney's salary is payable monthly with one half from the county general fund and the other from the state treasury. According to §§7-4-2503 and 7-4-2504, MCA, the salary for a full-time county attorney, beginning July 1, 1981, shall be \$36,500, or 7% more than his fiscal year 1981 salary, whichever is greater. Depending on the county's classification and population, a part-time county attorney receives the following salary:

- (1) For first- through fifth-class counties, \$14,000 plus \$10 for each 100 persons or major fraction thereof included in the county's population; or
- (2) For sixth- and seventh-class counties, \$12,000 plus \$20 for each 100 persons or major fraction.

In a county with a population under 30,000, a part-time county attorney receives an additional \$12,000 per year. Both full-time and part-time attorneys receive annual salary increases based on 70% of the previous year's consumer price index.

Staff. In first- and second-class counties, the county attorney may appoint one chief deputy and one deputy. In all other counties, he needs the approval of the county commissioners to fill these positions. The county commissioners determine the salary of a deputy and assistant, which may not be more than 90% of the county attorney's salary. Any deputy county attorney in a county with a population over 30,000 who receives 70% or more of the county attorney's salary is prohibited from engaging in the private practice of law or sharing directly or indirectly in profits of any private practice.

Except in first-class counties, the county commissioners may employ special counsel to assist

in the prosecution of a criminal case or to represent the county in a civil action. In addition, the commissioners may employ any other county attorney or member of his staff to provide criminal or civil legal services for the county. They may also hire a licensed attorney to perform any legal service in connection with the county's civil business.

Duties. Although the specific duties are found throughout the code, the general duties and responsibilities of the county attorney are described in §§7-4-2711 through 7-4-2717, MCA. The county attorney is the legal advisor of the board of county commissioners; he must defend all suits brought against his county. State law requires him to give written opinions to county, district, and township officers on matters relating to the duties of their offices and to act as counsel for conservation and fire districts in unincorporated territories, towns, or villages within his county.

Moreover, the county attorney is the public prosecutor who must institute proceedings for the arrest of persons charged with crimes and draw all indictments and informations. He must also represent and defend the state in all matters and proceedings within the county to which the state is a party or in which it may be beneficially interested.

Relationship With Attorney General. The state attorney general exercises supervisory powers over the county attorneys.² He may require county attorneys to submit periodic status reports on their official activities. At the attorney general's request, a county attorney must prosecute in the name of the state any criminal or civil action or special proceeding. In addition, the governor may require the attorney general to assist³ the county attorney in discharging his duties.

Training Coordinator. Under the attorney general's supervision, within the Department of Justice, is the office of training coordinator for county attorneys. The office was originally funded through a Board of Crime Control grant; the state now funds the office through the general fund. The fiscal year 1982 budget for the coordinator's office was \$107,000.⁴

The training coordinator is an attorney appointed by the attorney general from a list of three names proposed by the Montana County Attorney's Association. His duties include: providing local training in current aspects of criminal law for county attorneys and other law enforcement personnel; assisting in developing and disseminating standards, procedures, and policies to insure the consistent and uniform application of criminal laws throughout the state; consolidating present and past information on the criminal law and providing a pool of official opinions, legal briefs, and other relevant criminal law information; providing assistance with research, briefs, or other technical services requested by a county attorney or other law enforcement official; and applying for and disbursing federal funds available to aid the prosecutorial function.⁵ Furthermore, a county may employ the prosecution coordinator or his staff to serve as special counsel in criminal cases at the rate of \$25 an hour. This rate will increase to \$35 in fiscal year 1983. County payments for special counsel are deposited in the state general fund.⁶

Profile of Montana County Attorney System

Because no comprehensive study containing statewide data on Montana's county attorney system has been published since 1972, a questionnaire was sent to each county attorney in May, 1982, to collect current information. A copy of the questionnaire is contained in Appendix A. Forty-nine attorneys returned the questionnaire for a response rate of 87%.⁸ The following is a summary and analysis of the survey responses. Additional information concerning salaries and criminal casefilings is also included.

County attorneys. Montana counties are served by 43 part-time and 13 full-time county attorneys. (See Appendix B). Except for Petroleum County, all of the county attorneys are residents of the county in which they serve; the county attorney of Petroleum County is a Fergus County resident. Among the 13 counties with full-time officials, 7 have populations over 30,000 and are mandated by law to employ full-time county attorneys; the remaining 6 (Jefferson, Lake, Park, Ravalli, Sanders, and Valley) with populations under 30,000 have opted to hire full-time county attorneys.

Jefferson County, population 7,029, is the least populated county employing a full-time county attorney,

Among the 49 county attorneys responding to the questionnaire, the county attorney in Valley County has served the longest (29.5 years). County attorneys in 6 other counties have served 20 or more years: Daniels, Fallon, Phillips, Powder River, Richland, and Treasure. In 9 counties, the county attorney has served 10 or more years. Most of the county attorneys (33, or 67%) have been in office less than 10 years, including 22 who have served one term (4 years) or less. One respondent has served as county attorney in two counties; 9 years in Granite County and 5 years in Glacier. The average number of years as county attorney is 8.7; this is 1.7 years⁹ longer than average term of service in 1972. On the average, part-time county attorneys have more years in office than full-time ones: 8.9 years compared to 7.9.

The total expenditure for county attorneys' salaries for fiscal year 1982 was \$1,136,373. The state funded one-half this amount (\$568,186), while the counties financed the remainder. The fiscal year 1982 salary for each full-time county attorney was \$36,751. The salaries for the part-time county attorneys ranged from \$19,760 (Rosebud County) to \$5,400 (Petroleum County) with an average salary of \$15,316.

Staff: Appendix C provides data on staff positions within the offices of county attorney. Generally, staffs are small. Twenty county attorneys (41%) have no deputies. Among those counties with deputy county attorneys, 20 employ only one part-time attorney while nine counties employ one or more full-time deputies. Missoula County has the greatest number of deputy attorneys (10 full-time), followed by Yellowstone (8 full-time) and Cascade (5 full-time) counties.

Salaries for part-time deputies fluctuate from \$500 in Chouteau County to \$21,293 in Flathead County. Full-time salaries range from \$14,991 in Richland County to \$33,077 in Missoula County.

With the exception of Liberty County, each county attorney's office is staffed with a secretary. In Liberty County, secretaries employed by the county

attorney for his private practice also handle the county-related work. A majority of the counties (65%) employ one or more full-time secretaries.

In addition to legal and secretarial staff, some county attorneys are assisted by other employees. The county attorney in Flathead County, for example, employs a paralegal. Eight part-time legal interns work with the county attorney in Missoula County. Big Horn and Gallatin Counties each employ one full-time investigator. Stillwater County occasionally hires an undercover investigator to conduct drug investigations. In Yellowstone County, an office manager is also director of the deferred prosecution and victim/witness programs.

Workload. The county attorneys were asked to estimate the percentage of their work and their staff's work concerned with criminal, civil, and administrative matters. (See Appendix D.) Although county attorneys and their staff spend as little as 10% (Carter, Deer Lodge, and Treasure Counties); and as much as 80% (Cascade, Glacier, Teton, and Yellowstone Counties) of their time handling criminal matters for the State of Montana, a majority (32, or 63%) said that 50% or more of their work concerns criminal matters. On an average, criminal work occupies about 54% of a county attorney's and his staff's time.

Criminal casefiling statistics for 1981 are contained in Appendix E. During this year, 3,238 criminal cases were filed in Montana. The number of casefilings varied substantially across counties. Four counties (Yellowstone, Missoula, Lewis and Clark, and Cascade) had over 200 criminal cases while 26 counties had 20 or less casefilings. Two counties, Meagher and Petroleum, reported no criminal cases.

In addition to prosecuting criminal matters for the state, county attorneys also handle some state civil matters, including child support cases, wage collection, and insanity commitments. The county attorneys indicated that between 2% and 30% of their work and their staff's work is concerned with state civil matters. On an average, a county attorney and his staff devote about 10% of their time to state civil matters.

Among the questionnaire respondents, 92% (45) spent less than half their time on local civil work, such as defending suits brought against the county or advising the county commission, school districts, or other service districts. In only 4 counties (Deer Lodge, Madison, McCone, and Wheatland) did local civil work occupy 50% or more of the county attorney's and his staff's time. The average percentage of work concerning local matters was 27%.

Office administrative matters consumed little of the county attorneys' and their staffs' time. No office spent more than 10% of its time on administrative tasks. The average percentage of work concerned with office administration was about 4%.

One county attorney noted that, in addition to his criminal, civil, and administrative duties, 5% of his work was concerned with other matters, such as dealing with the public seeking free legal advice on a variety of subjects.

Budgets. For fiscal year 1982, \$4,088,275 was budgeted for the 49 county attorney offices responding to the questionnaire. (See Appendix F.) Of this amount, the counties paid \$3,520,089, or 86%. The state financed the remaining \$568,186 (14%) in payment of one-half of each county attorney's salary. In addition, some counties received reimbursement from the Department of Revenue for collection of child support payments. One county attorney also listed fees and chargebacks to special districts as a source of revenue.

The county attorney budgets ranged from \$21,185 in Wheatland County to \$462,630 in Missoula County. The majority of counties (28, or 57%) had budgets under \$50,000. Twelve counties (25%) had budgets ranging from \$50,000 to \$100,000. The budgets in 9 counties (Big Horn, Cascade, Flathead, Gallatin, Lewis and Clark, Missoula, Ravalli, Silver Bow, and Yellowstone) exceeded \$100,000.

The state's contribution to the county attorney's salary has a varying impact on the budget for the county attorney's office. Counties with smaller offices receive a greater state subsidy than those with larger offices. For example, the state contribution amounts to only 4% of the total

county attorney budget in Missoula County, 5% of the budget in Yellowstone County, and 6% in Cascade and Flathead Counties. In contrast, Valley County receives 47% of its funding for the county attorney office from the state, Sanders County receives 35%, and Wheatland County receives 32%. The average percentage of state funding for the office of county attorney is 19%. It is interesting to note that the county attorneys estimated that they devote an average of 64% of their time to state criminal and civil matters but receive only 19% of their funding from the state.

Suggestions for Improvement

County attorneys were asked for suggestions for improving the delivery of prosecutorial services in Montana. Eight officials responded that the current county attorney system does not need "fixing" and that it works well as now constituted. One of these attorneys wrote that the present system is "quite adequate and sufficient for the effective prosecution of both criminal actions and the advising of the various boards."

Most county attorneys, however, did not share the view that nothing needs to be done to improve the delivery of prosecutorial services in Montana. The following summaries contain the county attorneys' recommendations for improvement.

Salaries. The most frequent suggestion for improving prosecution services was to increase the salaries of county prosecutors. Fourteen county attorneys mentioned the need for better salaries to recruit high quality individuals and to retain them in office. Many felt that the inadequate salaries for part-time county attorneys were a major cause for the high turnover in office. Oftentimes, young attorneys serve in office to gain experience and exposure before entering more lucrative private practices. Taxpayers' money used to train these individuals is lost when they leave office after a term or two. The high turnover rate also means that criminal prosecutions are being handled by attorneys without much experience. One respondent noted that this is his last term in office because he can no longer afford to be county attorney. Another county attorney felt that the salary of a part-time county attorney must be at least 50% of

a full-time county attorney's salary, while another recommended that part-timers earn at least as much as sheriffs. It was also suggested that a uniform and reasonable salary structure be created for deputy prosecutors and that the deputies be placed under a state classification plan.

State funding. Another popular suggestion shared by 11 county attorneys was to increase state funding for the office of county attorney. One attorney stated that "the legislature has repeatedly refused to adequately fund the function of the county attorney's office despite the fact that in almost all offices, way more than one-half of the work is done for the benefit and at the request of the state." Another felt that state funding for the county attorney offices must be restructured to restore equitable funding among counties. He noted that "in large counties, one-half of the elected official's salary is only a miniscule portion of the office costs, while in small offices, this state participation may contribute one-fourth to one-third or even more of the overall office cost." One county attorney recommended that the state assist with the costs of criminal law books and psychiatric evaluations. One attorney suggested that the state finance a portion of the salaries of deputy county attorneys. More specifically, one official recommended that the state pay one-half of the deputy county attorney's salary while another thought that full salary should be funded by the state. Two county attorneys felt that all costs associated with criminal prosecution, including indigent defense, must be assumed by the state.

Training coordinator. Seven county attorneys recommended that the office of training coordinator be expanded or better funded. "If the quality of prosecution services is to be improved statewide, it is necessary to adequately fund the attorney general's county prosecutors assistance office to provide training for new attorneys and to enable the state office to come in and assist on capital crimes and major and unusual felonies."

Investigative services. Seven county attorneys mentioned the need for more professional, thorough, investigative services. Among the comments on this topic, 3 officials suggested that state investigative services be available to the counties to provide technical assistance with

serious crimes, such as narcotics cases. Two attorneys also recognized the need for more training for law enforcement personnel (police, sheriffs, fish and game officials, and highway patrol officers) in criminal investigations.

Full-time prosecutors. Three county attorneys felt that all county attorneys must be full-time officials. One of these attorneys said that part-time prosecutors cannot "reasonably stay abreast of the niceties of criminal law" on a part-time basis. He also stated that part-time salaries force county attorneys to be "involved deeply with civil practice", which may lead to conflicts of interest. Another attorney suggested that "prosecutorial workloads should be equalized to the extent that prosecutors have large enough jurisdictions to justify full-time prosecutors and support staff."

District courts. Three county attorneys said that better access to the courts in the prosecution of criminal matters is needed. One attorney thought that it would be useful to have a district judge living in the county. Another wanted the district judge to visit his county more often.

Prosecutorial training. One attorney felt that in-state trial practice for county attorneys is needed. Another suggested that the state pay for prosecutorial training similar to the training available at the judges' colleges.

Statutory revision. One county attorney recommended that state laws be revised to:

1. Require the defense to list the witnesses that it will call on a case;
2. Abolish the exclusionary rule;
3. Increase the number of judges; and
4. Repeal the provision that a defendant released from prison on parole can continue to earn good time.

Miscellaneous suggestions. Additional suggestions for improving the delivery of prosecutorial services included:

1. Creating minimum qualifications for

part-time county attorneys;

2. Providing a retirement plan for county attorneys comparable to those now available to other justice system professionals;
3. Making the office of county attorney a nonpartisan office;
4. Extending the county attorney's term of office to six years;
5. Evaluating the supervisory powers of the attorney general over the county attorney; and
6. Providing rural prosecutors with adequate space and equipment.

Advantages/Disadvantages of a District Attorney System

Among the questionnaire responses were numerous comments on the need for a statewide district attorney system in Montana. Six county attorneys favored the creation of a district attorney system; 13 opposed it. Below is a discussion of the pros and cons of establishing a district attorney system, including comments from Montana county attorneys on this subject.

Advantages. Many proponents of a district attorney system believe that a county unit is often too small to provide adequate prosecutorial services.¹⁰ They argue that crime is no longer a purely local concern. Criminal activity is becoming more sophisticated, and transcends county lines. Under a county attorney system, inconsistencies in criminal prosecution may develop and "the failure to prosecute in one county may loose a criminal to impose menacing acts in another county."¹¹ Inequities in funding among counties may also contribute to uneven prosecution. Moreover, part-time prosecutors who have civil duties may have no opportunity to develop expertise in criminal matters. Also, a part-time county attorney may experience conflicts between his public service and private practice. "Since his salary is a fixed amount and his total earnings depend on what he can derive from his

private practice, there is a continuing temptation to give priority to private clients."¹²

District attorney advocates recommend that the county unit be replaced by districts that are large enough to employ full-time prosecutors and support staff. Those Montana county attorneys supporting a district attorney system cite the need for full-time, career-oriented professionals to prosecute misdemeanors and felonies; county attorneys or civil attorneys should be hired to handle civil matters. Proponents also suggest that a district attorney system be funded by the state to reduce inequities among counties. In addition, statewide guidelines should be adopted to insure consistent prosecution and the exchange of information throughout the state.

Disadvantages. Opponents of a statewide district attorney system claim that a district prosecutor will be less responsive and sensitive to local law enforcement needs than a resident county attorney who can adjust prosecutorial policy to meet local conditions. In the words of one county attorney: "These persons may be better technical prosecutors, but they are not familiar with local problem patterns and may eliminate local support." Another county attorney said that a district attorney system would be "a step backwards in responsive government." Still another felt it would lead to a loss of local control and authority.

Some critics believe that a district attorney serving a multi-county district will be unable to provide advice, direct investigations, and assist local law enforcement officers on short notice and at various odd hours. According to one county attorney, "If a district prosecutor had to cover as much area and were in these small counties no more frequently than a district judge, prosecution services in small counties would suffer greatly."

Others oppose the establishment of a statewide district attorney system because they feel that it will be more costly than a county attorney system. One county attorney estimates that criminal justice in Montana will cost the state at least 400% more under a district attorney system. A district attorney would incur considerable travel expense. Furthermore, each county would be required to maintain an office for the district

attorney and another office for the attorney handling civil matters. One county attorney felt that a district attorney system would "merely foist another level of bureaucracy into an already complex criminal justice system."

Notes

¹Article VIII, section 19, and Article VIII, section 34, 1889 Montana Constitution.

²Section 2-15-501, MCA.

³Section 2-15-201, MCA.

⁴Interview with Marc Racicot, Prosecution Coordinator, March 18, 1982, Helena, Montana.

⁵Section 44-4-103, MCA.

⁶Interview with Marc Racicot, March 18, 1982.

⁷Diana S. Dowling, Study of the Montana County Attorneys, (Helena, Montana: Montana County Attorneys' Association, 1972.)

⁸The following counties did not respond: Golden Valley, Jefferson, Lake, Lincoln, Petroleum, Powell, and Prairie.

⁹Dowling, Study of the Montana County Attorneys, p. 5.

¹⁰National Association of Attorneys General, Report on the Office of Attorney General (The Association: Washington, D.C., 1971), p. 108.

¹¹Committee on Judiciary, The Methods of Funding of the Office of District Attorney, Interim Report, Vol. I, Texas House of Representatives, Sixty-Fifth Legislative Session, 1976.

¹²Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System (U.S. Government Printing Office: Washington, D.C., 1971), p. 220.

APPENDIX A

MONTANA COUNTY ATTORNEY QUESTIONNAIRE

Please return by June 1, 1982

County _____

1. Including the state's contribution for your salary, what is your office's total budget for FY 1982? \$ _____

2. Including the state's contribution for your salary, about what percentage of your office's budget comes from:

The state _____ % Specify source _____

The county _____ % Other _____ % Specify source _____

3. How many years have you served as county attorney? _____

4. Is your position as county attorney full-time or part-time?

Full-time _____ Part-time _____

5. How many persons does your office employ (not including yourself)?

Attorneys: Full-time _____ Part-time _____

Clerical and secretarial staff: Full-time _____ Part-time _____

Investigators: Full-time _____ Part-time _____

Others (specify): _____

6. What is the current annual salary for each attorney on your staff (not including yourself)?

\$ _____ \$ _____

\$ _____ \$ _____

\$ _____ \$ _____

7. About what percentage of your work and your staff's work is concerned with:

Criminal matters: _____ %

Local civil matters (i.e., county, school district, or service district matters): _____ %

State civil matters (i.e., child support, insanity commitments, wage collection): _____ %

Office administrative matters: _____ %

Other (specify) _____

8. In your opinion, what can be done to improve the delivery of prosecution services in Montana? _____

APPENDIX B
COUNTY ATTORNEYS

County	Full-Time (F) Part-Time (P)	Years of Service	Salary (FY '82) ¹
Beaverhead	P	11.5	16,020
Big Horn	P	8 .25	17,855
Blaine	P	4	15,900
Broadwater	P	4	13,871
Carbon	P	1	16,010
Carter	P	5	13,697
Cascade	F	12	36,751
Chouteau	P	3.5	15,810
Custer	P	7.5	16,510
Daniels	P	26 2	13,985
Dawson	P	7.5	16,380
Deer Lodge	P	4	16,450
Fallon	P	24	15,983
Fergus	P	13 2	16,510
Flathead	F	3.5	36,751
Gallatin	F	6 2	36,751-
Garfield	P	4	13,583
Glacier	P	4	16,767
Golden Valley	P	---* 2	13,400
Granite	P	9	13,740
Hill	P	10	17,184
Jefferson	F	--- 2	36,751
Judith Basin	P	4 1	15,460
Lake	F	--- 2	36,751
Lewis and Clark	F	5 2	36,751
Liberty	P	4 2	15,430
Lincoln	P	---	16,980
Madison	P	1.5	15,740
McCone	P	1	15,740
Meagher	P	19	13,640
Mineral	P	3	13,940
Missoula	F	12	36,751
Musselshell	P	8	15,640
Park	F	3.5 2	36,751
Petroleum	P	---	5,400
Phillips	P	25	15,740
Pondera	P	8	15,870
Powder River	P	20 .5	17,809
Powell	P	---	15,890
Prairie	P	--- 2	13,560
Ravalli	F	1	36,751
Richland	P	28	16,656
Roosevelt	P	14	16,287
Rosebud	P	7.5	19,760
Sanders	F	1	36,751
Sheridan	P	2	15,740
Silver Bow	F	2.5	36,751

Stillwater	P	3.5		15,760
Sweet Grass	P	12	2	13,872
Teton	P	3.5	2	15,850
Toole	P	20		15,760
Treasure	P	2	.5	13,401
Valley	F	29.5	2	36,751
Wheatland	P	1.5	.5	13,680
Wibaux	P	4		15,350
Yellowstone	F	11.5		36,751

*Blank spaces indicate no response

¹Source: Central Services Division, Department of Justice

APPENDIX C

STAFF

(F = Full-time; P = Part-time)

County	No. of Attys. (excluding Co. Atty.)	Salaries of Attys. (exclud- ing Co. Atty.)	No. of Secretaries
Beaverhead	1 (P)	\$ 14,420	1 (F)
Big Horn	1 (P)	8,900	1 (F); 1 (P)
Blaine	1 (P)	11,925	1 (F); 1 (P)
Broadwater	0	NA	1 (P)
Carbon	0	NA	1 (F)
Carter	0	NA	1 (F)
Cascade	5 (F)	18,000 - 30,200	4 (F)
Chouteau	1 (P)	500	1 (F)
Custer	1 (P)	14,859	2 (F)
Daniels	0	NA	1 (F)
Dawson	4 (P)	14,742	2 (P)
Deer Lodge	1 (P)	12,000	1 (P)
Fallon	0	NA	1 (F)
Fergus	2 (P)	13,200 - 14,859	2 (F)
Flathead	4 (F); 1 (P)	19,644 - 29,004 (F); 21,293 (P)	5 (F)
Gallatin	4 (F)	17,000 - 29,000	2 (F)
Garfield	0	NA	1 (F)
Glacier	1 (P)	13,949	1 (F)
Golden Valley	---*	---	---
Granite	0	NA	1 (F)
Hill	3 (P)	14,082 - 15,464	2 (P)
Jefferson	---	---	---
Judith Basin	0	NA	1 (F)
Lake	---	---	---
Lewis & Clark	3 (F); 1 (P)	17,500 - 24,450 (F); 16,000 (P)	2 (F)
Liberty	1 (P)	3,600	0 ²
Lincoln	---	---	---
Madison	0	NA	1 (P)
McCone	0	NA	1 (P)
Meagher	0	NA	1 (P)
Mineral	0	NA	1 (F)
Missoula	10 (F)	19,000 - 33,077	5 (F); 2 (P)
Musselshell	1 (P)	10,800	1 (F)
Park	1 (P)	18,000	1 (F)
Petroleum	---	---	---
Phillips	1 (P)	12,000	1 (F)
Pondera	0	NA	1 (P)
Powder River	0	NA	1 (F)
Powell	---	---	---
Prairie	---	---	---
Ravalli	1 (F)	33,076	2 (F)
Richland	2 (F)	14,991	1 (F); 1 (P)
Roosevelt	1 (P)	14,658	1 (F)
Rosebud	2 (P)	17,000	4 (P)
Sanders	0	NA	1 (F)

Sheridan	0	NA	1(F)
Silver Bow	3(F)	19,000 - 25,000	2(F)
Stillwater	1(P)	7,880	1(P)
Sweet Grass	1(P)	5,136	1(P)
Teton	0	NA	1(P)
Toole	1(P)	9,600	2(P)
Treasure	0	NA	1(P)
Valley	1(P)	14,603	1(F)
Wheatland	0	NA	1(P)
Wibaux	0	NA	1(P)
Yellowstone	8(F)	17,500 - 31,000	6(F); 2(P)

¹Two part-time attorneys are paid; the other two serve without pay.

²Clerical work performed by secretaries working in county attorney's private law office.

³Secretary is also a paralegal assistant.

*Blank spaces indicate no response.

APPENDIX D

WORKLOAD

County	% Criminal Matters	% State Civil Matters	% Local Civil Matters	% Office Administra- tive Matters
Beaverhead	60	10	30	0
Big Horn	75	5	20	0
Blaine	45	10	45	**
Broadwater	70	9	20	1
Carbon	65	5	20	10
Carter	10	2	20	2
Cascade	80	5	10	5
Chouteau	60	10	30	0
Custer	75	13	10	2
Daniels	50	6	40	4
Dawson	60	12	25	3
Deer Lodge	10	5	80	5
Fallon	75	10	15	0
Fergus	60	15	20	5
Flathead	47	23	25	5
Gallatin	50	20	20	10
Garfield	45	10	45	0
Glacier	80	10	5	5
Golden Valley	---*	---	---	---
Granite	70	5	25	0
Hill	75	10	10	5
Jefferson	---	---	---	---
Judith Basin	30	30	30	10
Lake	---	---	---	---
Lewis and Clark	60	7	25	8
Liberty	60	5	35	0
Lincoln	---	---	---	---
Madison	40	10	50	0
McCone	35	5	55	5
Meagher	60	5	35	0
Mineral	50	10	35	5
Missoula ¹	45	15	25	10
Musselshell	75	5	15	5
Park	75	10	10	5
Petroleum	---	---	---	---
Phillips	50	15	30	5
Pondera	75	5	15	5
Powder River	30 - 40	5	20	5
Powell	---	---	---	---
Prairie	---	---	---	---
Ravalli	42.5	17.5	40	0
Richland	55	---	44	1
Roosevelt	25	10	15	---
Rosebud	50	10	10	10
Sanders	45	10	35	10
Sheridan	40	15	40	5
Silver Bow	50	5	35	10

Stillwater	70	10	20	**
Sweet Grass	35	5	15	5
Teton	80	3	10	2
Toole	60	10	30	0
Treasure	10	10	30	0
Valley	60	20	15	5
Wheatland	30	10	50	10
Wibaux	50	10	40	0
Yellowstone	80	10	10	0

*Blank spaces indicate no response.

**Included in criminal and civil percentages.

¹5% spent on other matters.

APPENDIX E

1981 CRIMINAL CASEFILINGS

<u>County</u>	<u>Number of Casefilings</u>	<u>1983</u>
Beaverhead	54	40
Big Horn	64	64
Blaine	17	24
Broadwater	9	8
Carbon	25	15
Carter	3	2
Cascade	202	210
Chouteau	23	10
Custer	100	67
Daniels	6	0
Dawson	90	74
Deer Lodge	21	27
Fallon	10	5
Fergus	45	28
Flathead	147	176
Gallatin	107	85
Garfield	2	4
Glacier	35	37
Golden Valley	1	0
Granite	14	10
Hill	66	56
Jefferson	40	37
Judith Basin	4	1
Lake	110	137
Lewis and Clark	255	184
Liberty	4	4
Lincoln	137	126
Madison	34	13
McCone	18	14
Meagher	0	0
Mineral	8	7
Missoula	351	366
Musselshell	32	17
Park	88	81
Petroleum	0	0
Phillips	14	7
Pondera	12	1
Powder River	11	11
Powell	57	25
Prairie	3	3
Ravalli	86	104
Richland	120	188
Roosevelt	42	28
Rosebud	81	54
Sanders	51	31
Sheridan	25	16
Silver Bow	86	91

Stillwater	15	19
Sweet Grass	20	10
Teton	11	14
Toole	13	17
Treasure	3	1
Valley	20	18
Wheatland	2	8
Wibaux	7	3
Yellowstone	437	355

Source: Judicial Management Information
System, Office of Supreme Court Administrator.

APPENDIX F

FISCAL YEAR 1982 BUDGETS

County	FY '82 Budget	% Funded By State	% Funded By County
Beaverhead	67,000	12%	88%
Big Horn ¹	111,470	8%	90%
Blaine	69,000	12%	88%
Broadwater	33,000	21%	79%
Carbon	44,205	18%	82%
Carter	26,500	26%	74%
Cascade	289,547	6%	94%
Chouteau	34,900	23%	77%
Custer	63,781	13%	87%
Daniels	25,279	27%	73%
Dawson	63,090	13%	87%
Deer Lodge	43,469	19%	81%
Fallon	43,221	18%	82%
Fergus	74,180	11%	89%
Flathead	310,000	6%	94%
Gallatin	203,000	9%	91%
Garfield	23,731	28%	72%
Glacier	68,129	12%	88%
Golden Valley	----	---	---
Granite	36,000	19%	81%
Hill	80,794	10%	90%
Jefferson	----	---	---
Judith Basin	27,235	28%	72%
Lake	----	---	---
Lewis and Clark	202,510	10%	90%
Liberty	29,944	26%	74%
Lincoln	----	---	---
Madison	40,979	20%	80%
McCone	26,000	30%	70%
Meagher	30,559	23%	77%
Mineral	31,782	22%	78%
Missoula ²	462,630	4%	95%
Musselshell	37,000	21%	79%
Park	71,226	26%	74%
Petroleum	----	---	---
Phillips	49,620 ³	16%	84%
Pondera	56,038	14%	86%
Powder River	28,400	31%	69%
Powell	----	---	---
Prairie	----	---	---
Ravalli	124,118	15%	85%
Richland	63,966	13%	87%
Roosevelt	48,055	17%	83%
Rosebud	85,000	12%	88%
Sanders	52,163	35%	65%
Sheridan	48,000	16%	84%
Silver Bow	204,118	9%	91%

Stillwater	36,626	22%	78%
Sweet Grass	40,440	17%	83%
Teton	38,965	20%	80%
Toole	46,809	17%	83%
Treasure	25,700	26%	74%
Valley	39,427	47%	53%
Wheatland	21,185	32%	68%
Wibaux	27,152	28%	72%
Yellowstone	382,332	5%	95%

*Blank spaces indicate no response.

¹2% of funding comes from federal/state child support unit.

²1% of funding from fees and charge backs to special districts.

³Fiscal year 1983 budget.

50116

MISSOULA COUNTY
DEPARTMENT OF PERSONNEL AND LABOR RELATIONS
MISSOULA COUNTY COURTHOUSE, ROOM 160
MISSOULA, MONTANA 59802
TELEPHONE (406) 721-5700

Revised results of Deputy County Attorney Survey (January 1985):

	<u>SURVEY</u>
CHIEF	31,012 - 40,428
SENIOR	28,985 - 35,951
II	24,212 - 28,922
I	20,950 - 24,493

The above results include State of Montana salaries, and other Montana counties have been verified and any minor changes included.

NAME Robert M. McCarthy BILL NO. SB 116
ADDRESS Butte-Silver Bow Courthouse, Butte, 59711 DATE 1/24/85
WHOM DO YOU REPRESENT Butte-Silver Bow County Attorney
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I AM PARTICULARLY IN SUPPORT OF
THE STATE'S FUNDING OF ONE-HALF THE
SALARY OF A CHIEF DEPUTY COUNTY ATTORNEY
AND ONE-HALF THE SALARY OF ONE
DEPUTY COUNTY ATTORNEY.

THE INCREASED STATE-MANDATED CASE
LOAD, AND PARTICULARLY THE INCREASED BURDEN
CRIMINAL CASE FILINGS IN RECENT YEARS
CALL FOR INCREASED STATE FUNDING OF

THE OFFICES OF THE VARIOUS COUNTY ATTORNEYS,
PARTICULARLY BY THIS SELF-FUNDING METHOD.

IN OUR COUNTY THE NUMBER OF CRIMINAL
FILINGS IS AT AN ALL TIME HIGH, IN SPITE OF
LOSS OF POPULATION, AND MORE PARTICULARLY MORE
THAN 100 CRIMINAL CASES HAVE BEEN FILED IN EACH
OF THE LAST 3 YEARS:

1982	- 101 CASES
1983	- 103 CASES
1984	- 110 CASES

[ADD TO PAGE 22]

S. B. 116 (COUNTY ATTORNEY SALARY BILL)

SENATE LOCAL GOVERNMENT COMMITTEE HEARING 1/24/85

Testimony of John V. Potter, Jr., Meagher County Attorney

I have been the elected County Attorney for Meagher County 20 years out of the past 26 (resigned mid-term about 16 years ago, was nominated by write-in 6 years later, which I accepted, and have been elected County Attorney since).

The salary at \$15,219.51 for fiscal year 1984 is among the four lowest of County Attorneys in the State of Montana. As a "part time" County Attorney, I am permitted a private practice, but in recent years the designation "part time" is somewhat of a misnomer.

Over the past years I have on two occasions associated with a young beginning attorney with the idea that my associate (who received no pay from the state or county as a deputy) could take care of the majority of the County Attorney work and assist in my private practice. In reality, on both occasions, this associate could, and to a large extent did, spend nearly full time on County Attorney work; in addition, as the elected County Attorney I expended considerable time on trials, felony cases and more complicated civil matters.

A review of the index to the Montana Codes (over 7 pages) gives an indication of the number of duties imposed upon County Attorneys. It seems as if every piece of legislation affecting the regulation of a business or business practice from ambulance violations to veterinarians has appended a provision that violations shall be enforced and prosecuted by the County Attorney. The County Attorney is charged by law with providing legal advice to nearly all local public bodies from Airport Boards through Schools to Water Conservancy Districts.

A number of state agencies from the Department of Labor through the Welfare Department and Unemployment Commission seek assistance from the local County Attorneys in collections as well as prosecution of violations.

In the last month I have been called upon to prosecute a Welfare Fraud case (the file is an inch thick), to enforce Dam Safety violations in Meagher County, to collect from a number of "run-away pappies" under URESA, to advise on a school bond issue, to advise on \$5 million industrial revenue bond issue, a claimed wrongful discharge of a county employee, etc., in addition to charging and prosecution of criminal offenses, both misdemeanor and felony.

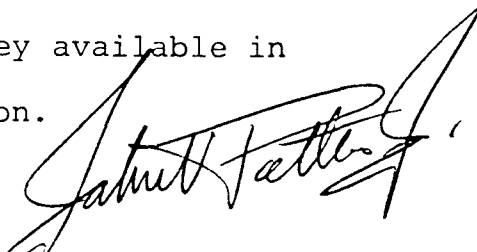
I have a Sheriff, four deputies and a FW &P Game Warden working full time, it seems, to dig up cases for me to prosecute, in addition to a Highway Patrolman and Livestock Inspector who divide their attention among several counties.

In the past 12 months I prosecuted a Felony Assault charge by motor vehicle against a police officer, secured a misdemeanor conviction, but defense counsel was awarded in excess of \$2,000 attorney's fees for the indigent defendant. During this time I also prosecuted a Securities Violation and Theft by Deception charge, secured a guilty plea, but again defense counsel was awarded in excess of \$5,000 attorney's fees for the indigent defendant. In these two cases alone Meagher County expended more money for defense counsel than it contributed to my salary. I think it reasonable to conclude that in these two cases alone as County Attorney I expended as much time and rendered services no less valuable than those provided by defense counsel.

I cannot begin to explain the increased time required and the additional duties imposed upon a "part time" County Attorney over the past 26 years.

All I can say is that without a substantial increase in salary and benefits, I have no intention of running for County Attorney again, whether or not there is another attorney available in the community even willing to take the position.

Thank you for your time and consideration.

A handwritten signature in black ink, appearing to read "Samuel H. Hatter", is written over the bottom right portion of the letter. The signature is fluid and cursive, with a large, sweeping flourish at the end.

F E E S

RECORDING - \$2.50 per page plus 50¢ for each index entry in excess of the first entry:

Affidavits

Affidavits of Annual Labor on Mining Claims (the first claim is indexed as a part of the \$2.50 per page fee; each additional claim costs 50¢ for indexing.)

Assignments

Bills of Sale

Certificates of Location for Mining Claims

Condominium Declarations, including:

Architect's or Engineer's Statement

Bylaws and Amendments

Final Declaration

Preliminary Declaration

Floor Plans

Contracts for Deed

Court Decrees

Covenants, Declarations of

Deeds

Easements

Homestead, Declarations of

INH (Inheritance Tax Forms)

Judgments

Leases

Mortgages

Notices of Purchasers Interest

Notices of Trustee Sale with Affidavits

Powers of Attorney

Promissory Notes

Releases (satisfactions) of Mortgages, Assignments, Powers of Attorney

Rental Agreements

Trust Indentures

Water Users' Association Stock Subscription, Contract, Stock Certificate &

Articles of Incorporation

OTHER RECORDING:

*Water Rights Transfer Certificates - \$2.50 per page plus 50¢ for each index entry in excess of the first entry; a second check or money order payable to the County Clerk & Recorder is required for the additional State fee of \$5.00.

INDEXING EXAMPLES:

Indexes are kept by surname, business name, and/or mining claim name. In a transaction involving two parties, each party is allowed one surname before there is an additional indexing fee.

EXAMPLES: John Doe to Jane Smith (No indexing fee)

John and Mary Doe to Jim and Jane Smith (No indexing fee)

Each additional surname is charged the 50¢ indexing fee.

EXAMPLES: John Doe and Mary Johnson to Jane Smith (extra 50¢)

John Doe and Mary Johnson to Jane Smith, dba Consulting Professionals
(extra \$1.00)

Joe Basklett

NAME Rae v Kalbfleisch BILL NO. SB 116

ADDRESS Box 518 Shelby, Montana DATE Jan 24, 1985

WHOM DO YOU REPRESENT OFFICE TOOLE COUNTY ATTORNEY

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John Flynn BILL NO. SB 116

ADDRESS Box 96 Townsend, Mt DATE ~~1-24-85~~

WHOM DO YOU REPRESENT Broadwater Craft

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John L. Pratt BILL NO. SB 116
ADDRESS Roundup Mt. 54072 DATE 24 Jan 85
WHOM DO YOU REPRESENT Montana County Attorneys Assoc
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: