

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 27, 1987

The fifty-fourth meeting of the Senate Judiciary Committee was called to order on March 27, 1987, at 10:00 a.m. in Room 325 by the chairman, Senator Joe Mazurek.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 590: Representative Bill Strizich, Great Falls, introduced HB 590, which extends the crime of possession of weapons by prisoners, to county and city jails.

PROPOSERS: Tom Harrison, Montana Peace Officers Assn., supports the bill.

OPPOSERS: There were none.

ACTION ON HOUSE BILL 590: Senator Blaylock moved HB 590 BE CONCURRED IN. The motion carried.

CONSIDERATION OF HOUSE BILL 598: Rep. Paul Rapp-Svrcek, Polson, presented HB 598, which states resistance is not necessary in a court of law to show lack of consent to a sexual assault. He gave the committee testimony from Mark J. Murphy. (Exhibit 1)

PROPOSERS: James Nelson, Glacier County Attorney, favored the bill because a woman might give consent so that her life will be spared. (Exhibit 2)

Katherine Althen, representing herself, supported the bill. (Exhibit 3)

Debra Jones, Women's Fund Lobbyist, supported the bill.

OPPOSERS: There were none.

DISCUSSION ON HOUSE BILL 598: Senator Halligan asked why the bill doesn't say resistance can be used at all. Rep. Rapp-Svrcek thought if the language is broadened too far, it would open abuse to the other side.

Senator Pinsoneault asked Mr. Nelson if he would have used the death penalty if he could on these kinds of cases. Mr. Nelson felt the man would have never been executed and it would have drug the whole process out longer.

Senator Crippen inquired if this might help women prove date rape more often. Rep. Rapp-Svrcek felt it would and that it would help with incest rape also.

Representative Rapp-Svrcek closed the hearing on HB 598.

ACTION ON HOUSE BILL 598: Senator Crippen moved HB 598 BE CONCURRED IN. The motion carried.

CONSIDERATION OF HOUSE BILL 670: Representative Bob Bachini, Havre, introduced the bill, which allows railroad employees to become special peace officers. He said the employees will have to go through training. He presented letters from law enforcement people that would like to go on record in support of the bill. (Exhibit 3A)

PROPOSERS: Tom Lawson, Burlington Northern Railroad, supported the bill. (Exhibit 4)

Jim Mular, BRAC, testified in support of the bill.

Kevin Olson, Montana Police Protective Association, supported the bill.

Rick Laten, Montana Sheriffs and Peace Officers, testified in favor of the bill.

Tim Solomon, Hill County Sheriff, favored the bill also.

OPPOSERS: Patrick Driscoll, Attorney General's office, felt the bill didn't clarify where liability insurance would come into effect in this bill. He presented an amendment to solve the problem. (Exhibit 5)

DISCUSSION ON HOUSE BILL 670: Senator Blaylock asked what this bill will do for the railroad police that they can't do now. Rep. Bachini said it will give them the power of arrest. Senator Blaylock inquired if this bill will include shopping mall security people. Rep. Bachini didn't think it would.

Senator Brown asked if these railroad police will carry firearms. Mr. Lawson said they will carry firearms.

Senator Halligan asked if they can only do this on duty and do the railroad police only have jurisdiction on railroad property. Mr. Lawson stated they are only policemen while on duty.

Senator Pinsoneault asked what kind of crimes are committed on railroad property that would bring in the feds. Mr. Lawson said it just depends on what judge and lawyer you get on the case, because the feds might be brought in for a number of reasons.

Senator Mazurek asked who is responsible for the police's actions. Mr. Olson said the railroad is responsible.

Senator Mazurek asked if Rep. Bachini thought this would get bums off trains. He answered yes.

Rep. Bachini closed by saying he felt these people are professionals and should be treated like professionals. He agreed with the Attorney General's amendment.

CONSIDERATION OF HOUSE BILL 577: Representative Dave Brown, Butte, introduced the bill, which sets training requirements for probation officers.

PROPOSERS: Mike McCarty, Adult Probation and Parole Officer, supported the bill because of the liability problems today.

Rep. Bill Strizich, Great Falls, supported the bill, as did Tom Harrison, Sheriffs and Peace Officers Association, Moe Mulcahy, Montana Federation of Employees, and Kurt Chisholm, Department of Institutions.

OPPOSERS: There were none.

DISCUSSION OF HOUSE BILL 577: Senator Mazurek asked if anyone had rule-making authority with this. Kurt Chisholm said the department was just going to keep records on the training, but probably could have authority over the records.

Senator Beck asked if the word "minimum" should be put before "16 hours of training", just to make it definite. Rep. Brown preferred that the committee didn't amend it because of time constraints.

Representative Brown closed the hearing on HB 577.

CONSIDERATION OF HOUSE BILL 610: Representative Dave Brown, Butte, introduced HB 610, which authorizes parole officers to carry firearms at certain times. He explained that parole officers can arrest a parolee. He said that can be very dangerous.

PROPOSERS: Mike McCarthy, Adult Probation and Parole Officers, presented letters from parole officers that support this bill. (Exhibit 6) He also gave the committee a firearm policy from North Dakota. (Exhibit 7) He said he is an adult probation officer and many of the people he deals with are unstable. He listed several attacks and killings of police officers and probation officers by parolees. He pointed out probation officers deal with criminals at all times while police officers see the general public more than a probation officer does.

Daniel Loyd, Dept. of Institutions, supported the bill because it is scary to be meeting up with some of your clients.

Maurice Macahy, representing himself, testified in support of the bill.

Rep. Bill Strizich said the bill doesn't include juvenile probation officers. He said the probation officer doesn't counsel, he just monitors a person.

OPPOSERS: Kurt Chisholm, Dept. of Institutions, said the bill says the department has to provide training for the probation officers with these guns. He really did not know what that meant. He said the bill authorizes the department to give them guns. He pointed out that a probation officer is not a policeman, and about 70% of a probation officer's job is done in the office. He explained that a probation officer is to remain neutral and not become a threat to the parolee because the parole officer wears a gun. He said the department doesn't want any probation officer to go into any dangerous situation by himself, especially armed. He said if a parolee knows a probation officer is carrying a firearm, then more shootings might occur. He said when the department armed the Fish and Game Officers, they had to screen people more carefully because of the firearms.

DISCUSSION ON HOUSE BILL 610: Senator Beck asked how many probation officers have been killed in the line of duty in the state. Mr. Chisholm said no probation officer has been killed.

Senator Halligan inquired why the department allows the probation officer to issue warrants and make arrests, but won't let them carry guns. Mr. Chisholm answered that most of these arrests are made in the office, not in a live arrest. He said we don't want them to make a live arrest unless a police officer is with him.

Senator Pinsoneault asked Mr. Chisholm if he has ever made an arrest. He answered no.

Senator Pinsoneault questioned if parole officers are carrying guns now. Mr. Chisholm said many probably are. Senator Pinsoneault asked Mike McCarty if he was suggesting going out and making an arrest all by himself. Mr. McCarty said he does all the time because the parolee usually doesn't like cops around, and a lot of times he has no time to call the police.

Senator Blaylock asked if probation officers want the gun all the time. Mr. McCarty said he did not want it during the day, but he did at night. He stated parole officers are on call 24 hours a day.

Representative Dave Brown closed the hearing on HB 610.

ACTION ON HOUSE BILL 146: Senator Crippen moved HB 146 BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 286: Senator Crippen moved HB 286 BE CONCURRED IN. Senator Mazurek explained the sponsor of the bill wanted the words "underground or" put back in on page 1, line 21 and page 3, line 16. Senator Beck made a substitute motion. The substitute motion carried. Senator Beck moved HB 286 BE CONCURRED IN AS AMENDED. The motion carried with Senator Yellowtail voting no.

ACTION ON HOUSE BILL 478: Senator Crippen moved the bill BE CONCURRED IN. The rest of the committee wanted to have the bill laid on the table.

ACTION ON HOUSE BILL 740: Jim Haynes distributed amendments for HB 740. (Exhibit 8) Senator Crippen moved the amendments. Mr. Haynes said percentages are more accurate in the State Treasurer's office. Senator Galt and Senator Yellowtail were upset with the percentage the Department of Livestock ended up with. Senator Mazurek said to strike amendment 1 and 3; it will cut the General Fund. Senator Crippen's motion carried with those changes. Senator Brown moved HB 740 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 761: Senator Pinsoneault moved amendments that Valencia Lane gave the committee. (Exhibit 9) The rest of the committee didn't care for the bill because of constitutional problems. Senator Brown made a substitute motion to TABLE the bill. The motion carried with Senators Pinsoneault, Galt, Crippen and Beck voting no.

ACTION ON HOUSE BILL 790: Senator Pinsoneault moved to TABLE the bill. The motion carried with Senators Galt, Bishop, Crippen and Beck voting no.

ACTION ON HOUSE BILL 478: Senator Beck wanted to try HB 478 again. Karl Englund presented amendments that would sunset the bill in 4 years and the bill will only cover the spraying process of the weeds with this amendment. Senator Beck moved the amendments. The motion carried. The committee was not convinced with the bill because of the low standard of degrees of liability that were in its contents. Senator Beck moved the bill. The motion FAILED on a tie vote roll call.

ACTION ON HOUSE BILL 567: Senator Crippen moved to delete on page 4, lines 20-22, the language on those lines. Senator Mazurek said all this amendment does is allow the jury to know how much insurance a person has.

Senator Pinsoneault said the jury should know how much liability insurance a person has. Senator Mazurek said the fear of not knowing is "double recovery". He said the fear of knowing is the verdict will be high if the person has insurance.

Senator Pinsoneault moved a substitute motion to delete just (b) on page 3, lines 23 and 24. The motion carried. The motion Senator Crippen made carried also, with Senators Brown, Halligan, Pinsoneault and Blaylock voting no.

Senator Halligan moved HB 567 BE NOT CONCURRED IN because the bill will raise insurance rate premiums. The motion failed. (see roll call vote) The committee moved on.

ACTION ON HOUSE BILL 670: Senator Halligan moved Driscoll's first amendment that he presented during the hearing.

Senator Bishop thought the cost of attorneys fees should be included. The motion carried.

Senator Brown moved HB 670 BE CONCURRED IN AS AMENDED. The motion carried.

ACTION ON HOUSE BILL 610: Senator Pinsoneault moved to TABLE HB 610. The motion carried with Senators Halligan and Galt voting no.

ACTION ON HOUSE BILL 567: Senator Yellowtail moved the Neely amendment. (See Standing Committee Report). The motion carried. Senator Crippen moved HB 567 BE CONCURRED IN AS AMENDED. The motion carried with Senator Halligan voting no.

ACTION ON HOUSE BILL 696: Senator Yellowtail moved to TABLE the bill. The motion carried with Senators Galt, Crippen, Bishop and Beck voting no.

ACTION ON HOUSE BILL 400: Valencia Lane submitted amendments to HB 400 to the committee. (Exhibit 10) Senator Yellowtail moved to TABLE the bill. The motion failed with Senators Halligan, Brown and Yellowtail voting yes.

Senator Beck moved the bill BE CONCURRED IN. Senator Yellowtail substituted the motion to amend in the sponsor's amendments. (Exhibit 11)

Senator Mazurek pointed out there are good safety reasons for discriminating against age when renting, because of steep stairs and high balconies. The sponsor's amendment carried. Senator Pinsoneault moved HB 400 BE CONCURRED IN AS AMENDED. The motion carried with Senator Brown voting no.

ADJOURNMENT: The meeting adjourned at 12:00 noon.


SENATOR JOE MAZUREK, Chairman

COMMITTEE ON

DATE

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mary Ellen Arner	Outpatient wife, mother of 7 hungry children	HB 535	✓	
Debra Jones	Women's Lobbyist Fund	HB 598	X	
James C. Nelson	Glover County Attorney, Cut Bank	HB 598	✓	
Kath Althen	Rape Victim	HB 598	✓	
Thomas C. Lawson	Burlington Northern RR	HB 670	✓	
Michael C. McCarty	Adult Probation & Parole Office	HB 577 HB 610	✓	
Rich Higgins	Burlington - Northern RR	HB 670	✓	
Kevin Olson	MT Police Protective Assoc	HB 670	✓	
William Adams	Burlington Northern	HB 670	✓	
Tim Johnson	Hill County Sheriff	HB 670	✓	
Rick Luten	Montana Sheriff's Association	HB 670	✓	
Paul Melvin	MT Federation of State Emp	HB 610 HB 577	✓	
Max J. Mulcahy	MT Federation of State Emp	HB 610 577	✓	
Blaine Key	Dept of Fish & Game	HB 577 HB 610	✓	
Sam Brown	MESE	HB 577 610	✓	
Jim Muller	BRAC	HB 670	✓	
Ed Kuntz	B M W E	HB 670	✓	
CHUCK CHISHOLM	INSTITUTIONS	HB 610 HB 577		✓

(Please leave prepared statement with Secretary)

STATE
OF
MONTANA
DEPARTMENT OF JUSTICE
COUNTY PROSECUTOR SERVICES BUREAU
Justice Building, 215 North Sanders, Helena, Montana 59620 (406) 444-3816

SENATE JUDICIARY
EXHIBIT NO. 1
DATE March 27, 1987
BILL NO. HB 598

February 18, 1987

MEMORANDUM

TO: Paul Rapp-Svrcek
FROM: Mark J. Murphy
RE: Testimony In Support Of HB 598

In 1973, the state of Montana adopted a new criminal code that substantially changed the rape law. The crime of rape became Sexual Intercourse Without Consent. The concept of resistance which was presented in the old code was replaced by the standard of without consent. In establishing resistance at trial, the State, in many instances, had to show the victim had been beaten beyond recognition to prove active physical resistance. The new concept of without consent is defined in current law but old concepts die hard and since 1973, resistance has been argued in a number of cases. These cases have muddled the standard of "without consent." The purpose of HB 598 is to clarify the standard of "without consent" and to eliminate the discussion of actual physical resistance from Sexual Intercourse Without Consent cases.

In many training courses, women are instructed that survival is the primary concern of rape situations and a woman should take a course of action that gives her the best chance of surviving.

A victim may decide, when faced with force or threats that no resistance is the best way to survive an attack. It would seem absurd to tell a woman that the state cannot prosecute her case because she made a choice to survive. Once again we would be punishing the victim.

COUNTY OF GLACIER
OFFICE OF
COUNTY ATTORNEY

14 EAST MAIN STREET
P.O. BOX 428
CUT BANK, MONTANA 59427

SENATE JUDICIARY

EXHIBIT NO. 2
DATE March 27, 1987
BILL NO. HB 598

PHONE 873-2278
(AREA CODE 406)

JAMES C. NELSON
COUNTY ATTORNEY

LARRY D. EPSTEIN
DEPUTY COUNTY ATTORNEY

Testimony of James C. Nelson, Glacier County Attorney
on H.B. 598--March 27, 1987

The offense of rape is not a crime of sex. It is a crime of violence. Violence directed at a woman who generally is in no position to do anything but hope and pray that she will not be brutalized, maimed or killed and that her attacker will simply do what he came to do and then leave her alone, in one piece, to try to put her emotions and her sanity and her marriage and her family and her life itself back together.

And so it was with Katherine Althen on November 2, 1986 when she stopped on Hiway 2, five miles east of Cut Bank, to give Joe Wayne Baughman a ride to Shelby because his car was broken down on the highway. She didn't know that Baughman had raped a woman at knife point in Texas seven years before and was on parole. She didn't know that he would pull a knife on her and force her to drive down a desolate road where she would be repeatedly raped orally and vaginally over the next hour and a half.

She only knew, once the nightmare had started, that if she was to see the passing of her 36th birthday that she could not anger her attacker. She knew that she had no where to run; no where to hide; no one to call for help; and not enough strength to overpower the man who was brutally and forever changing her life. The only defense she had was her wits and her guts and her determination that she would not resist so that she could live to see another day and return to her husband and family.

And she did. And Joe Wayne Baughman was arrested the same night. And he went to trial because he didn't have anything to loose. And he took the stand and testified at length how Katherine Althen had not resisted; how she had cooperated with him; how he never brutalized her; how, in fact, it was she who had attacked him and performed sex on him while his thoughts were totally occupied with suicide. And Joe Wayne Baughman's attorneys argued that because she didn't resist, she had consented to the sex and therefore she wasn't raped.

The jury didn't believe it. They took less than forty-five minutes after a week-long trial to convict Baughman of four major felonies. The judge didn't believe it. He sentenced Baughman to 110 years in the State Prison.

But Katherine Althen--whose only crime was to be a good samaritan--had to leave the trial after Baughman's testimony because she was physically ill from humiliation. She had to be treated by a doctor. Her mother and father and sister and husband who attended the trial had to sit by and watch their wife and daughter and sister humiliated and victimized by the Defendant a second time and by the system that she was trying to cooperate with.

And all because her lack of physical resistance under circumstances where resistance would have probably caused her death was used by the Defendant to argue that she had "consented" to his sexual assault upon her.

Two years ago this legislature adopted a substantial body of law designed to protect the rights of victims of crime. HB 598 is a very necessary and important extension of that legislation. The victim of a rape should not have to put her life and limb in jeopardy by resisting under circumstances where, to do so, would cause her to be killed or seriously injured. The defendant in the rape case should not be able to then use that lack of resistance as evidence of consent. Right now we as a State are allowing criminal rape defendants to use the only defense the victim has against her at trial. It is not right; it is not fair; it is not moral.

I have attached to the written copy of this testimony a copy of the Motion and Affidavit for Leave to File Information and a copy of the Information. From that you will see what Katherine Althen was up against on the night of November 2, 1986 and what Joe Wayne Baughman was ultimately convicted of.

As a county attorney and prosecutor, I very strongly urge you to support HB 598. Victims of rape have rights too. They have the right not to be raped twice--once by the Defendant and once by the criminal justice system they are only trying to help. Many rapes go unreported, and the experience of Katherine Althen at trial is why. HB 598, if enacted into law--will go a long way towards tipping the scale of justice back to the center in rape trials. We owe that much at least to the women of the State.

Thank you.

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EXHIBIT NO. 2

DATE 3-27-87

BILL NO. H.B. 598

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF MONTANA, IN AND FOR THE COUNTY OF GLACIER

STATE OF MONTANA,

Plaintiff,

vs.

JOE WAYNE BAUGHMAN,
a/k/a Joseph Baughman,

Defendant.

FILED

NOV 5 1986

Margie Jackson
May Shaffer

No. DC 86-27

MOTION & AFFIDAVIT FOR ORDER GRANTING LEAVE TO FILE INFORMATION

STATE OF MONTANA)

ss.

County of Glacier)

James C. Nelson, being first duly sworn, upon oath, deposes and says:

1. That he is the duly elected, qualified and acting County Attorney in and for the County of Glacier and attorney for the State of Montana herein.

2. That the above named Defendant has committed offenses in Glacier County more particularly hereinafter set forth, and that pursuant to Section 46-11-201 MCA the Court should grant leave to file an Information directly in District Court charging the above named Defendant with the offenses of AGGRAVATED KIDNAPPING, a FELONY, in violation of Section 45-5-303(1) (b) MCA; SEXUAL INTERCOURSE WITHOUT CONSENT, a FELONY, in violation of Section 45-5-503(1) MCA; FELONY ASSAULT, in violation of Section 45-5-202(2) (b) MCA; and CARRYING CONCEALED WEAPONS, a FELONY, in violation of Section 45-8-316(1) MCA.

3. That the following information is submitted to establish probable cause for the filing of said charges:

On November 2nd, 1986, Katherine Althen left her home in Whitefish, Montana, and proceeded by car, alone, through Cut Bank, Glacier County, Montana, east on Highway #2, on her way to Shelby.

Althen proceeded through Cut Bank at approximately 5:00 to 5:15 P.M. East of Cut Bank, along Highway #2, near the East Marias Road, Althen observed the Defendant and his vehicle parked beside the roadway. The Defendant's vehicle had its hood up and he signaled to Althen to stop.

Believing that the Defendant had car trouble, and attempting to render assistance, Althen stopped. The Defendant approached Althen's vehicle and requested a ride to Shelby for the purpose of obtaining assistance in repairing his vehicle. The Defendant got into Althen's vehicle and they started to drive east on Highway #2 towards Shelby when the Defendant

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BILL NO. H.B. 598

1 stated that he had forgotten something in his car and requested Althen to
2 turn around and go back, which she did.

3 The Defendant retrieved something from his vehicle and then got back
4 in Althen's car. As they again started towards Shelby, the Defendant
5 stated that he remembered he had a friend, Darrell Sanders, who resided a
6 ways down East Marias Road and that he might obtain assistance there.
7 Althen agreed to drive the Defendant to the Sanders' farm house. When they
8 arrived at the farm house the Defendant went into the house and spoke to
9 someone there.

10 The Defendant came out of the house and advised Althen that his friend
11 was working at Bair's Truck Stop in Shelby. Althen and the Defendant then
12 proceeded back along East Marias Road towards Highway #2. Before arriving
13 at Highway #2 the Defendant asked Althen if she ever had affairs while she
14 was driving alone. At that point he pulled a kitchen type knife with a
15 blade 4 inches long or longer which had been concealed in his boot or under
16 his pant leg. The Defendant then advised Althen that she shouldn't pick up
17 strangers on the highway.

18 While either holding the knife or having it in his lap in Althen's
19 view, the Defendant required Althen to drive off East Marias Road on to a
20 side road, ostensibly for the purpose of talking to her. On two different
21 occasions Althen attempted to drive by the side road that the Defendant had
22 demanded that she drive down, but in each instance the Defendant required
23 her to stop and drive down the side road.

24 After driving down the side road for a short distance, the Defendant
25 required Althen to stop her vehicle. Having observed the knife, Althen was
26 in fear of her life and felt that she would be killed. Accordingly, she
27 tried to keep the Defendant calm and "play along" with him.

28 Finally the Defendant suggested that they get out of the car. After
29 getting out of the car the Defendant against her will, pushed himself
30 against Althen and kissed her several times, inserting his tongue in her
31 mouth while he was doing so. Defendant then advised Althen that he wanted
32 to have sex with her. Again, believing that she would be killed if she
33 angered the Defendant or tried to resist, Althen complied with the
34 Defendant's demands, and over a period of approximately 1 to 1 1/4 hours,
35 had oral sex with the Defendant 3 to 4 times and vaginal sex with the
36 Defendant 4 to 5 times. In connection with the oral sex the Defendant
37 caused Althen to take his penis into her mouth; and in connection with the
38 vaginal sex, the Defendant inserted his penis into the vagina of Althen.
39 At various times the Defendant also fondled Althen's breasts, vaginal area
40 and buttocks with his hands. The Defendant did not ejaculate either during
41 the oral or vaginal sex.

42 During the time that she was with the Defendant, Althen kept watching
43 for an attempt to escape. On one occasion Althen attempted to get into the
44 car and shut the door and lock it, however, the Defendant prevented Althen
45 from shutting the door with his body. On another occasion Althen attempted
46 to run down the side road away from the Defendant but he caught her and
47 brought her back to the car.

48 Althen finally was able to get into her car and lock the doors. While
49 trying to drive away the Defendant jumped on to the hood of the car and on
50 to the top of the car and hung on for some distance before finally agreeing
51 to get off of the car if Althen stopped. During that time that the
52 Defendant was on the car he pounded on the window and attempted to get into
53 the car.

54 After the Defendant got off of Althen's car, she drove back to Highway
55 #2 via East Marias Road. As she approached the Defendant's vehicle she

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DR. 11 R 00

1 stopped long enough to get a general description of the vehicle. She
2 described the vehicle as being a full sized yellow or light colored car
3 with a DJ's Auto Sale dealer plate on the front and a 20 day sticker in the
4 back. She also noted a red v-like symbol on the car hood.

5 Althen then drove to the Point Drive-In in Cut Bank and notified the
6 authorities. Members of the Glacier County Sheriff's Department
7 immediately proceeded to the crime scene but could not locate the Defendant
8 or his automobile.

9 Althen's description of her assailant to the Glacier County Sheriff's
10 Deputy pointed to the Defendant. Althen stated that during her
11 conversations with the Defendant he had stated that he had recently won a
12 poetry contest and had been to Florida in connection with that but didn't
13 win the grand prize. He also indicated that he had had a song published in
14 1981 and that his girlfriend was pregnant and due to deliver in December.
15 He also stated that his wife in Houston would not let him see their
16 children. The Defendant in fact recently won a cowboy poetry contest and
17 travelled to Florida but did not win any additional prizes. He also has a
18 girlfriend who is pregnant and about due to deliver. The Defendant is from
19 Texas and is on parole for Aggravated Felony Abuse involving use of a
20 weapon committed in that State.

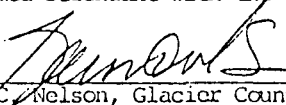
21 Additionally, Althen's physical description of the Defendant matched
22 his appearance and her description of his automobile matched the
23 description of the car which Deputy Sheriff William Barron knew was owned
24 by the Defendant. Over the past 18 to 24 months the Defendant had been
25 involved with assaulting and harassing females in Cut Bank. In March 1985
26 the Defendant plead guilty to Misdemeanor Assault in Glacier County Cause
27 No. DC 84-27 involving the assault on a young woman, wherein he threatened
28 her with a letter opener after obtaining entry to her house on the pretext
29 of using her phone to obtain assistance because he had car trouble.

30 Finally, Althen identified the Defendant's picture from a photo
31 lineup.

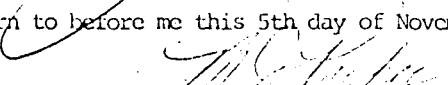
32 At all times after the Defendant displayed the kitchen knife to
Althen, she was in fear of her life and felt that she would be killed if
she angered the Defendant or resisted his having sex with her.

After the Defendant's arrest, he admitted to Officer Barron that he
had been with Althen and that she had given him a ride and that he had had
sex with her but he claimed that the sex was consensual.

WHEREFORE pursuant to Section 46-11-201 MCA the undersigned moves the
Court for an Order granting leave to file an Information directly in
District Court charging the above named Defendant with the offenses as more
particularly set forth herein.


James C. Nelson, Glacier County Attorney

Subscribed and sworn to before me this 5th day of November, 1986.


Notary Public for the State of Montana
Residing at Cut Bank, MT
My commission expires Oct. 30, 1989

SENATE JUDICIARY

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BILL NO. H.B. 598

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF MONTANA, IN AND FOR THE COUNTY OF GLACIER

STATE OF MONTANA,

Plaintiff,

vs.

JOE WAYNE BAUGHMAN,
a/k/a Joseph Baughman,

Defendant.

FILED

NOV 8 1986

CLERK OF DISTRICT COURT

No. DC 86-27

INFORMATION

In open Court on the 5th day of November, 1986, comes James C. Nelson, Glacier County Attorney, attorney for the State of Montana, having first obtained leave of Court as required by law, and accuses the above named Defendant as follows:

COUNT ONE

That on or about the 2nd day of November, 1986, in Glacier County, Montana, East of Cut Bank, Montana, between the hours of 5:30 P.M. and 7:30 P.M. the above named Defendant committed the offense of AGGRAVATED KIDNAPPING, a FELONY, in violation of Section 45-5-303(1) (b) MCA.

The facts constituting this offense are as follows:

That at the time and place above mentioned the Defendant knowingly or purposely and without lawful authority restrained another person, to-wit, Katherine Althen, by either secreting her or holding her in a place of isolation or by using or threatening to use physical force with the purpose to facilitate the commission of a felony, to-wit, Sexual Intercourse Without Consent, a Felony, in violation of Section 45-5-503(1) MCA.

COUNT TWO

That on or about the 2nd day of November, 1986, in Glacier County, Montana, East of Cut Bank, Montana, between the hours of 5:30 P.M. and 7:30 P.M. the above named Defendant committed the offense of SEXUAL INTERCOURSE WITHOUT CONSENT, a FELONY, in violation of Section 45-5-503(1) MCA.

The facts constituting this offense are as follows:

That at the time and place above mentioned the Defendant knowingly had sexual intercourse without consent with a person of the opposite sex, to-wit, Katherine Althen.

COUNT THREE

That on or about the 2nd day of November, 1986, in Glacier County, Montana, East of Cut Bank, Montana, between the hours of 5:30 P.M. and 7:30 P.M. the above named Defendant committed the offense of FELONY ASSAULT, in violation of Section 45-5-202(2) (b) MCA.

SENATE JUDICIARY

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BILL NO. H.B. 598

The facts constituting this offense are as follows:

That at the time and place above mentioned the Defendant knowingly or purposely caused reasonable apprehension of serious bodily injury in another, to-wit, Katherine Althen, by use of a weapon, to-wit, a knife.

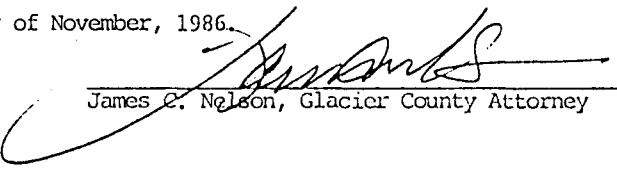
COUNT FOUR

That on or about the 2nd day of November, 1986, in Glacier County, Montana, East of Cut Bank, Montana, between the hours of 5:30 P.M. and 7:30 P.M. the above named Defendant committed the offense of CARRYING CONCEALED WEAPONS, a FELONY, in violation of Section 45-8-316(1) MCA.

The facts constituting this offense are as follows:

That at the time and place above mentioned the Defendant knowingly carried or bore concealed upon his person a knife having a blade 4 inches long or longer.

Dated this 5th day of November, 1986.

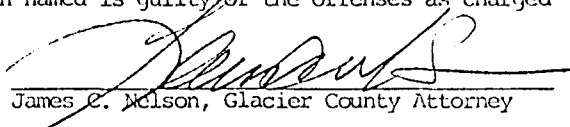

James C. Nelson, Glacier County Attorney

STATE OF MONTANA)

ss.

County of Glacier)

James C. Nelson, having been first duly sworn, says that he is the County Attorney for Glacier County, Montana, and that on information and belief says that the facts stated in the foregoing Information are true, and that the Defendant therein named is guilty of the offenses as charged and as herein set forth.


James C. Nelson, Glacier County Attorney

Subscribed and sworn to before me this 5th day of November, 1986.


Clerk


Deputy Clerk

LIST OF WITNESSES

Katherine Althen, Whitefish, MT
William Barron, Deputy Sheriff, Glacier County Sheriff's Office, Cut Bank, MT
Scott Murray, Cut Bank City Police, Cut Bank, MT
Richard Wevley, Cut Bank City Police, Cut Bank, MT
James Persling, Sheriff of Glacier County, Cut Bank, MT
Dr. Mark Kelly, Cut Bank, MT
Lee Jacobson, R.N., Cut Bank, MT
Walter Joyce, State Identification Bureau, Helena, MT
The State will also call forensic chemist and scientist from the State Criminal Investigation Laboratory in Missoula, MT, for the purpose of identifying blood samples and body fluid samples and hair samples taken and to be taken from the complaining witness and the Defendant. The names of such persons are not immediately known to the State.
Betty Welch, Cut Bank, MT.
Diana Lea Jensen, Cut Bank, MT.
Witnesses from Harris County TX re: Defendant's conviction of Aggravated Sexual Abuse-- April 1979

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-27-87

BILL NO H.B. 598

1
2 MONTANA NINTH JUDICIAL DISTRICT COURT, GLACIER COUNTY
3

4 STATE OF MONTANA,

5 Plaintiff,

6 vs.

7 JOE WAYNE BAUGHMAN,

8 Defendant.
9

FILED

MAR 24 1987

Margie Jackson
CLERK OF THE DISTRICT COURT
Karen Lillrud
DEPUTY

10 No. DC 86-27

11 JUDGMENT & SENTENCE
12

13 The laws and statutes of the State of Montana having first been
14 complied with, a criminal Information was filed herein on the 5th day of
15 November, 1985, by James C. Nelson, Glacier County Attorney, attorney for
16 the State of Montana, charging the Defendant, Joe Wayne Baughman, with the
17 offenses of AGGRAVATED KIDNAPPING, a FELONY, in violation of Section
18 45-5-303(1) (b) MCA; SEXUAL INTERCOURSE WITHOUT CONSENT, a FELONY, in
19 violation of Section 45-5-503(1) MCA; FELONY ASSAULT, in violation of
20 Section 45-5-202(2) (b) MCA; and CARRYING CONCEALED WEAPONS, a FELONY, in
21 violation of Section 45-8-316(1) MCA.

22 Thereafter, Charles Jacobson, Attorney at Law, Conrad, Montana, and
23 James Johnson, Attorney at Law, Shelby, Montana, were appointed to
24 represent the Defendant as his counsel.

25 The Defendant was arraigned on December 17th, 1986, then and there
26 being accompanied and represented by his counsel, Charles Jacobson, and was
27 advised of the nature of the charges against him, of the maximum sentence
28 after a plea or verdict of guilty, and of his rights to a trial by jury, to
29 require the State to prove the charges against him beyond a reasonable
30
31
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SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-27-87

BILL NO. H.B. 59

(67)

doubt, to cross examine witnesses and present witnesses on his own behalf,
and to remain silent.

Said Defendant then entered a plea of not guilty to the Information.

Thereafter a trial by jury was held in the above entitled Court on the
23rd day of February, 1987, and the jury returned the following verdict:

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE
STATE OF MONTANA, IN AND FOR THE COUNTY OF GLACIER

STATE OF MONTANA,

Plaintiff,

vs.

JOE WAYNE BAUGHMAN,

Defendant.

No. DC 86-27

VERDICT

We, the jury, duly impaneled and sworn to try the issues in the above
entitled cause, make the following verdicts:

1. COUNT ONE: To the charge of AGGRAVATED KIDNAPPING guilty.

If all twelve of you find the Defendant "guilty" of the offense of
Aggravated Kidnapping, then proceed to paragraph #3. If all twelve of you
find the Defendant "not guilty" of the offense of Aggravated Kidnapping,
then proceed to paragraph #2.

2. To the charge of Kidnapping _____

(Write on the above line "guilty" or "not guilty")

3. COUNT TWO: To the charge of SEXUAL INTERCOURSE WITHOUT CONSENT
guilty.

4. COUNT THREE: To the charge of FELONY ASSAULT guilty.

5. COUNT FOUR: To the charge of CARRYING CONCEALED WEAPONS guilty.

Dated this 2 day of March, 1987.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-27-87

BILL NO. H.B. 598

IRENE MARTIN
Foreperson

1 Thereafter, the Court ordered a presentence investigation, which has
2 been prepared by Jerome J. Skiba, District Probation/Parole Officer III,
3 and which has been filed herein. Pursuant to notice, the Defendant then
4 appeared in Court on March 24th, 1987, for sentencing, then and there being
5 accompanied and represented by his counsel, Charles Jacobson and James
6 Johnson. The State presented testimony, witnesses and argument in
7 aggravation of sentence. The Defendant testified on his own behalf and his
8 counsel argued for leniency.

9 The Court has considered the Presentence Investigation Report, the
10 testimony at trial, all files and records in this case, and the testimony
11 at the sentencing hearing. The Court did not consider the numerous letters
12 mailed to the Court requesting that the Defendant receive a severe
13 sentence. From those matters which the Court did consider it finds as
14 follows:

15 The Defendant comes before this Court having plead guilty to the
16 offense of Aggravated Sexual Abuse in the State of Texas in 1979, the facts
17 of which case were very close to those in the instant case. The Defendant
18 committed the offenses of which he has been found guilty while on parole
19 from the State of Texas. He has also plead guilty to a misdemeanor assault
20 in Glacier County in 1984.

21 At trial the Defendant took the stand and testified on his own behalf.
22 In doing so the Defendant's credibility is to be judged the same as any
23 other witness. It is obvious that the jury did not believe the Defendant's
24 testimony nor did this Court. His story simply did not make any sense.

25 While the Court recognizes that the Defendant probably now regrets his
26 involvement in the crimes of which he has been found guilty and while the
27 Court recognizes that the Defendant's conduct has caused embarrassment and
28 hurt to his family in Cut Bank, nevertheless, the Defendant's conduct in
29 the State of Montana and in the State of Texas have caused irreparable
30 damage to the lives of the young women with whom he has engaged in criminal
31 conduct.
32

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-27-87

1 The Defendant has come into Court requesting leniency. Under the
2 individual circumstances of this case and because of the Defendant's prior
3 felony criminal conviction for essentially the same crimes as committed
4 against Katherine Althen, it is difficult to consider granting the
5 Defendant leniency.

6 While one of the objectives of sentencing is rehabilitation,
7 nevertheless, an equally important objective under the appropriate
8 circumstances, such as is presented in this case, is the protection of
9 society and the punishment of crime. There is simply no room outside the
10 prison walls for people who destroy other people's lives and the peace and
11 dignity of the citizens of this state.

12 While Defendant's counsel has attempted to compare this case with
13 similar cases in the District, nevertheless, this case is unique and the
14 Court imposes sentence based upon those unique features.

15 Neither the Defendant nor his counsel having offered any legal excuse
16 as to why sentence should not be imposed, it is the JUDGMENT and the
17 SENTENCE of this Court as follows:

18 1. That on his conviction for the offense of Aggravated Kidnapping, a
19 Felony, the Defendant be incarcerated in the Montana State Penitentiary at
20 Deer Lodge, Montana, for a period of 100 years.

21 2. That on his conviction for the offense of Sexual Intercourse
22 Without Consent, a Felony, the Defendant be incarcerated in the Montana
23 State Penitentiary at Deer Lodge, Montana, for a period of 20 years.

24 3. That on his conviction for the offense of Felony Assault, the
25 Defendant be incarcerated in the Montana State Penitentiary at Deer Lodge,
26 Montana, for a period of 10 years.

27 4. That on his conviction for the offense of Carrying Concealed
28 Weapons, a Felony, the Defendant be incarcerated in the Montana State
29 Penitentiary at Deer Lodge, Montana, for a period of 5 years.

30 5. That all of the foregoing sentences shall run concurrently.

31 6. That there is added to the foregoing sentences a term of 10 years,
32 pursuant to Section 46-18-221 MCA by reason of the fact that the Defendant

STATE JUDICIARY

EXHIBIT NO. 2
DATE 3-27-87
BILL NO. H.B. 598


1 committed the offenses charged in the Information with a weapon, to-wit, a
2 kitchen knife with a blade 4 inches long or longer. Said term of 10 years
3 shall run consecutively to the sentences set forth in paragraphs 1 through
4, inclusive, above.

4 7. For the reasons set forth above, the Defendant is designated as a
5 DANGEROUS OFFENDER for purposes of eligibility for parole.

6 8. That the Defendant shall receive credit for 141 days served in the
7 Glacier County Jail.

8 9. That the surcharge imposed by Section 46-18-236 MCA is hereby
9 waived by reason of the fact that the Defendant will be incarcerated and
10 will be unable to pay said surcharge.

11 Done in Open Court this 24th day of March, 1987.

12
13 

14 R. D. McPhillips, District Judge
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SENATE JUDICIARY

EXHIBIT NO. 2

DATE 3-27-87

BILL NO. H.B. 2

Testimony before the Senate Judiciary Committee on H. B. 598
By Katherine Althen, March 27, 1987

There has been only one time in my life when I was in absolute terror. Only one time I thought my life had come to an end. Only one time I thought I would be raped, stabbed, hacked, and left in a ditch. This absolutely unimaginable situation occurred when my assailant-to-be reached down to the floor, came up with a butcher knife, and said "Hasn't anyone ever told you never to pick up hitchhikers?" I couldn't believe this was happening to me. I told him I would do anything he wanted. He said I shouldn't be frightened, that he just wanted me to drive down a side road so we could talk. I didn't want to die. I thought about screaming, grabbing the knife, stopping and jumping out of the car. However, I was on a dirt road in an unfamiliar and very desolate area between Cut Bank and Shelby. There was no possibility of getting help. I felt that any action that showed how scared I was would only make my situation worse. I tried passing the side road, but he pulled the car out of gear, saying "No, we're going down this road." I backed up and tried to drive past again, and he waved the knife at me and said, "No, down this road." I drove down the road. I kept thinking that I was going to die, and that I wasn't ready to die. When we stopped, I expected him to start hacking at me. I was relieved when he didn't. He said he wanted me to talk about myself, so I did. I was going to do whatever he wanted me to do. The only weapon I had was my wits. If I could lull him into believing that I had forgotten that he had pulled a knife on me and that it was still pointed at me, I thought I might be able to escape. The longer I played along with him, the longer I would be alive. I asked him about himself, and he said he was going to commit suicide that night. All I could think was that he was going to murder me before he murdered himself. I tried to calm him down, and stressed that life was worth living. We talked for about 15 minutes. All this time, the butcher knife had been in his right hand, cradled in his lap. Eventually I persuaded him to put it away. I felt like I had won the first battle. He wanted us to get out of the car. I complied. I realized as soon as I got out of the car and he was standing next to me that I had missed my chance to escape. I felt stupid. I felt that that mistake had probably cost me my life. He asked me for a kiss. I told him I didn't want to kiss him, that I was happily married and hadn't kissed anyone but my husband for 11 years. He said he just wanted one "friendly" kiss. He inserted his tongue in my mouth and moved it around. I was disgusted. He insisted on a second kiss. I didn't want to irritate the man. I tried to push him away. I couldn't. I considered kneeing him in the groin, stomping on his instep, kicking, scratching, hitting, biting. However, I knew I couldn't kill him with my bare hands. My only chance was to maneuver him far enough away from me and the car so that I could jump in and lock the doors. I decided the smartest thing for me to do was to let him rape me. I decided that rape was preferable to an immediate, violent death. He had me

repeatedly perform oral and vaginal sex with him. I tried to escape by jumping in the car. I ended up slamming his body in the door when he threw himself at me. Soon after that I ran down the road. He caught me and pushed me back to the car. I knew I was dead at that point. He surprised me by starting to cry. He suggested we sit in the car and talk. As he was walking behind the car, I jumped in and locked the doors. I was free!

The prosecution of this case was almost as humiliating as the rape itself. I was on trial. I had not "resisted". I was on the stand for parts of 3 days. I was victimized by rape myths. I couldn't have been raped because I wasn't battered. However, my assailant could have been like another weapon-wielding rapist who said: "'I was always gentle and kind until I started to kill them. And the killing was always sudden, so they wouldn't know it was coming.'"¹ I am lucky to be alive.

House Bill 598 is a necessary addition to Montana's sexual crimes legislation. It will shift the focus from the victim's conduct (lack of resistance) to the assailant's conduct (use of force, fear or threat).

¹Diana Scully and Joseph Marolla, "Convicted Rapists' Vocabulary of Motive: Excuses and Justifications," Social Problems, Vol. 31, No. 5, June 1984, pp.530-544., p.541.

EXHIBIT NO. 3A
DATE March 27, 1987BILL NO. HB 670 SECRETARY-TREASURERTony Harbaugh, Sheriff
1010 Main Street
Miles City, MT 59301
Office: 232-2237
Home: 232-6299OFFICIAL PUBLICATION
"THE MONTANA SHERIFF AND PEACE OFFICER"

Sheriffs and Peace Officers Association

OFFICE OF THE SECRETARY

PRESIDENTMike Schafer, Sheriff
Billings, MT 59101
256-2925**PAST PRESIDENT**Wally Schumacher, Deputy Sheriff
Bozeman, MT 59715
585-1478**1st VICE PRESIDENT**Curt Petty, Deputy Sheriff
Helena, MT 59601
443-1010 Ext. 248**2nd VICE PRESIDENT**Rick Later, Sheriff
Dillon, MT 59725
683-2383**3rd VICE PRESIDENT**Jim DuPont
Kalispell, MT 59901
752-6161**BOARD OF DIRECTORS****SHERIFFS**Bob Butorovich 782-4224
Butte, MT 59701Jay Printz 363-3033
Hamilton, MT 59840Tim Solomon 265-2512
Havre, MT 59501Chuck O'Reilly 443-1010
Helena, MT 59601 ext. 243Charles Rhodes 752-6161
Kalispell, MT 59901**UNDERSHERIFFS AND DEPUTIES**Rickard Ross 256-2967
Billings, MT 59101James Burnes 761-6842
Great Falls, MT 59401Jim Cashell 585-1485
Bozeman, MT 59715Les Osborne 323-1402
Roundup, MT 59072Jack Barney 538-3415
Lewistown, MT 59457

Janaury 22, 1987

Mr. Bill Warneke
Burlington Norther
Police & Special Services
235 Main
Havre, Montana 59501

Dear Mr. Warneke:

I am writing this letter in reference to being a proponent for your request to have Railroad Police granted Peace Officer status in the State of Montana.

The intense training that the Railroad Police undergo would be an asset to Law Enforcement in our State. I've had the opportunity to work with Railroad Police and find them highly trained in their profession.

As Legislative Chairman of the Montana Sheriffs' and Peace Officers' Association, I would like to advise you of the Board of Directors' decision to go on record in supporting Peace Officer status for Burlington Northern Railroad Police.

If I can be of further assistance feel free to contact me at 782-4224.

Respectfully,

Robert Butorovich, Sheriff
BUTTE-SILVER BOW LAW ENFORCEMENT AGENCY

ly



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
PO Box 35020, Billings, Mt
59107

REFER TO

January 12, 1987

Representative Robert Bachini
District 14 Representative
Montana House of Representatives
Helena, Montana

Dear Representative Bachini:

It has come to our attention that efforts are being made by your office to introduce a bill to the Montana Legislature providing for training and increased police powers for the Railroad Police.

I have had the personal pleasure of working with some of the Railroad Agents in Havre, Montana and elsewhere in the State of Montana and I can assure you they are very competent and professional investigators. I feel that any additional training they could receive by way of the Montana Law Enforcement Academy and any additional police powers they would receive as a result of your efforts would be fully justified and well worth it. I believe they would continue to make a major contribution toward law enforcement in the state of Montana and could probably make even more of a contribution toward that end if they had additional training and authorities.

Good luck on introducing your bill.

Sincerely yours

Donald E. Flickinger
Donald E. Flickinger
Special Agent

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27, 1987

LL NO. HB 670



Montana Police Protective Assn.
To Serve and Protect
Since 1938

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27, 1987

BILL NO. HB 670

Representative Bob Bachini
Montana House of Representatives
State Capital
Helena, MT 59620

January 15, 1987

Dear Representative Bachini,

This letter is to inform you that the Montana Police Protective Association endorses and supports the Burlington Northern Police and Special Service Agents effort to obtain peace officer status in the State of Montana.

Many of us over the years have worked with Burlington Northern Police and have found them to be well qualified and conduct themselves with the utmost professionalism.

They have made themselves readily available and have assisted us at a moments notice. This has helped lead to the fine law enforcement service that Montana has become accustomed to.

I believe that by being granted the status of peace officer it would only lead to a better system of law and order not only upon the property of the Burlington Northern but also in the many communities that the Burlington Northern serves.

The consideration of the House of Representatives in this matter is greatly appreciated.

Respectfully,

Kevin Olson
Legislative Committee
Montana Police Protective Association

cc: Larry Connor, M.P.P.A. Legislative Chairman
William Warneke, B.N. Police & Special Services

MISSOULA

"TO PROTECT AND TO SERVE"
CITY POLICE DEPARTMENT

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700



January 12, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27, 1987

BILL NO. HB 670

Honorable Bob Bachini
Montana State Representative
Capitol Station
Helena, Montana 59620

Re: Railroad Security Personnel

Representative Bachini:

This letter is to advise you that I wholeheartedly support legislation covering Class I railroads, granting railroad police in Montana "Peace Officer" status so that when on duty they have "the power and authority conferred by law on peace officers but exercise such power only in the protection of the property belonging to or under the control of the corporation at whose instance he is appointed and in preventing, and making arrest for, violations of law upon or in connection with such property. "

I thank you for allowing me this input.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. D. Hamilton".

M. D. Hamilton
Chief of Police

SENATE JUDICIARY

EXHIBIT NO. 314

DATE Mar. 27

BILL NO. HB 670


WILLIAM WARNEKE
B.N. POLICE AND SPECIAL SERVICES
235 Main
HAVRE, MT. 59501

Dear Bill:

Having had worked with you and other B.N. Police Officers in the past I was suprised to hear that you do not have any type of power to arrest or detain suspects in railroad matters.

In the past we have used your officers for locating and capturing of welfare fraud suspects that make use of the railroad systems in Montana to travel from county to county and state to state in order to receive multiple issuances of food stamps or other public assistance.

With no power of arrest or authority to detain it must make your job a little more than furstrating knowing that a suspect that you have located on a train or on railroad property can just walk away while you wait for a deputy or a police officer to arrive.


Rick Losleben Investigator
Montana Dept. of Revenue
Great Falls Regional Office

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

Helena, Montana
January 23, 1987

Representative Bob Fochini
Montana House of Representatives
State Capitol
Helena Montana 59620

Dear Representative Fochini:

This letter is to inform you that we support the Burlington Northern Police and Special Services effort to obtain Peace Officer status in the State of Montana.

Many of us over the years have worked with Burlington Northern Police and have found them to be well qualified and conduct themselves in a professional manner. They have made themselves readily available to all law enforcement agencies in the area and have assisted at a moments notice.

We believe that by being granted the status of peace officer would lead to a better system of law and order in the many communities that the Burlington Northern serves.

Helena Detachment
Montana Highway Patrol

Sgt Greg Sinden 171
P.O. Larry Thayer 303
P.O. Roger Hurdley 203
Debbie Bennett 176
P.O. Larry Li #152

cc; William Barneke, B.N. Police and Special Services



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
PO Box 35020, Billings, Mt
59107

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

REFER TO

January 12, 1987

Representative Robert Bachini
District 14 Representative
Montana House of Representatives
Helena, Montana

Dear Representative Bachini:

It has come to our attention that efforts are being made by your office to introduce a bill to the Montana Legislature providing for training and increased police powers for the Railroad Police.

I have had the personal pleasure of working with some of the Railroad Agents in Havre, Montana and elsewhere in the State of Montana and I can assure you they are very competent and professional investigators. I feel that any additional training they could receive by way of the Montana Law Enforcement Academy and any additional police powers they would receive as a result of your efforts would be fully justified and well worth it. I believe they would continue to make a major contribution toward law enforcement in the state of Montana and could probably make even more of a contribution toward that end if they had additional training and authorities.

Good luck on introducing your bill.

Sincerely yours

Donald E. Flickinger
Donald E. Flickinger
Special Agent

WILLIAMS COUNTY NORTH DAKOTA

STAN LYSON, Sheriff

Law Enforcement Center

512 - 4th Ave. E.

Williston, ND 58801

Phone: (701) 572-6739



12-31-86

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

Bill Warneke
Burlington Northern
Police & Special Services
235 Main Street
Havre, MT 59501

Dear Bill,

The North Dakota State Law has allowed special agents for the Burlington Northern to have full law enforcement authority while dealing with any criminal activities concerning the Burlington Northern.

Our Department has worked closely with special agents from Burlington Northern and have found the law to work to both the benefit of Burlington Northern and the Williams County Sheriff's Department. It has been much easier to work with the special agents when they do have law enforcement authority, and I feel that the State of Montana would certainly benefit if they had a law allowing the special agents from Burlington Northern to have full police powers while dealing with Burlington Northern's own property and merchandise.

Please relay to Montana Sheriff's Association that this law has worked well in North Dakota and we have not had any jurisdictional problems since this law went into effect.

If I can be of any further assistance, please feel free to contact me.

Sincerely,

Stan Lyson
Sheriff
Williams County

SL/bjb

MONTANA

DEPARTMENT OF

FISH, WILDLIFE AND PARKS



Route #1-4210
Glasgow, MT 59230
July 5, 1985

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mon. 27

BILL NO. HB 670

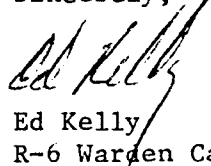
Mr. J. R. Gaskill, Regional Director
Police and Special Services
Burlington Northern Railroad
2718 Montana Avenue
Billings, MT 59101

Dear Mr. Gaskill:

The Department of Fish, Wildlife and Parks, Enforcement Division, would like to thank you for the cooperation of Burlington Northern instructors Bill Warneke and Rich Miggins at a recent training school held May 29-30 at Havre, MT. Both Bill's and Rich's professional and low-key approach concerning weapons retention and "Shoot, Don't Shoot" slide series were vital training aids to the wardens in attendance.

The expertise shown by Bill Warneke and Rich Miggins were appreciated by all Region 6 game wardens.

Sincerely,


Ed Kelly
R-6 Warden Captain

EK/lmw



UNITED STATES BORDER PATROL

HAVRE BORDER PATROL SECTOR

P.O. BOX 112

HAVRE, MONTANA 59501

HVM 76/18-C

December 30, 1986

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. AB 670

Honorable Robert Bachini
Representative District 14
House of Representatives
State of Montana
Helena, Montana 59601

Dear Bob:

The Havre Sector of the U. S. Border Patrol has a long history of cooperation with the Special Agents Department of the Burlington-Northern Railroad. We have found their officers to be professional and well-trained. We would be pleased to endorse your proposed bill to grant peace officer status to the Special Agents of Class One railroads operating in Montana.

If you have any questions concerning this matter, please do not hesitate to contact us.

Sincerely

Norman L. Mercer

Norman L. Mercer
Chief Patrol Agent

ef



UNITED STATES BORDER PATROL

HAVRE BORDER PATROL SECTOR

P.O. BOX 112

HAVRE, MONTANA 59501

HVM 71/42.1-C

June 25, 1985

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

Mr. Harold Burton
Chief of Police & Special Services
Burlington Northern Railroad

Dear Mr. Burton:

On May 29th and 30th Richard Kesler and Terry Adams conducted a weapons retention school here in Havre, Montana. U. S. Border Patrol Agents from the Havre Sector along with city, county and State law enforcement officers attended the training. The comments were that the training was very relevant, and the instruction was excellent.

Your instructors are to be commended for their knowledge of the material and the high professional manner in which they presented it.

Also, during this session, Special Agent Bill Warneke introduced a unique shoot no shoot training program which utilized color slides and audio effects. This realistic reaction training was well received by all the officers that took part.

We wish to thank you, your office, and Rich Miggins for the efforts to provide this valuable training. The cooperation and courtesy extended by you is a fine example of the mutual aid and assistance so essential to law enforcement. We look forward to working with your Agency in the future.

Sincerely

Norman L. Mercer
Norman L. Mercer
Chief Patrol Agent

MONTANA LAW ENFORCEMENT ACADEMY BUREAU
REGIONAL TRAINING PROGRAM 521
WEAPON RETENTION
HAVRE, MT
MAY 29 & 30, 1985

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

ROSTER

ABRAHAMSON, John A.	Conrad P. D.	Conrad	59425
ANDERSON, David A.	Havre P. D.	Havre	59501
ANDERSON, Thomas L.	Chinook P. D.	Chinook	59523
BABCOCK, John T.	Dept. Fish, Wildlife, Parks P. O. Box 4041	Great Falls	59404
BENSON, Gary R.	Dept. Fish, Wildlife, Parks 1103 W/6	Havre	59501
BROST, Bernie L.	Sheridan County S. O.	Plentywood	59254
BURDITT, Darryl J.	Conrad P. D.	Conrad	59425
CARPENTER, Douglas A.	U. S. Border Patrol P. O. Box 36	Malta	59538
COMLY, Edward M.	Dept. Fish, Wildlife, Parks P. O. Box 421	Stanford	59479
COOPER, David E.	Dept. Fish, Wildlife, Parks 325 So. Jackson St.	Plentywood	59254
DELK, Alan D.	Chinook P. D.	Chinook	59523
DOHRMAN, Richard W.	Montana Highway Patrol 309 S. Dell	Havre	59501
DRAMSTAD, Rex E.	Havre P. D.	Havre	59501
FLOYD, Charles L.	U. S. Border Patrol P. O. Box 112	Havre	59501
FOX, Dennis L.	U. S. Border Patrol P. O. Box 128	Wolf Point	59201
GILLUND, Ronald D.	U. S. Border Patrol P. O. Box 112	Havre	59501
GRASKY, James M.	U. S. Border Patrol P. O. Box 112	Havre	59501
HALVER, Edward R.	Blaine County S. O.	Chinook	59523
HARADA, Gene F.	Havre P. D.	Havre	59501
HENDRICKSON, Leonard T.	U. S. Border Patrol P. O. Box 653	Shelby	59474
HINCKLEY, B. Roger	Montana Highway Patrol P. O. Box 1023	Havre	59501
JEPPESEN, K. Grant "Butch"	Liberty County S. O.	Chester	59522
JOHNSEN III, Clifford R.	Malmstrom Air Force Base 341 SPS/SPOL	Malmstrom AFB	59402

RT 521 - WEAPON RETENTION - PAGE 2

KELLER, David M.	U. S. Border Patrol P. O. Box 434	Plentywood	59254
KELLY, Edward J.	Dept. Fish, Wildlife, Parks 907 Jet	Glasgow	59230
LAMBERT, Alan J.	Toole County S. O.	Shelby	59474
LA VALLEY, Jack L.	Dept. Fish, Wildlife, Parks P. O. Box 4041	Great Falls	59404
MADDOX, Max W.	Blaine County S. O.	Chinook	59523
MAGNUSON, Ross D.	Havre P. D.	Havre	59501
MEHN, Mike D.	Dept. Fish, Wildlife, Parks P. O. Box 119	Fort Peck	59223
MEIER, Glen A.	Dept. Livestock, Brands Enforc. P. O. Box 492	Glasgow	59230
MIGGINS, Richard A.	BNRR - Police & Special Svs. 235 Main St.	Havre	59501
MILLS, James W.	Hill County S. O.	Havre	59501
MOORE, Michael P.	Malmstrom Air Force Base SPS/SPOL	Malmstrom AFB	59402
MYHRE, Wayne T.	U. S. Border Patrol P. O. Box 112	Havre	59501
OBERWEISER, Thomas M.	Havre P. D.	Havre	59501
OLSON, Kevin S.	Havre P. D.	Havre	59501
RUSH, Dennis A.	Dept. Fish, Wildlife, Parks P. O. Box 479	Malta	59538
SCHROEDER, Glen W.	U. S. Border Patrol P. O. Box 434	Plentywood	59254
SEIDLITZ, Richard E.	Musselshell County S. O.	Roundup	59072
STIEGLER, James H.	U. S. Border Patrol P. O. Box 1124	Malta	59538
STOLEN, Mark S.	Hill County S. O.	Havre	59501
WARNEKE, William W.	BNRR-Police & Special Svs. 235 Main	Havre	59501
WINTER, Randy E.	Toole County S. O.	Shelby	59474
YONKO, Nicholas W.	BNRR-Police & Special Svs. 235 Main	Havre	59501



City of **GREAT FALLS** *Montana*

59403-5021

P. O. BOX 5021

TELEPHONE 406 / 727-5881

January 7, 1987

N. W. Yonko, Special Agent
Police and Special Services
Burlington Northern Railroad
P. O. Box 2525
Great Falls, Montana 59403

Dear Nick:

As per our telephone conversation of December 30, 1986, in regards to railroad special agents or police obtaining the peace officer's status legislation proposed by Mr. Bob Bachini, District 14, Havre, Montana, I have shared this with our command level personnel at the Great Falls Police Department, and we are all in concurrence. We find that this legislation could only enhance law enforcement within Great Falls and Cascade County. Due to the contiguous properties owned by the City, County, and the Burlington Northern Railroad and the complexities of the crimes which occur within these jurisdictions, we feel that you should enjoy peace officer status within the State of Montana. Our full support will be given to you in regards to this endeavor.

Sincerely yours in law enforcement,

ROBERT G. JONES
CHIEF OF POLICE

RGJ:pab

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670



BARRY C. MICHELOTTI

CASCADE COUNTY

325 Second Avenue North
Great Falls, Montana 59401

(406) 761-6842

January 7, 1987

Mr. Nick Yonko, Special Agent
Burlington Northern Railroad
P.O. Box 2525
Great Falls, Montana 59403

Dear Nick,

This letter is a follow-up to our meeting of January 6, 1987, concerning the proposal to authorize Burlington Northern police officers to have "peace officer" status in the State of Montana.

I feel all parties concerned, either the officer, Burlington Northern, the County of Cascade, or the State of Montana, would benefit by "peace officer" status being granted to railroad police for railroad activities only.

With the increasing case loads upon local and state law agencies and the decreasing budgets, the cooperation received from the Burlington Northern police in matters of public assistance and law enforcement has been an asset.

It is my hope that such legislation be considered.

Very truly yours,

BARRY C. MICHELOTTI
Sheriff/Coroner of Cascade County

BCM:jbs

cc: Mr. Bill Warneke
Burlington Northern Railroad
Police & Special Services
235 Main Street
Havre, MT 59501

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

County of Yellowstone



OFFICE OF THE SHERIFF

P.O. BOX 35017
BILLINGS, MONTANA 59107

TO: Legislative Members
FROM: Sheriff Mike Schafer
DATE: December 29, 1986
SUBJ: Training for special agents of the railroad in first class counties

With the financial problems counties are having, it is very difficult to address all the law enforcement problems with limited manpower.

Here in Yellowstone County I have deputized special agents of the railroad so they can at least handle their own problems on their property. Prior to deputizing them, I have reviewed their training files and found that the vast majority have a large amount of experience and training in law enforcement and many of them have even more than our regular deputies who have many years of experience and training.

It is my recommendation that special agents in first class counties be given full law enforcement authority on railroad property after they have completed the Basic course at the Law Enforcement Academy in Bozeman, Montana. I feel it is time that they are recognized for the job and training they have. This would, in turn, create some financial support for the Academy because, being private enterprise, they should be charged the daily per diem cost to obtain the training.

If you have any questions regarding this, please feel free to contact me.

Sincerely,

MIKE SCHAFFER, SHERIFF

Mike Schafer.

YELLOWSTONE COUNTY

lr

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27

BILL NO. HB670

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 676

Jan 6, 1987

Robert Bachini
District 14 Representative

Dear Mr. Bachini

I am writing this letter to make you aware that the rail road Police are asking for peace officer status. I have worked with the rail road Police during some of my livestock investigations. I have always found them to be very helpful and professional.

I would like to ask for your support in getting them Police Officer status.

Sincerely
Mark Elings
Mark Elings
District Investigator
Brands Enforcement Division

Office of the Sheriff

WADE A. VAN GILDER

Sheriff/Coroner

Radio KNID 912
Phone 406-822-4861

MINERAL COUNTY

Box 99

Superior, Montana 59872

16 January 1987

Howard Olson
Burlington Northern Railroad

Reference: Expansion of arrest powers and "Peace Officer" status of Railroad Law Enforcement Agents.

Howard,

This coorespondence is supportive of any legislative action promoting this issue.

Law Enforcement suffers constantly due to a variety of restrictions in the area of budgets, constitutional rights, court decisions, manpower demands, and etc. The criminal element is here to stay. Railroad Law Enforcement agents need our assistance and visa versa. Jurisdictions constantly over lap. Law Enforcement officers need to be able to function.

Mineral County is 78 miles long with four sworn Law Enforcement Officers. The railroad travels through a major portion of this county. The point being that by expanding an agents arrest powers makes that agent more flexible to provide assistance to local authorities as well as carry out their own duties more efficiently.

My experience in working with railroad detectives has always been very positive and they have always presented themselves in a very professional manner. It is my professional opinion that broadening the current arrest powers of Railroad Detectives in Montana, can only be to everyone's benefit in the Law Enforcement field.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

Wade A. Van Gilder

Wade A. Van Gilder
Sheriff

WAVG/jfa

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

January 26, 1987

Burlington Northern Railroad
Mr. N.W. Yonko
Special Agent
Police & Special Services
P.O. Box 2525
Great Falls, Montana 59403

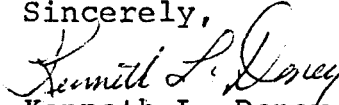
RE: Peace Officer status

Mr. Yonko;

Please be advised that I, as Sheriff of Fergus County to support the Legislation Bill of having U.S. Railroad Police granted the " peace Officer' status for the State of Montana.

Do to the fact that crimes are not committed within boundaries, it would work to the benefit of both County and State Law Enforcement to enable the Railroad Special Agents to have the Peace Officer status, through the State of Montana.

Sincerely,


Kenneth L. Doney, Sheriff
Fergus County
Lewistown, Montana

Office of the Sheriff

Radio KNID 912

Phone 406-822-4861

WADE A. VAN GILDER

Sheriff/Coroner

MINERAL COUNTY

Box 99

Superior, Montana 59872

16 January 1987

Howard Olson
Burlington Northern Railroad

Reference: Expansion of arrest powers and "Peace Officer" status of Railroad Law Enforcement Agents.

Howard,

This coorespondence is supportive of any legislative action promoting this issue.

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My experience in working with railroad detectives has always been very positive and they have always presented themselves in a very professional manner. It is my professional opinion that broadening the current arrest powers of Railroad Detectives in Montana, can only be to everyone's benefit in the Law Enforcement field.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

Wade A. Van Gilder

Wade A. Van Gilder
Sheriff

WAVG/jfa

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27

BILL NO. HB 670

POLICE DEPARTMENT

414 EAST CALLENDER Box 897

LIVINGSTON, MONTANA

59047

(406) 222-2050

CHIEF OF POLICE
GEORGE A. BRYCE

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 1670

January 9, 1987

Mr. Bob Bachini
House of Representatives
House District #14
% Capital Building
Helena, Montana 59620

Dear Mr. Bachini:

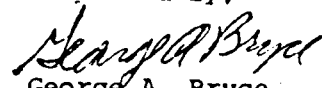
I have been requested by the Burlington Northern Railroad Security Officers to support legislation making them Peace Officers for the State of Montana.

In the past the BN Security Officers have been an assist to Law Enforcement in our community. They have exhibited professionalism conducting their responsibilities and we have a good working relationship with them.

Any legislation giving them Montana Peace Officers status must require them to be certified by the Montana Police Officer's Standards and Training (P.O.S.T.).

Thank you for your time in this matter.

Respectfully,



George A. Bryce
Chief of Police

Liberty County Sheriff

Chester, Montana

January 13, 1986

Bill Warneke
Burlington Northern
Special Agent
Havre, Montana

Dear Bill:

I was very pleased to hear your group is putting forth a Bill to Grant Peace Officer Status to Burlington Northern Special Police.

Liberty County Sheriffs office and our officers have dealt with this group of people many times over the years, and have found them to be professional and well trained.

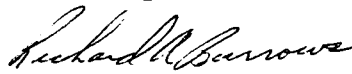
As Sheriff I appreciate the cooperation and efforts you have always given us to help with any investigations we have worked on, that involved your company.

I feel that to grant Peace Officer Status to you people would greatly benefit my department and others around the State of Montana.

I would be pleased to support your bill.

Good Luck!

Sincerely Yours



Richard A Burrows

Sheriff, Liberty County

P.O. Box K

Chester, Montana

59522

SENATE JUDICIARY

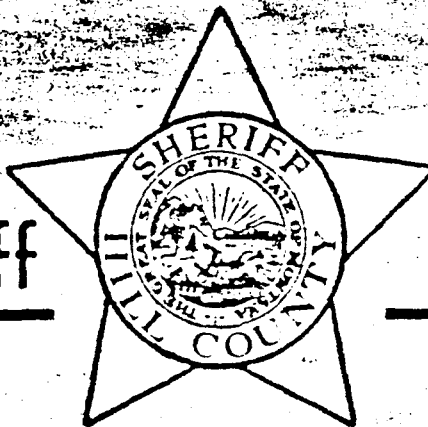
EXHIBIT NO. 3A

DATE March 27

BILL NO. HB 1670

Office of Sheriff

HOWARD C. TAYLOR
Sheriff



P.O. Box 169
Havre, Montana 59501

Hill County

TIM SOLOMON
Under Sheriff

January 18, 1987

J.C. Jones
Assistant Superintendent
Police and Special Services
Burlington Northern Railroad
West 221 1st. Ave.
Spokane, Wa. 99203

SENATE JUDICIARY
EXHIBIT NO. 3A
DATE Mar. 27
BILL NO. HB 1070

Dear Mr. Jones,

On January 17, 1987, two Special Agents from Burlington Northern Railroad were called by our office to assist us in searching for a fugitive that had escaped from the custody of our department. Within minutes of the call, Agents Bill Warneke and Rich Miggins were on the scene offering their assistance and expertise. We have always enjoyed a very close working relationship with Burlington Northern because of the professional way these two agents conduct themselves.

Please extend our thanks to Rich and Bill for the help they gave us. The fugitive was captured in part due to their efforts.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim C. Solomon".

Tim C. Solomon, Sheriff

A handwritten signature in cursive script, appearing to read "Andrew I. Mygland".

Andrew I. Mygland
Deputy Sheriff

Glacier County Sheriff

Jim Persling
Glacier County Courthouse
January 6, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

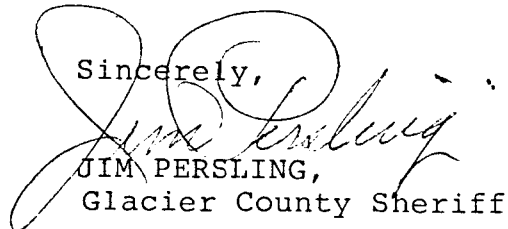
William W. Warneke
829 17th
Havre, MT 59501

RE: Letter Robert Bachini

Dear Bill:

Please find enclosed the letter you requested,
if I can be of any further help please let me know.

Sincerely,



JIM PERSLING,
Glacier County Sheriff

JP/aa

Glacier County Sheriff

Jim Persling
Glacier County Courthouse
December 29, 1986

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Robert Bachini
Montana State Representative, Hill County
Havre, MT 59501

Dear Bob:

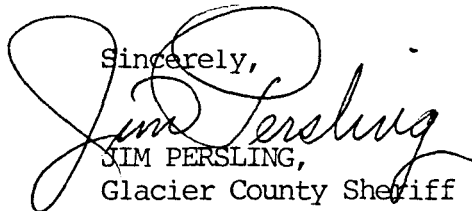
In regard to special agents working for Burlington Northern Railway, seeking Law Enforcement certification in the State of Montana.

The agents working in the Glacier County area, have always been a very professional type of people, well trained and know their job. We have had occasions to work with them and their assistance to our department has been greatly appreciated.

Anything the State of Montana can do to advance their training, would certainly be a benefit to all Law Enforcement.

If I can be of any further help, please let me know.

Sincerely,


JIM PERSLING,
Glacier County Sheriff

JP/aa

MISSOULA COUNTY

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

T. GREGORY HINTZ
UNDERSHERIFF



January 8, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE May 27

BILL NO. HB 670

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,

A handwritten signature in cursive script that reads "Daniel L. Magone".

DANIEL L. MAGONE
SHERIFF

DLM/ms



BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 1670

January 8, 1987

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Representative Bob Bachini
Capitol Station
Helena, Montana 59620

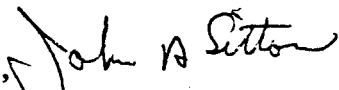
Representative Bachini:

First let me express my appreciation for your work on this legislation. I have been assigned as a Burlington Northern Special Agent in Montana, at Whitefish since August 1984. I maintain state commissions as a railroad police officer in the states of Oregon, Washington, and Idaho. I have worked in many local jurisdictions in each of the mentioned states and have never encountered any problems with public law enforcement.

Enclosed please find survey returns from Flathead and Lincoln Counties and the Cities of Whitefish and Kalispell. The Burlington Northern Police Department enjoys excellent mutual assistance relationships with all these departments.

If I can be of any further assistance please call.

Sincerely,


John A. Sitton



BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Chuck Rhodes, Sheriff
Flathead County
800 So, Main
Kalispell, Montana 59901

Dear Chuck:

House District Representative Bob Bachini, District 14, is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police power from the several jurisdictions he is assigned.


As yet the bill is not drafted but I understand that Rep. Bachini is using the Washington State law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the employing corporation.
2. Make the employing corporation responsible for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely,

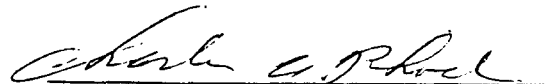

John A. Sitton

With available information I am:

yes In favor of this legislation.

_____ Not in favor of this legislation.

Remarks:





BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 N. Central Ave.
Whitefish, Montana 59937

Mr. Dave Dolson, Chief of Police
City of Whitefish
Whitefish, Montana 59937

Dear Dave:

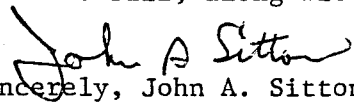
House District 14 Representative Bob Bachini is proposing legislation this session that will give class I railroad police peace officer status state wide. Presently each railroad officer must obtain his police powers from each jurisdiction.

As yet a bill has not been drafted. I understand that Rep. Bachini will model his proposed bill along the lines of the Washington State Revised Code of Washington, sections 81.60, (copy enclosed).

The main points of the new legislation will be:

1. Peace officer status for officers, limited to the protection of property of the employing corporation.
2. Employing corporation to be solely responsible for the officers compensation and civil liability.

Rep. Bachini is requesting your input into this bill, along with us at Burlington Northern Railroad.

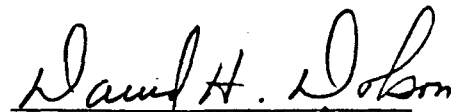

Sincerely, John A. Sitton

With the information available I am:

☒ FOR LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

☐ AGAINST LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

REMARKS:


Chief of Police
Whitefish, MT



BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Mr. Ray Nixon, Sheriff
Lincoln County
Lincoln Co. Courthouse
Libby, Montana 59923

Dear Sheriff:

House District 14 Representative Bob Bachini is preparing legislation that will give railroad police "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

As yet a bill has not been drafted but as I understand it Rep. Bachini intends to use the Washington State Law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the railroad corporation.
2. The railroad corporation to be liable for compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely

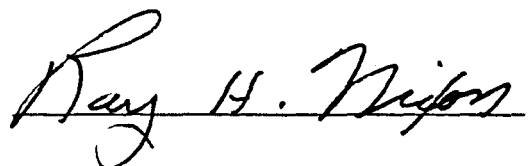

John A. Sitton

WITH AVAILABLE INFORMATION I AM:

X In favor of making railroad police peace officers.

 Non in favor of making railroad police peace officers.

REMARKS:





BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Martin Stefanic, Chief of Police
City of Kalispell
Drawer 1997
Kalispell, Montana 59901

Dear Chief:

House District 14 Representative Bob Bachini is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

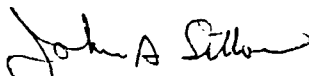
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The new bill will include:

1. Give class I railroad police officers "peace officer" status in the protection of property under the control of the employing corporation.
2. The employing corporation will be solely liable for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern request and would appreciate any input regarding this bill.

Sincerely,

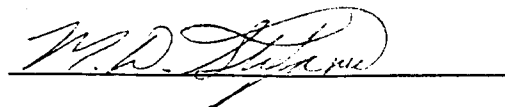

John A. Sitton

With available information I am:

X In favor of making railroad police peace officers.

 Not in favor of making railroad police peace officers.

Remarks:





HAYRE CITY JUDGE

WALLACE A. JEWELL
P.O. BOX 231
HAYRE, MT. 59501 406-265-8575

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

January 6, 1987

Representative Bob Bachini
c/o Bill Warneke
BN Police
35 Main Street
Hayre, Mt 59501

Dear Bob:

This is written regarding the proposed legislation that would empower members of the Burlington Northern Police Force to make arrests. I must heartily support such legislation.

It only makes sense, in times when nearly every police department in the country is crying for more manpower, to enact such a law. Why should the local police or sheriff department be called to arrest someone when that person is already detained by the BNPD.

According to Black's Law Dictionary arrest is defined as: "To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand". They do this already- perhaps the Montana Legislature should give them the "legal authority".

If a member of the BN Police Force has the proper training and qualifications, then I think they should have legal arrest power.

Sincerely,

Wallace A. Jewell

Wallace A. Jewell
City Judge

cc: Representative Ray Peck

MISSOULA COUNTY

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
COUNTY COURTHOUSE
MISSOULA, MONTANA 59802

T. GREGORY HINTZ
UNDERSHERIFF

January 8, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

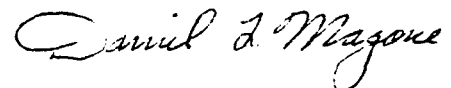
Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,



DANIEL L. MAGONE
SHERIFF

DLM/ms

POLICE DEPARTMENT

113 EAST MAIN STREET
CUT BANK, MONTANA 59427

PHONE 873-2288

SENATE JUDICIARY

EXHIBIT NO. 3A

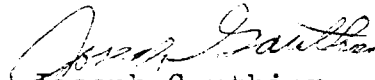
DATE Mar 27

BILL NO. HB 676

January 8, 1987

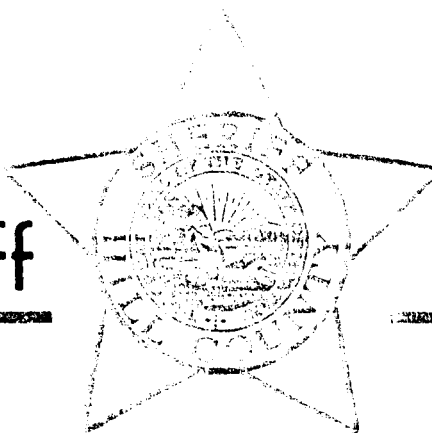
Dear Nick Yonko,

Burlington Northern has my total support in the attempt to allow Railroad Investigation Agents to gain Peace Officer Status in the State of Montana. This position is long overdue. I hope the Montana Legislature can see the need and the advantages the Peace Office Status would be for the State.


Joseph Gauthier
Chief of Police

Office of Sheriff

HOWARD C. TAYLOR
Sheriff



P.O. Box 169
Havre, Montana 59501

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE March 27

BILL NO. HB 670

Hill County

TIM SOLOMON
Under Sheriff

January 9, 1987

Mr. William Warneke
Special Agent
Burlington Northern
Havre, Montana 59501

Dear Mr. Warneke:

The Hill County Sheriff's Department has been working closely with Burlington Northern Special Agents for a number of years. In working with them we have found them to be well trained and work in a professional manner. Their help has been very beneficial to our department.

I feel that a law granting the Burlington Northern Special Agents Peace Officers status, pertaining to Burlington Northern related crimes, would greatly benefit departments all over the State of Montana.

Sincerely yours,

Tim C. Solomon
Sheriff

grs



BURLINGTON NORTHERN

SEN. L. J. B. 1000
EXHIBIT NO. 3A
DATE Mar. 27
BILL NO. HB 676

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Martin Stefanic, Chief of Police
City of Kalispell
Drawer 1997
Kalispell, Montana 59901

Dear Chief:

House District 14 Representative Bob Bachini is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

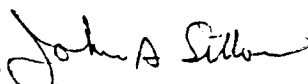
As yet a bill has not been drafted but as I understand, Rep. Bachini intends to use the Washington State law as a model, (copy enclosed).

The new bill will include:

1. Give class I railroad police officers "peace officer" status in the protection of property under the control of the employing corporation.
2. The employing corporation will be solely liable for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern request and would appreciate any input regarding this bill.

Sincerely,

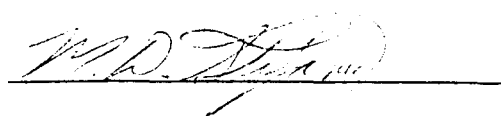

John A. Sitton

With available information I am:

X In favor of making railroad police peace officers.

 Not in favor of making railroad police peace officers.

Remarks:





BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Chuck Rhodes, Sheriff
Flathead County
800 So. Main
Kalispell, Montana 59901

Dear Chuck:

House District Representative Bob Bachini, District 14, is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police power from the several jurisdictions he is assigned.

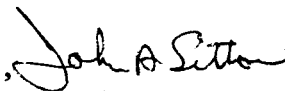
As yet the bill is not drafted but I understand that Rep. Bachini is using the Washington State law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the employing corporation.
2. Make the employing corporation responsible for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

Sincerely,

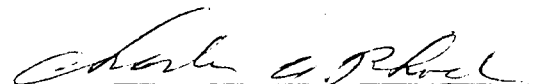

John A. Sitton

With available information I am:

yes In favor of this legislation.

_____ Not in favor of this legislation.

Remarks:





BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 314

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Mr. Ray Nixon, Sheriff
Lincoln County
Lincoln Co. Courthouse
Libby, Montana 59923

Dear Sheriff:

House District 14 Representative Bob Bachini is preparing legislation that will give railroad police "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

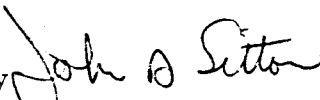
As yet a bill has not been drafted but as I understand it Rep. Bachini intends to use the Washington State Law as a model, (copy enclosed)

The new bill will include:

1. Give class I railroad police "peace officer" status in the protection of property under the control of the railroad corporation.
2. The railroad corporation to be liable for compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern Railroad request and would appreciate any input regarding this legislation.

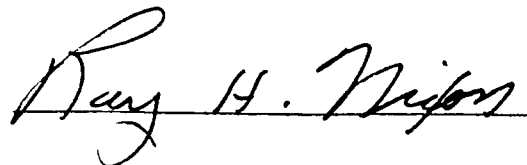
Sincerely


John A. Sitton

WITH AVAILABLE INFORMATION I AM:

- X In favor of making railroad police peace officers.
 Non in favor of making railroad police peace officers.

REMARKS:





BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 314

DATE Mar 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 N. Central Ave.
Whitefish, Montana 59937

Mr. Dave Dolson, Chief of Police
City of Whitefish
Whitefish, Montana 59937

Dear Dave:

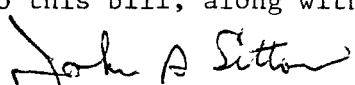
House District 14 Representative Bob Bachini is proposing legislation this session that will give class I railroad police peace officer status state wide. Presently each railroad officer must obtain his police powers from each jurisdiction.

As yet a bill has not been drafted. I understand that Rep. Bachini will model his proposed bill along the lines of the Washington State Revised Code of Washington, sections 81.60, (copy enclosed).

The main points of the new legislation will be:

1. Peace officer status for officers, limited to the protection of property of the employing corporation.
2. Employing corporation to be solely responsible for the officers compensation and civil liability.

Rep. Bachini is requesting your input into this bill, along with us at Burlington Northern Railroad.

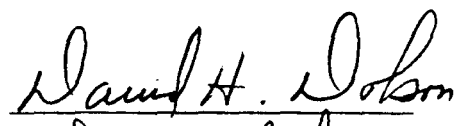

Sincerely, John A. Sitton

With the information available I am:

☒ FOR LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

☐ AGAINST LEGISLATION GIVING RAILROAD POLICE PEACE OFFICER STATUS.

REMARKS:


Chief of Police
Whitefish, MT



BURLINGTON NORTHERN

January 8, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Avenue
Whitefish, Montana 59937

Representative Bob Bachini
Capitol Station
Helena, Montana 59620

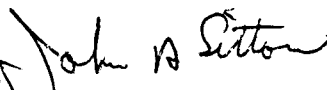
Representative Bachini:

First let me express my appreciation for your work on this legislation. I have been assigned as a Burlington Northern Special Agent in Montana, at Whitefish since August 1984. I maintain state commissions as a railroad police officer in the states of Oregon, Washington, and Idaho. I have worked in many local jurisdictions in each of the mentioned states and have never encountered any problems with public law enforcement.

Enclosed please find survey returns from Flathead and Lincoln Counties and the Cities of Whitefish and Kalispell. The Burlington Northern Police Department enjoys excellent mutual assistance relationships with all these departments.

If I can be of any further assistance please call.

Sincerely,


John A. Sitton



HAVRE CITY JUDGE

WALLACE A. JEWELL
P.O. BOX 231
HAVRE, MT. 59501 406-265-8575

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

January 6, 1987

Representative Bob Bachini
c/o Bill Warneke
BN Police
35 Main Street
Havre, Mt 59501

Dear Bob:

This is written regarding the proposed legislation that would empower members of the Burlington Northern Police Force to make arrests. I must heartily support such legislation.

It only makes sense, in times when nearly every police department in the country is crying for more manpower, to enact such a law. Why should the local police or sheriff department be called to arrest someone when that person is already detained by the BNPD.

According to Black's Law Dictionary arrest is defined as: "To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand". They do this already- perhaps the Montana Legislature should give them the "legal authority".

If a member of the BN Police Force has the proper training and qualifications, then I think they should have legal arrest power.

Sincerely,

Wallace A. Jewell

Wallace A. Jewell
City Judge

cc: Representative Ray Peck

MISSOULA COUNTY

DANIEL L. MAGONE
SHERIFF

OFFICE OF THE SHERIFF
MISSOULA MONTANA 59802

T. GREGORY HINTZ
UNDERSHERIFF

January 8, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Mr. Howard Olson
Assistant Division Special Agent
Police & Special Services
Burlington Northern Railroad
P.O. Box 8289
Missoula, Montana 59807

Dear Howard:

I have reviewed B.N.'s proposal to the legislature of Montana to grant "Peace Officer" status to your railroad police.

I wholeheartedly support this proposal. All of the public law enforcement agencies in our state are understaffed and your proposal would relieve us of some duties that your agency can perform without our assistance.

I have always been impressed with the quality of the railroad police officers that I have worked with, and cannot foresee any problems arising from them being given "Peace Officer" status under the limitations contained in your proposal.

Sincerely,

Daniel L. Magone

DANIEL L. MAGONE
SHERIFF

DLM/ms



OFFICE PHONE:
(406) 232-2237
(406) 232-2239

TONY HARBAUGH
Sheriff
Custer County, Montana
—
MILES CITY, MONTANA 59301



DON NEESE - UNDERSHERIFF
County 13
RAY MALLEY - DEPUTY
County 12
WALLY BADGETT - DEPUTY
County 11
Special Deputies:
Leonard Benasky - S.D. - J. 1
Darrell Nash - S.D. - J. 2

Rep. Robert Bachini
Montana HD 14
Havre, Mont. 59501

Mr. Bachini,

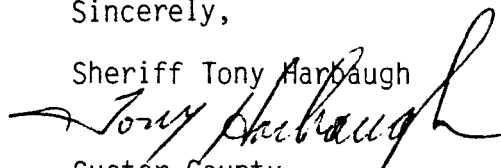
This letter is to express my support for your sponsorship of a Bill to Legitimize Railroad police and give them Law Enforcement authority.

To my knowledge, Montana is one of only four states, in which these officers do not have this authority.

You never know, maybe if we train these officers at our Law Enforcement Academy, Burlington Northern might want to send a few dollars toward the Academy fund.

Sincerely,

Sheriff Tony Harbaugh



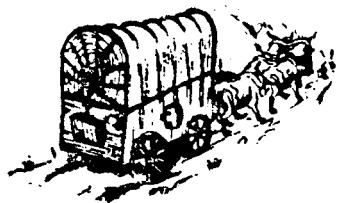
Custer County
Miles City, Mont.

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 676



OFFICE OF
SHERIFF OF CHOUTEAU COUNTY
FORT BENTON, MONTANA 59442



"The Birthplace of Montana"

PAUL WILLIAMS
Sheriff
TOM SHEEHY
County Attorney

Office Phone: 622-5451
Jail Phone: 622-5451

William W. Warneke
829 17th
Havre, MT 59501

January 1, 1987

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 670

Dear Bill:

In reference to your phone call on December 29, 1986 requesting a letter from me concerning the Railroad Police Detectives being able to attend the Academy in Bozeman. I have worked with many of the Railroad Detectives and have no problem with them attending the Montana Law Enforcement Academy; but I would not like to see the State have to pay for the training of the officers, and think that the Burlington Northern Railroad should cover the expense.

I feel that training is very essential to the officers; that the officers are better and more ready for their job after completing the Academy.

Please do not hesitate to contact me further concerning this matter.

Sincerely,

Paul F. Williams
Paul F. Williams, Sheriff



City of Havre, Montana 59501

POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

406/265-4362

January 6, 1987

Mr. William Warneke
Special Agent
Burlington Northern
Havre, Montana 59501

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27


BILL NO. HB 670

Dear Bill:

This letter is to inform you that we support the bill being introduced by Representative Bob Bachini that would allow Burlington Northern Special Police peace officers status within the State of Montana. It appears to be a logical move, and has potential for mutual benefit to both Burlington Northern and to state and local law enforcement agencies.

Sincerely yours,


Richard D. Stremcha
Chief of Police


Michael F. Shortell
Assistant Chief of Police

County of Toole
Office of the Sheriff

V. L. Anderson, Sheriff

Shelby, Montana

59474

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

PLEASE REFER

TO FILE NO. _____

December 23, 1986

Shelby, Montana

Mr. Bill Warneke

Police/Special Services Department

235 Main Street

Havre, Montana 59501

Dear Bill,

In re our phone conversation of this date, in regard to Burlington Northern Police being recognized as Police Officers in the State of Montana.

I feel that your police force being recognized as police officers in the State would bring about more uniformity, i.e. your employees being required to attend POST certified schools offered by the State of Montana.

For continued cooperation between our two Departments and for a safer Montana in which to live. Good luck with your endeavor.

Sincerely,



V.L. ANDERSON, SHERIFF

Address All Communication to V. L. Anderson, Sheriff

CITY OF CONRAD

DON McCLAIN
Mayor

E. J. JURY
City Clerk/Treasurer

BETTY RAINVILLE
City Judge

LEON SIMPSON
Police Chief

10 4TH AVENUE S.W.
CONRAD, MONTANA 59425

PETE HAUER
TOM HAMMERBACKER
BYRON GRUBB
LARRY BROWNELL
Aldermen

December 31, 1986

Conrad, Mt. 59425

Police/ Special Services Department
235 Main Street
Havre, Mt. 59501

SENATE JUDICIARY

EXHIBIT NO. 317

DATE Mar 27

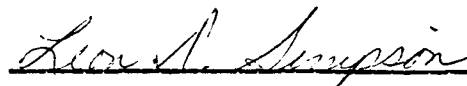
BILL NO. HB 670

Dear Nick:

In regard to our phone call on Tuesday December 30, 1986
I feel that your force being recognized as police officers
in the state would be beneficial as they would then be required
to attend POST certified schools offered by the State of
Montana, thus making for more uniformity.

If I can be of further service please call on me.

Sincerely,



Leon D. Simpson
Cheif of Police



City of Havre, Montana 59501

POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

406/265-4362

July 3, 1985

To: Mr. J.R. Gaskill
Regional Director
Police and Special Services
Burlington Northern Railroad
2718 Montana Avenue
Billings, Montana 59101

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 676

From: Captain Mike Shortell
Assistant Chief of Police
Havre Police Department
Havre, Montana 59501

Dear Sir:

I have received many favorable comments from Officers of this department and others about the Firearms Retention School conducted by the Burlington Northern on May 29 and 30. They thought it was excellent in both content and presentation. Instructors Terry Adams and Rich Kessler are to be commended.

We also thank you for including the Shoot Don't Shoot program presented by officers of this department in the overall program.

A special thanks to Special Agent Bill Warneke also..Bill has contributed much to the fine cooperation between the Havre Police Department and the Burlington Northern over the years. This cooperation is very important to us, considering that the Burlington Northern is unquestionably the major positive influence on this city.

We are looking forward to more cooperative efforts such as this in the future. As long as you have Special Agents like Bill and Rich Miggins stationed in Havre, I am sure that they will be mutually beneficial.

My Best Regards,

Mike Shortell
Mike Shortell
Assistant Chief of Police



City of Havre, Montana 59501

POLICE DEPARTMENT

Richard D. Stremcha, Chief of Police

406/265-4362

12 March 1986

Mr. J.R. Gaskill
Superintendent
Police and Special Services
2718 Montana Ave.
Billings, Montana 59101

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Dear Sir:

On March 9th. an elderly gentleman walked away from a local rest home here in Havre, which necessitated an intensive search effort in the local area. The search involved several law enforcement agencies and volunteers from the community.

The purpose of this letter is to express to you are gratitude and appreciation for one of your employess who not only volunteered his services but his own personal vehicle in the search. Mr. Rich Miggins of your Havre Special Agents office spent considerable time and effort in the search, and was instrumental in the locating of the gentleman.

There are countless times that persons from the Special Agents office have been of great benefit to this office and the community, which I feel reflects the tremendous contribution that the Burlington Northern makes in this area and I'm sure in others.

If you would, please let him and others of your company know that their efforts are recognized and appreciated.

Sincerely,

Mike Shortell
Mike Shortell
Assistant Chief of Police

Area law enforcement to increase patrols

By RUSTY QUALLS
and KEVIN BROOKE
of the Daily News Staff

Law enforcement agencies in Havre and the surrounding area are prepared for what has traditionally been a busy night for them — New Year's Eve.

The Highway Patrol will have a 400-500 percent increase in number of personnel working the evening shift this evening, according to Sergeant Greg Szudera, as five of-

ficers will be on patrol compared with the normal one or two.

And while the Havre Police Department and the Hill County Sheriff's Office will be operating basically the same way as they would on a normal weekend night, one reserve member will be on duty in each department to ensure that they can adequately handle the festivities, according to Assistant Chief of Police Mike Shortell and Sheriff Tim Solomon.

In addition, all law enforcement officers interviewed agreed that the police department, sheriff's office, highway patrol, border patrol and special agents of Burlington Northern consistently help one another out, something they said is especially comforting on New Year's Eve.

An HPD program that has proven successful the past several years on New Year's Eve is their DUI Task

See LAW, Page 3

Pat Samples

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Subject: Lesson plan for Shoot-Don't Shoot Firearms Training

File: SA-Havre-560

Havre Montana
July 2, 1985

Mr. J.I.Schmasow:

Please find attached, my lesson plan covering the recent training program that writer developed using slides along with a sound track.

This training course was first presented in conjunction with the recent school taught by Mr. Adams and Mr. Kessler at Havre Montana. Writer received very favorable comments from all the officers that shot through the course.

Writer was requested to give his business card to officers of four separate agencies, including Malmstrom Air Force Base at Great Falls, so they could contact writer for assistance in setting up a course like this for their agencies.

This course is not only very good training in writers estimation, but it is enjoyable for the officers to shoot through. Several officers shot through it two or three times just for enjoyment and to try different tactics during the stress situations. The course is relatively in-expensive to set up and complete. The only real costs are for the slide film, development of the film, slide trays and the blank cassette tapes. Other cost would be for the extra long cords attached to the ear phones of a small "Walkman" recorder. These earphones are then placed into a set of ear muffs for the shooter and for the slide projector operator. If the ear phones are not utilized, good quality cassette player with good speakers can be used. Cardboard backing can be obtained from business that throw them away. Naturally the tough part is finding willing volunteers such as I had for the actors in the scenerios.

Writer feels this type of training is beneficial and hope that the training section will be able to work it into their training programs.

Warneke, W.W.
Warneke, W.W.
Patrolman

copy: J.R. Gaskill
R.A. Higgins
Training Section



BURLINGTON NORTHERN

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

John A. Sitton, Special Agent
Burlington Northern Railroad
1 No. Central Ave.
Whitefish, Montana 59937

Mr. Martin Stefanic, Chief of Police
City of Kalispell
Drawer 1997
Kalispell, Montana 59901

Dear Chief:

House District 14 Representative Bob Bachini is preparing legislation that will give railroad police officers "peace officer" status in the State of Montana. Presently each officer must obtain his police powers from the several jurisdictions he is assigned.

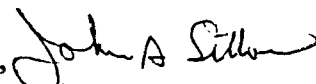
As yet a bill has not been drafted but as I understand, Rep. Bachini intends to use the Washington State law as a model, (copy enclosed).

The new bill will include:

1. Give class I railroad police officers "peace officer" status in the protection of property under the control of the employing corporation.
2. The employing corporation will be solely liable for the compensation and civil liability of the officer.

Representative Bachini and us at Burlington Northern request and would appreciate any input regarding this bill.

Sincerely,

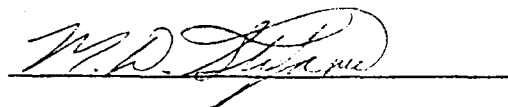

John A. Sitton

With available information I am:

X In favor of making railroad police peace officers.

 Not in favor of making railroad police peace officers.

Remarks:



SENATE JUDICIARY

EXHIBIT NO.

317

DATE

Mar 27

BILL NO.

HB 670

LESSON PLAN

FOR

CONDUCTING A UNIT OF INSTRUCTION IN

A SLIDE PROJECTED

SHOOT-DON'T SHOOT FIREARMS COURSE

PREPARED

BY

WWWARNEKE PATROLMAN/FIREARMS INSTRUCTOR

BURLINGTON NORTHERN POLICE DEPARTMENT

HAVRE

MONTANA

SLIDE PROJECTED SHOOT-DON'T SHOOT COURSE

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

Introduction:

Why another shoot-don't shoot course of fire? Over the years, firearms training has centered on silhouette shooting and the shooters ability to shoot out the X ring on the target. While this type of training has it's place in firearms training, it does not give the officers the training to make quick shoot-don't shoot decision nor does it present a life like atmosphere to the shooter.

After discussing the problems that we have experienced in our local firearms training, it was decided to do something new and more interesting to the students and shooters.

Among the problems we have experienced, was keeping the officers interested enough in shooting so that they would look forward to each qualification.

After some discussion with members of local police, sheriff, highway patrol, border patrol and game wardens, it was decided that we could develop a shoot-don't shoot program similar to the ones we have seen or used in previous training. We took ideas from Motorola Training Films and since some of the officers had knowledge of the computer programmed shoot don't shoot courses, writer along with members of local police department developed a slide show program with shoot-don't scenarios combined with sound track. While it lacks the realism of the computer programmed courses, it is better then the films in that it allows the students to decide whether or not to fire. It enables the instructor to back the slide up to see if the student's shot was an effective one. The course has many of the same advantages of the computer program, however, this course is set up for little expense at all. This course gives the student the ability to get out of his chair in the classroom and onto the range where he will get first hand experience in making the decisions in shoot-don't shoot situations.

During this course we will be advocating instinctive shooting. The speed with which the student must make the decisions to shoot or not to shoot will preclude using the proper grip, sight picture, and trigger squeeze that has been drilled into us since we first started taking firearms training.

What is being stressed in the course is the rapid decision making, drawing, target acquisition, and delivery of accurate fire on the target.

We have all heard during training or read in a variety of manuals that the elapsed time of a fire fight involving police averages 2.5 seconds from start to finish. The range varies from 3 to 21 feet on the average. Given these time elements, it is foolish to believe that the average officer can draw his weapon, check his grip, attain proper sight picture, and maintain a steady trigger squeeze, deliver accurate fire and still live through a fire fight.

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

I. Instructional Aids for this training:

- A. Podium
- B. Chalkboard
- C. Chalk
- D. Slide Projector (with extra bulb)
- E. Cassette player with good quality speakers
 - 1. Best is a "Walkman" type player with at least two jack holes on top)
 - 2. One set of ear muffs with walkman earphones placed inside the muffs from outside. (One for shooter, one for projector operator)
 - 3. At least 20 feet of earphone cord for shooter and at least five feet for projector operator.
- F. Large White cardboard target back(Carton for a windshield and folded out is about the right size.
- G. White paint of non-glare type
- H. White target pasters
- I. Portable barricades to use to simulate cover
- J. Appropriate clothing
- K. Eye protection
- L. Duty weapon and belt

II. Student material and equipment needed:

- A. Appropriate clothing
- B. Ear and eye protection
- C. Duty weapon and belt
- E. Approximately 25 rounds of duty ammunition

III. Method of Instruction:

- A. Lecture
- B. Student participation

IV. Student Uniform

- A. Regulation uniform if public officer
- B. Clothing should be heavy enough to ward off any lead that could bounce back.

V. Instructors Reference

- A. Source documents from F.B.I.
- B. Information received from training section and/or instructor's school
- C. Instructors research and from interviewing other officers

VI. Need for this type of shooting training.

- A. To provide officers with training that is realistic and that portrays these situations as that which can occur on the street or the train yards.
- B. To provide the students with the opportunity to make shooting decisions on like like targets and actually do the shooting.
- C. Training will instill in the students a desire to practice instinctive shooting on their own and to develop skills that they are comfortable with.
- D. Enables the student to get experience, training and practice under low light conditions.
- E. Allows the student to react in any way he feels is necessary to achieve a goal to survive the situation on the screen and any situation he may be presented in real life.

VII. Objective of this course:

- A. Student will be exposed to situations that require him/her to make quick decisions and will require them to decide correctly whether to shoot or don't shoot.
- B. He/she will understand the importance of being able to make rapid decisions and be able to deliver accurate fire when necessary.
- C. Student will be made to understand the importance of life saving skill in instinctive shooting.

VIII. Motivation:

- A. In the use of deadly force there is no better motivation then the fact that if you lose, you will be either wounded or killed.
- B. The student must also be motivated with the belief that just because he has shots fired at him/her, has been wounded or injured, he must always return fire. Many officers have saved their own lives by returning fire after they have been wounded. Just because an officer has been hit, it does not mean he is automatically dead.
- C. The student must be drilled over and over with this thought and motivated with the ability to think living at all times.
- D. The student must be made to realize that this is not a one time training that will stay with him. He must be motivated into realizing officer survival skills must be thought about and practiced on a regular basis.

IX. Instinctive Shooting:

- A. Targets are usually close and time is of the essence, careful sighting and slow trigger pull could be dangerous.
- B. Shoot by instinct, point the gun like a finger and shoot.
- C. John Wilkes Booth and Jack Ruby both used this position and method.
- D. Instinctive shooting (Quick Kill) was developed by the military and refined by law enforcement as a goal for getting off fast, accurate, shots without taking the time to line up a sight picture.
- E. It takes a half second for a suspect to fire a gun that's already aimed, the best shots take twice that long to draw, aim and fire.
- F. Don't take the time to bring your weapon up to eye level and try to close one eye. Make the weapon an extension of your arms and fingers.
- G. With instinctive shooting, the primary vision is always on the suspect and not on the weapons sights.
- H. You need to practice this technique so that you actually begin to sight over the top of the weapon at the suspect.
- I. Keep arms straight out, wrists and elbows locked and torso bent slightly forward. Arms will absorb the recoil and prevent pulling off target. This position will enable the officer to pivot to other positions from waist height if more than one attacker is present.
- J. Drop lower as in all likelihood, the suspects initial rounds will miss you as most rounds will be on same as the original plane.
- K. With multiple suspects, return fire to the one with the most dangerous weapon first.

X. Officer Survival:

- A. In most officer involved shootings that occur, there is usually some latitude for anticipating danger and for taking precautions against it.
- B. 80% of shootings occur in dim-light situations.
- C. 90% of officers are killed at 21' or less.
- D. Officers cannot afford "Lag Time" and first shot he fires must be on target.
 - 1. Do something (Don't freeze).
 - 2. Position body immediately on different plane than suspect.
 - 3. Seek immediate cover
 - 4. Attempt to back out of the situation if possible (Don't assume a John Wayne attitude).
 - 5. Attempt to distract the suspect by any means.

E. Surprise:

- A. Once a suspect makes a threatening move, the officers life depends on reaction time.
- B. Combine quick movement with unexpected action
- C. If surprised, the suspect may suffer his own lag time and buy time for the officer
- D. Surprise movements must be made with no hesitation
- E. Think about different situations you could have occur and have a plan of action figured out ahead of time should they occur.
- F. Watch their hands, no-one has ever been shot with a persons eyes.

F. Movement:

- A. Make yourself a harder target by moving
- B. Seek immediate cover if available
- C. Don't be afraid to exit kill zone quickly, (this is not a sign of cowardise)
- D. If you have anything in your hands, throw it at suspect at same time as drawing your weapon
- E. DO SOMETHING-DON'T FREEZE

XI. Factors to consider prior to making your decision to shoot or not to shoot

- A. Suspects ability to do bodily harm
 - 1. Is the suspect armed?
 - 2. If so what type of weapon does he possess.
 - a. Firearm (Pistol, rifle, shotgun)
 - b. Club
 - c. Knife
 - d. Bow and arrow
- B. Is the suspect close enough with the weapon he has to do bodily harm?
 - a. With a rifle, pistol, bow and arrow, how close is too close?
 - b. Club or knife- Is it near enough for suspect to inflict injury?
- C. If the answer to any of the above questions is yes, the potential exists for a shooting situation.
- D. Other factors to consider:
 - a. Suspects actions
 - 1. Aggressive
 - 2. Hostile
 - 3. Intoxicated on liquor or drugs
 - 4. Mental condition

XII. Three items must exist in a shoot-don't shoot situation

A. Ability

1. The suspect must have the means to inflict bodily harm.
2. Suspect must possess a weapon

B. Opportunity:

- A. The suspect must be able to inflict serious bodily harm.

C. Jeopardy:

- A. Suspect must place victim in actual physical danger of serious bodily injury.

XIII. Legal aspects of a shoot-don't shoot situation:

A. Montana Codes that apply to shooting situations.

1. Montana Code Annotated Sec. 45-3-102. Use of deadly force in defense of self or another person.

B. Montana Code Annotated Sec. 45-3-103. Use of deadly force in defense of occupied structure.

C. Montana Code Annotated Sec. 45-3-106. Use of deadly force to prevent escape.

D. Each state to use this program should research his/her own state statutes.

E. Fleeing Felon Laws.

- A. As of just recently, there is no longer a fleeing felon law in any state of the union. The U.S. Supreme Court down as being unconstitutional the Tennessee law on fleeing felons.

B. Montana changed their law in 1974.

XIV. What can be expected by the officer after he is involved in a shooting.

A. From Department Administration.

1. You could be suspended with pay until a complete investigation is completed. Each department or agency will probably have their own rules concerning this.

B. From fellow officers:

1. If the department is a close knit one, most likely the other members will close in around you like a large soft pillow. They will express their support in your decision regarding the incident.

C. From Family:

1. You will probably experience a feeling of confusion. Confusion in that you do not know what is going to happen and cannot tell them what is happening.

2. There will be constant feelings of uncertainty among the members of your family. They won't know how to handle the situation and no matter how often you tell them not to worry, the nagging sense of doom hangs around.

D. From County Attorneys.

1. Following a complete investigation, you will either be cleared or you may be charged criminally in the matter. If you are cleared, the problem may still not be over. Though you are not liable criminally, you could still be charged civilly by the attorneys of the suspect.
- E. If a civil suit has been filed against you, you can expect a long and often times gruelling experience.
1. Sgt. Dramstad of Havre Montana Police was involved in a shooting incident. It took over nine years for the matter to be completely settled.
 2. Dave Moore, officer on Havre Police had a shooting incident and it took ten years for he and his partner to be cleared and have the matter settled.
 3. During those years for officers involved, they were prepared many times for trials only to have the trials postponed again and again.

F. Personal Feelings:

1. From a personal stand point, the officer will probably experience a wide range of feelings.
 - a. Helplessness
 - b. confusion
 - c. Guilt
 - d. Self doubt

XV. Practical exercise on the firing range:

A. Range Rules.

1. Company firearms policy will be adhered to.
2. Every range being used has a set of rules that must be strictly followed by everyone to insure that there will be no injuries.
3. Each range has rules that are peculiar to that individual site.
4. Copies of range rules should be available on request so that shooters can familiarize themselves with them.

B. Safety Equipment:

1. Shooters will wear, while on the range, hearing protection and eye protection.
2. Clothing is optional, but should be adequately heavy enough to soften the impact of a possible fragment ricochet.
3. If an outside department other than B.N. Police, they may choose to wear their duty uniform.

C. Ammunition on this course:

1. If was the feeling of the people contacted concerning this course, that duty ammunition or its equivalent be used. The reasoning behind this decision is that when you are on the street or in our case in the yards, the ammo you carry is not going to be light loads or light wadcutter loads that would be used for target practice.
2. For this course we ask that you shoot what your department has issued you.

XVI. Practical Exercise:

1. When you are called to shoot, here is what you can expect to happen. You will be shown where the instructor wants you for the course. (4 yard line). One in position, you will be given the command to load. When the student is ready, the instructor will start the tape which contains the sound track for the slide series. There will be a short introductory statement at the beginning. Following the opening statement, the first shoot-don't shoot scene is shown on the screen. Each scene consists of from 1 to 4 slides. While the scene is being shown, you will hear recorded voices of the persons depicted on the screen. CAUTION. IN ADDITION TO WHAT YOU SEE ON THE SCREEN BEFORE YOU, YOU MUST LISTEN TO WHAT IS BEING SAID BY THE CHARACTERS ON THE SCREEN. Based on what you see and hear, you must make the decision to shoot or not to shoot. Each slide will appear for approximately 3 seconds. If your decision is to shoot, the tape will be stopped and the slide backed up to see if the round(s) you fired were delivered effectively.
2. Following the last sequence of slides, there will be a slide with a short closing remark by instructor.
3. Following the closing remark, at the option of the individual instructor, the tape will give credits for the characters in the slides.

4. Ammunition

- a. Each shooter will need approximately 25 rounds for each time he shoots the course.

5. Scoring:

- a. Total score possible on this course is 17. That is the number of scenes in this presentation.
- b. Each shooter will be awarded 1 point for each scene he lives through should it be a shooting situation and he effectively hits his target.
- c. If the shooter elects not to shoot on scenes that the suspect does shoot and instead seeks cover, he will be given credit for successfully handling the situation.
- d. one point will be taken away from shooter for each time he just watches the scene and does nothing when he should have or if he fires and hits a occupied building, innocent person or if the situation was not a shooting incident and shooter fires anyway.

XVII. Summary:

- A. During this course we have discussed the importance of being able to react to situations that require us as officers to shoot or don't shoot.
- B. We have seen the importance of listening to radio calls, what is happening and of watching what is happening in order to make a decision on whether or not to use deadly force.
- C. We have seen the necessity to think about instinctive shooting and to practice this frequently.
- D. We have touched on the need for each individual to think about officer survival, even though you may be wounded.

E. Remotivation:

1. We have discussed during this course the importance of quick and correct decision making in regards to use of deadly force.
2. If you ever have to make this decision, with proper thinking and preparation it should be the correct one.
3. If you have not prepared yourself both physically and mentally for this type situation and you make the wrong decision or react wrong, what you have done will have to stand the test of a battery of lawyers second guessing your decision.
4. If you have prepared yourself, the lawyers for the suspect should not have a case against you either criminally or civilly.

XVIII. Examination:

- A. No written examination is required as this is a practical training course performed on the range.
- B. A written test could be prepared from the material in this lesson plan and is optional of each individual instructor.

XIX. Critique of this unit of instruction by students.

- A. Class discussion of topics touched on.
- B. Class discussion of their own feelings on the shoot-don't shoot situations or on their feelings concerning officer survival.
- C. Class critique of the slide program and have them present their own feelings on the matter or suggest other type of scenerios they might have ideas on.

Warneke, W.W.

Warneke, W.W.
Patrolman/Firearms Instructor
Havre Montana

KEY WORDS IN DIALOG FOR CHANGING THE SLIDES IN SHOOT-DON'T SHOOT COURSE.

In opening dialog slide with Special Agent talking on radio in car. change this slide after narator says ITS YOUR DECISION, and after the incident is explained on the tape. short time element on this one.

1st Set: Change 1st slide on TRAIN YOUR GOING OUT ON NEXT

Change 2nd slide on I'M BY SPECIAL AGENT.

2nd set: Change 1st slide on BACK OFF

Change 2nd slide after SOUND OF SHOT GUN BLAST.

3rd Set: Change first slide after THE INSTRUCTION AND SHE STABED ME
HELP ME HELP ME.

4th Set: After instruction, let the dialog run until I'LL SLICE THIS WITCH.

5th Set: change after OFFICES in direction slide-

Change first slide after I HAVE TO SEE SOME IDENTIFICATION.

6th set: After instruction let dialog run until I'M GOING TO CUT YOU UP.

7th Set: After instruction change first slide HE'S GOT A GUN I'M GETTING OUT OF HA

8th Set: After instruction change first slide at I'M GOING TO WASTE YOU BULL

9th Set: After instruction, change first slide at OK MAN
change second slide at OK.

10 Set: After instruction change first slide at I WANT TO SEE YOUR HAND.

11 Set: After instruction change first slide at COME DOWN FROM THERE
CHANGE SECOND SLIDE AT-ANYBODY IN THERE WITH YOU.
Change third slide at I WANT TO SEE
Change fourth slide at OK MAN IT'S COOL.

12th Set: After instruction change first slide WHO'S THAT BEHIND YOU.
change second slide I'LL SHOW YOU NUTS

13th Set: After instruction change first slide at YEH, OK

14th Set: After instruction and dialog change clear slide at COME UP AND GET ME.

15th Set: After instruction change slide at IDENTIFICATION

16th Set: After instruction and first slide change 1st slide at SEE THIS

17th Set: After instruction and first slide, change 1st slide at HI THERE
change 2nd slide at I'M THE BY POLICE.

Keep in mind each slide is shown for three seconds which is a lot of time in most of these cases. Other instructors may want to view the program and change the slides at different points or words. This is just where I felt they worked best for our class. Bear in mind after the last set of slides are shown, the tape will keep running for a slide of No Trespassing sign and closing statement and then there is a slide with the credits on the tape. These are of course optional.



MISSOULA

"TO PROTECT AND TO SERVE"

CITY POLICE DEPARTMENT

201 W. SPRUCE • MISSOULA, MT 59802 4297 • (406) 721-4700



January 12, 1987

Honorable Bob Bachini
Montana State Representative
Capitol Station
Helena, Montana 59620

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar 27

BILL NO. HB 1070

Re: Railroad Security Personnel

Representative Bachini:

This letter is to advise you that I wholeheartedly support legislation covering Class I railroads, granting railroad police in Montana "Peace Officer" status so that when on duty they have "the power and authority conferred by law on peace officers but exercise such power only in the protection of the property belonging to or under the control of the corporation at whose instance he is appointed and in preventing, and making arrest for, violations of law upon or in connection with such property. "

I thank you for allowing me this input.

Sincerely,

M. D. Hamilton
Chief of Police

ROBERT A. JENSEN
SHERIFF
Phone 485-3445

SHERIFF'S OFFICE
McCone County, Montana
Phone 485-3405
CIRCLE, MONTANA 59215

JACK LINESAND
UNDER SHERIFF
Phone 485-2177

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

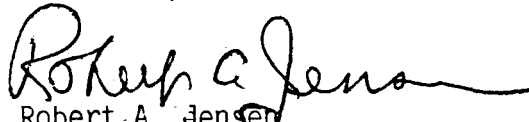
January 13, 1987

State Representative Dashini
House District 14
Havre, MT 59501

Representative Dashini:

I was asked to write a letter in support of Legislation to have the Railroad Detective's included in the realm of Peace Officers so they could be certified at the Academy and Post Council. This would make them available to be deputized in emergency situations to help with enforcement problems. In small rural departments this would be valuable in many instances.

Thank You,


Robert A. Jensen
McCone County Sheriff

RAJ/djs

DEPARTMENT of POLICE
CITY of GLENDIVE
STATE of MONTANA

P.O. Box 1372
59330



12 January 1987

GLEN "ED" WILLIAMSON
ASSISTANT CHIEF

BUS: (406) 365-2364
RES: (406) 365-2994

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

LARRY D. MARQUART
CHIEF of POLICE

BUS: (406) 365-2364
RES: (406) 365-3779

Mr. Bob Bachini
Representative of District 14
409 19th Street
Havre, Montana 59501

Mr. Bachini:

I have been contacted by Richard Madigan, Special Agent for Burlington Northern Railroad and he advises that you are sponsoring a bill granting the Special Agents full power and status of a police officer.

With what information was made available to me at the time of our discussion I would support such a bill granting them police powers to make an arrest, serve search warrants, arrest for alcohol and drug violations when they are done in conjunction of a legitimate Railroad investigation.

I would also have no objections to them attending the Montana Law Enforcement Academy at Bozeman or wherever they may move the Academy to if they would attend at railroad expense.

I feel that they are an important ally in the suppression of crime and in the apprehension of criminals and therefore should be granted the powers of arrest and have access to the same training as other peace officers.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Marquart".

Larry D. Marquart
Chief of Police
Glendive, Montana

POLICE DEPARTMENT

414 EAST CALLENDER BOX 897

LIVINGSTON, MONTANA

59047

(406) 222-2050

CHIEF OF POLICE
GEORGE A. BRYCE

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

FILE NO. HB 67C

January 9, 1987

Mr. Bob Bachini
House of Representatives
House District #14
% Capital Building
Helena, Montana 59620

Dear Mr. Bachini:

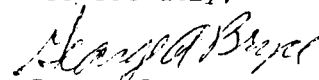
I have been requested by the Burlington Northern Railroad Security Officers to support legislation making them Peace Officers for the State of Montana.

In the past the BN Security Officers have been an assist to Law Enforcement in our community. They have exhibited professionalism conducting their responsibilities and we have a good working relationship with them.

Any legislation giving them Montana Peace Officers status must require them to be certified by the Montana Police Officer's Standards and Training (P.O.S.T.).

Thank you for your time in this matter.

Respectfully,



George A. Bryce
Chief of Police



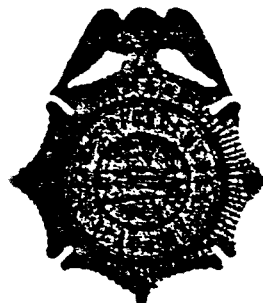
MAYNARD L. BRAZEAL

Director

316-662-3378

**THE UNIVERSITY OF KANSAS
KANSAS LAW ENFORCEMENT TRAINING CENTER**

P.O. Box 647
Hutchinson, Kansas 67504-0647



February 3, 1984

Richard D. Kessler
Police and Special Services
Burlington Northern Railroad
1266 Southwest Boulevard
Kansas City, Kansas 66103

SENATE JUDICIARY 3A
EXHIBIT NO. Mar. 27
DATE Mar. 27
BILL NO. HB 670

Dear Rich:

In regard to our conversation today, I am enclosing the Guidelines for the Mandated 40 Hour In-Service or Education Program which should aid you in determining the type of course material that will be accepted under K.S.A. 74-5607(b).

We have reviewed your Training Program Syllabus and have found it as meeting the standards as proscribed in the above mentioned guidelines.

Sincerely,

Maynard L. Brazeal
Director of Police Training

John G. LaFond
Central Registry

University of Kansas
Kansas Law Enforcement Training Center

Guidelines for the Mandated 40 Hour
In-Service or Education Program

Beginning July 1, 1983 every full-time law enforcement officer shall complete 40 hours of law enforcement education or training in related subjects. Those officers included in K.S.A. 74-5604a(b) are:

1. Those who were employed prior to July 1, 1969 and therefore are certified under the seniority clause.
2. Those who have successfully completed a certified basic training course in the State of Kansas prior to July 1, 1983.
3. Those who have been certified by reciprocity with other states.
4. Railroad policemen who were appointed pursuant to K.S.A. 66-524.

Requirements:

1. Specialized courses of instruction, classes, or departmental in-service training which is conducted in whole or in partial satisfaction of the annual forty hour education or training standard, as provided by law, shall:
 - (a) relate directly to a law enforcement topic;
 - (b) be approved in advance by the agency head or the agency head's designee.
2. Documentation of class or course subject title, subject or topic outline, dates and times of attendance, classroom hours, instructors' names, and location held is the responsibility of the agency head.
3. Agency heads shall be responsible for submitting supporting documents which verify the information specified in Requirement 2.
4. The forty hour mandated in-service or continuing education training program requirement extends from July 1 to June 30 each year.
5. Any departmental in-service training program, specialized class or course of instruction may be developed by an individual approved by the agency head.
6. Training completed in other states, law enforcement seminars, workshops, and other classes or courses of education or training which are law enforcement related, if properly documented and approved by the agency head as being job related, required, and/or useful to the department, may be accepted.

7. College or university credits earned during the year in subjects related directly to law enforcement from an accredited college or university may be used to satisfy the advanced officer training requirement with the approval of the agency head. Credits will be counted as 15 hours of training per credit hour earned. Continuing education units (CEU's) awarded during the year may be used to satisfy the advanced officer training requirement with the approval of the agency head. Continuing education units will be counted at the rate of 10 hours of training per CEU. Each agency head or the agency head's designee shall submit such supporting documentation as the associate director or the commission shall require to verify the subject title, dates and times of attendance, instructor's names, and proof of satisfactory completion.
8. With approval of the agency head, police or law enforcement instructors may claim up to 20 course or class instruction hours as credit toward the 40 hour requirement annually.
9. Instructors of specialized courses or classes conducted solely as departmental in-service training must be approved and recognized by the agency head as being qualified to instruct the subject matter.
10. It shall be the responsibility of the agency head to ensure that every full-time police officer or law enforcement officer has the opportunity to receive forty hours of annual in-service training.

The Kansas Law Enforcement Training Center-The University of Kansas will provide assistance in the form of workshops, seminars and courses as we have in the past, subject to budgetary limitations.

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 676

PROCEDURES

1. A department or agency which conducts any specialized course class or other departmental in-service training, may make the training program available to other agencies or departments.
2. The course director or coordinator shall keep a record of all persons attending the training program; however, the course director or coordinator shall not be responsible for submitting the evidence of attendance of personnel from other agencies or departments to the Central Registry, K.L.E.T
3. Individual departments or agencies shall be responsible for submitting evidence of their officers successful completion of the in-service training or continuing education annual requirement. This information shall be forwarded to the Kansas Law Enforcement Training Center for certification by the Associate Director. The individual training records shall contain the following information:
 - (a) Officer's full name;
 - (b) Officer's LETS identification number (to be assigned);
 - (c) Course/class/education subject title and description of course/class content;
 - (d) Date(s) held/attended;
 - (e) Number of hours credited;
 - (f) Location held; and
 - (g) Name of instructor.
4. Every city, county and state agency shall send to the Associate Director certified reports of the completion of such training or education within 10 days. These reports shall contain the information outlined in procedure 3 above.
5. Any agency or department conducting firearms training programs must meet the following requirements:
 - (a) Any individual instructing a firearms training program must be a certified firearms instructor or an individual recognized by the agency head as being qualified to instruct a firearms training program.
 - (b) The qualification course, or in-service firearms training program must be approved by the agency head.
 - (c) A firearms instructor must be present during weapon qualifications.
 - (d) In-service firearms training programs and requalifications shall not exceed 16 hours annually toward the forty-hour annual training requirement of K.S.A. 74-5607(b).

SENATE JUDICIARY

EXHIBIT NO. 31A

DATE March 27

BILL NO. HB 670

6. Travel time shall not be included toward the forty-hour annual training requirement.
7. The Kansas Law Enforcement Training Commission reserves the right to decide those matters pertaining to law enforcement training not covered herein upon the receipt of written request.

SENATE JUDICIARY

EXHIBIT NO. 3A

DATE Mar. 27

BILL NO. HB 670

STATEMENT OF THOMAS C. LAWSON

IN SUPPORT OF HOUSE BILL NO. 670

Mr. Chairman, - - - Members of the Committee:

My name is Tom Lawson. I represent Burlington Northern Railroad as Superintendent of Police, headquartered in Seattle, Washington. I have been with Burlington Northern for 30 years as a police officer. I would like to thank you for allowing me to be here and testify on behalf of our department for the passage of House Bill 670.

HB 670 will benefit both local law enforcement and railroad police through mutual aid and cooperation; investigations, apprehensions, and arrests; and with the sharing of information.

At the present time, railroad police officers enjoy a limited, but vital, relationship with local law enforcement agencies in Montana. We assist in some investigations and arrests, and in some cases, we have provided needed manpower when asked. Upon successful passage of HB 670, our officers will be in a better position, legally, to provide more extensive assistance to the requesting agency, and at the same time resolve any question of liability. We stand ready, willing, and able to provide this assistance when requested.

Employment standards are high. We insist on employing and retaining only qualified people with high moral standards. As a proponent of education and training, our department insures that those standards are maintained. For example, our 19 officers currently in Montana average 455 hours of training. We adhere to strict training standards as evidenced by our "Training Catalog". As an example of the quality of instruction offered by our training staff, we sponsored and conducted a 16 hour Regional School on handgun retention in Havre, Montana in May of 1985 (Regional Training Program #521 - Weapons Retention). The Montana Law Enforcement Academy recognized and accepted the course and our own railroad police instructors and granted 16 credit hours upon successful completion. Letters referencing this training are found as addendums in the supporting documents section of our catalog.

We are aware of the excellent program the Montana Law Enforcement Academy puts on. Some of our railroad police officers are graduates of the basic, intermediate, and advanced schools as well as several of the regional programs. With commissioning, our officers would be eligible to attend, either as a new recruit or take advantage of the advanced courses. We, of course, will pay our own way so there will be some funding realized by the academy. In addition, we would be available to support or assist the training efforts of the academy if called upon to do so.

I can also see the Montana law enforcement community benefiting from this bill through the sharing of information. We cannot presently

SENATE JUDICIARY

EXHIBIT NO. 4

DATE 3-27-87

U. R. 670

request or receive some of the information transmitted between agencies because we do not have peace officer status in Montana. With commissions, our officers will be able to share in the information process, and possibly through this process, provide additional information to law enforcement agencies which could assist them in non-railroad related criminal investigations and arrests. Incidentally, out of 25 states that we operate in, 21 have state statutes granting peace officer status. 3 of the 4 that do not, currently have legislation pending.

In closing, I want to assure all of the committee members that we are not trying to usurp any authority from any state or local agency. We seek only to assist and support those agencies in their endeavors to provide their communities with the best possible law enforcement available.

Again, I would like to thank you for allowing me the opportunity to testify in support of House Bill 670.

Thomas C. Lawson
Regional Superintendent of Police
Burlington Northern Railroad

SENATE JUDICIARY

EXHIBIT NO. 4

DATE 3-27-87

BILL NO. H.B. 670

Proposed amendment to HB 670, third reading copy (blue)

2.X. Page 2, line 23.

- Following: " officer. "

Insert: " The class I railroad corporation employing a special peace officer shall hold the state, ^{its subdivisions,} and ~~these~~ officers and employees ^{thereof}, harmless for any liability arising out of any action of a special peace officer or his certification by the state. "

1. Page 2, line 15.

Following: " duty "

Insert: " and acting with the knowledge ^{optional} [and consent] of local law enforcement authorities "

SENATE JUDICIARY

EXHIBIT NO. 6

DATE March 27, 1987

BILL NO. HB 5610

May 12, 1987

Montana State Senate

Honorable Senate Members,

As a District Probation and Parole Officer assigned to the Missoula office I provide the Honorable members of the Senate with the following information regarding HB 610. I speak from over fourteen years experience as a probation officer in both the states of Montana and California.

Though the primary function of my position is to facilitate in the rehabilitation of felony offenders, this task involves many different elements, some of which involve potentially dangerous situations which might warrant the need to be armed. While enforcing the orders of the District Court or conditions imposed by the Parole Board it is sometimes necessary to conduct searches, issue warrants, and take into custody felony offenders. On occasions these persons are known to have histories of violence, to be in possession of weapons, or be under the influence of drugs or alcohol, which renders their behavior unpredictable at best.

It is not my intention to request blanket approval to carry

a firearm on a daily basis, but only with supervisory approval in those situations where a high potential for danger exists. The facts of life for the field officers are that though these situations are rare; they do exist, and we should have the right to adequately protect ourselves and provide for our own safety.

Very truly,

Samuel Lemaich

March 5, 1987

Gentlemen:

I would like the opportunity to introduce myself and express my support for HB 610.

My name is Jerry Devich and I have been a Probation/Parole Officer in Flathead County, Montana for the past eight years.

Since obtaining this position in 1979 I have seen my caseload almost double. I have also seen a marked change in the attitude of the people on supervision.

As a part of my job, I am required to arrest people on my caseload for parole/probation violations. More often than not, these arrests take place at the individuals residence or in public places. Fortunately so far, myself, other individuals assisting me in making the arrest and the person being arrested have not been physically harmed. But occasionally, either during the arrest procedure or shortly thereafter, threats on my life and towards my family have been made.

For the most part, the local law enforcement agencies have been very helpful in assisting me during an arrest; but there have been occasions when the time element or the situation does not allow for the assistance of law enforcement personnel and the arrest is made by myself along with the assistance of my partner.

It may, or may not, surprise you to know that there have been several threats made against my life since assuming my present position. But it should shock you to know that our present administration in Helena have no idea what being a Parole/Probation Officer entails, and have never made any attempt at getting out of their offices in Helena and spending some time with an Officer to see what reality is really like. In my opinion, our administration thinks that the Officers in the field are social workers. They have no idea of the dangerous situations we have been in - and will be placed in - in the performance of our duties.

Fortunately, there have been no Probation/Parole Officers killed or seriously injured in this state so far. But all you have to do is look at other states, as well as Federal Probation Officers and realize that it is just a matter of time before something happens in Montana.

Our administration always raises the liability issue whenever weapons/training are discussed. However, you must look at this liability issue both ways - where is the liability issue should an Officer be injured or killed and it could have been avoided. This issue must be addressed.

SENATE JUDICIARY

EXHIBIT NO. 69

DATE 3-27-87

BILL NO. H.B. 610

Local law enforcement has been very cooperative with me in the past but they have increasing demands being placed on them. It is becoming more and more difficult to rely on their assistance. Plus, on several occasions, it places an additional burden on them when I am not fully prepared to deal with the situation.

I sincerely hope that you will take a good look at the issue before you and give the Probation/Parole Officers in the field the tools, equipment and training necessary for us to do a good job.

Respectfully submitted,



Jerry Devich

SENATE JUDICIARY

EXHIBIT NO. 6-a

DATE 3-27-87

BILL NO. H.B. 610

March 9, 1987

RE: Firearms Policy

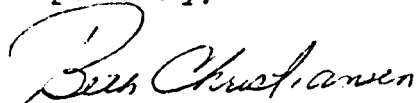
To Whom It May Concern:

I have been with the Adult Probation and Parole Office in Billings approximately three years. Caseloads range from 90 to 100 people either on probation from District Court, or released from prison on parole.

Over the last three years I have been called by citizens or local law enforcement to assist in potentially dangerous situations. Many times it is unknown what condition the client is in and if they have access to weapons. Although law enforcement is usually available to assist, there have been emergencies where circumstances make it necessary to intervene prior to the arrival of assistance.

I feel it is necessary to be prepared for these situations in our line of work. Due to the fact we usually work with another officer, I do not feel it should be mandatory for all parole officers to carry firearms. However, I believe those qualified and trained properly should be allowed to carry firearms in potentially dangerous situations.

Respectfully,



Beth Christiansen, District
Probation/Parole Officer II
Billings, MT

SENATE JUDICIARY

EXHIBIT NO. 6 B.

DATE 3-27-87

BILL NO. H.B. 610

12 March 1987

TO: MEMBERS OF THE LEGISLATURE

I have been an Adult Probation and Parole Officer for more than 11 years. During that time, I have been threatened on numerous occasions. Some of the threats were mere angry words, others have been very real and some remain as potential problems. Every Probation/Parole Officer has had the same experiences.

Our administration would have you believe that we are supposed to be "counselors". In many cases, we do perform the function of counselors when time and caseload permit. As you are aware, the number of individuals in Montana State Prison has been rising steadily. The Courts and the public recognize that more individuals need to be in prison for the safety of the community. At some point, however, most of these individuals will be released and it then becomes our responsibility to supervise them and also to protect the community. Some of these individuals will respond well to supervision. Others, however, will return to their criminal lifestyle. When we compound this with alcohol/drug usage, it is not surprising that we find ourselves increasingly being placed in situations that are potentially dangerous to our own safety. Common sense would dictate that when we hold the power of arrest and power to write a report of violation that these clients will not perceive us as "counselors" but as "cops".

I have no desire to become a cop or to carry a weapon at all times. The bill before you does not set the scene for "badge heavy" officers with two six guns strapped to their hip. There are several safeguards built into this bill to prevent that from happening. Over the years there have been a few occasions when it was utter stupidity for me not to be armed.

We are required by our jobs to exercise a large amount of discretion and judgement in the decisions we make. The Courts, the Parole Board, and the people in our communities entrust us to make responsible decisions. It is beyond me that our own administration can then believe that when it comes to the issue of our personal protection that we are incapable of making good decisions. It is our lives that are in the balance.

I would strongly recommend passage of this bill.

Respectfully,

Sally L. McRae
Sally L. McRae
Probation & Parole Officer III
Hamilton, Mt.

SENATE JUDICIARY

EXHIBIT NO. 6 - C

DATE 3-27-87

BILL NO. 4.13

March 9, 1987

RE: Firearms Policy

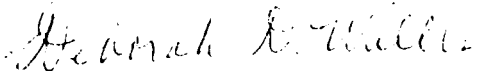
To Whom It May Concern:

I have been a Probation/Parole Officer for the State of Montana, Billings District Office for the past 3 1/2 years and before that the Regional Secretary in the Billings Office for 3 years.

As a Probation/Parole Officer, not all of our time is spent in the office doing paperwork. As much time as we can spare or when a situation arises, home visits are a necessary thing. Not only to be visible to our clients, but to verify addresses, employment, etc. A home visit may sound like a very harmless action, but some clients do not see it as that. They may see us as an intrusion on their privacy or even as spying on them. When we approach a client's home, what is behind the door is unknown. In my experience, if I know there is going to be a problem or even have a strong doubt about the person I am visiting, I may call for a back-up from our local Police Department or Sheriff's Office. In a situation with doubt, a home visit is never made without another Probation/Parole Officer along.

I am not asking to carry a firearm on my person at all times, but to be able to have access to one if the need arises and be backed up by the department I work for. There should be limits set on whom has access to firearms in each individual office, made by the Regional Supervisor, who knows how each Probation/Parole Officer reacts in a given situation. I advocate the use of firearms by Probation/Parole Officers for the State of Montana, within limits and with appropriate policies.

Respectfully submitted,



Deborah D. Willis, District
Probation/Parole Officer II
Billings District Office

SENATE JUDICIARY

EXHIBIT NO. 6-d

DATE 3-27-87

BILL NO. H.B. 610

March 9, 1987

TO WHO IT MAY CONCERN:

I have been employed as a Probation/Parole Officer for approximately 15 years. In this position, I am not only required to counsel individuals but also to have contact with them in the field.

One must keep in mind that the majority of the individuals we supervise are all convicted felons and that many are currently being supervised for violent offenses.

Although we do gain a certain amount of trust from these individuals, they still see us as an authority figure, that can cause them to be arrested. Because of this, making a simple house call can turn into an explosive situation. If the individuals perceive that they might be arrested or feels that they may have been caught doing something wrong, it can cause them to react in a violent manner.

Many times, officers have only moments to respond in order to protect themselves or another officer and in many cases there is no time in which to contact law enforcement officers for assistance.

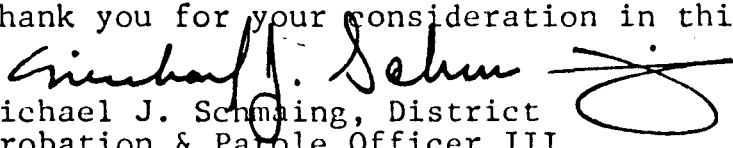
Also many officers travel an outline rural district, where assistance from law enforcement authorities is usually quite some distance away. The officers has to rely on their own ability to handle any of the problems that arise.

A policy that would allow the Region Supervisor to designed trained personnel to carry firearms, when deemed necessary for the protection of the officer in the performance of their duties is needed.

Such a policy should have the following conditions;

1. Those who carry weapons be trained in the use of firearms and deadly force as per P.O.S.T.
2. Firearms will be carried in a concealed manner.
3. Firearms and firearms training will not be required as a job duty for those who don't want firearms.
4. A process should be established to review all instances where weapon were used .

Thank you for your consideration in this matter.


Michael J. Schmaing, District
Probation & Parole Officer III
Billings, Montana

SENATE JUDICIARY

EXHIBIT NO. 62

DATE 3-27-87

BILL NO. H.B 610

March 5, 1987

re:Firearms Policy for Probation and Parole Officers

I have been employed as a Parole Officer for 5 1/2 years. This job involves client counseling and enforcement of court orders and parole conditions. To do this effectively requires home visits;, search of person, place, and automobile of people under supervision; and arrest of those who have violated conditions of release.

This requires assistance from law enforcement. Response time for police or sheriff may not be fast enough for emergency situations. Routine situations have been known to degenerate into emergency situations without the officer being able to call for assistance.

A policy that enables the Regional Supervisor to designate properly trained individuals to carry firearms under specific circumstances would be the most feasible.

The following conditions should also be mentioned in this policy;

1. Those who carry weapons be properly trained in the use of firearms and deadly force as per P.O.S.T. standards.
2. Firearms will be carried in a concealed manner
3. Firearms and firearms training will not be required as a job duty for those who do not want firearms.
4. A process be established to review all instances where weapons were used.

Thank you for your consideration in this matter.

Bruce D. Watters



SENATE JUDICIARY

EXHIBIT NO. 6-F

DATE 3-27-87

BILL NO. H.B. 610

March 5, 1987

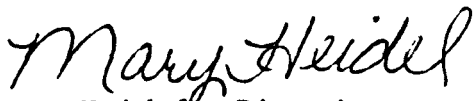
TO WHOM IT MAY CONCERN:

I have been a probation/parole officer for the State of Montana since 1978. My role in that position has been not only counseling in the office or court work, but also includes regular home visits of people under supervision. On numerous occasions it has been necessary to arrest a parolee or probationer outside the office setting. The response time for police or sheriff backup may be costly. Situations may arise that preclude time or the ability to call for assistance. Further, it is not feasible to have a police escort for routine visits and/or investigations.

One solution to protect probation/parole officers in the performance of their duties, would be to allow certain qualified officers to carry firearms. Several probation/parole officers have law enforcement backgrounds and others are active in various military reserve groups. With minimum training, those individuals, as designated by the Regional Supervisors of probation/parole officers, could be called upon by all probation/parole officers for assistance during arrests, violation investigations, and other field work.

Thank you for your consideration in this matter.

Respectfully submitted,



Mary Heidel, District
Probation/Parole Officer III
Billings, Montana

SENATE JUDICIARY

EXHIBIT NO. 6-G

DATE 3-27-87

BILL NO. H.B. 610

March 4, 1987

RE: Firearm policy for Probation/Parole Officers

My name is Randy R. Gowen. I have been a Probation/Parole Officer for approximately seven years. My employment has been in Kalispell, Helena and now in Billings.

This writer's opinion is that a viable firearm policy needs to be adopted for all Adult Probation/Parole Officers who are employed by the State of Montana. This would ensure the safety of the officers, coupled with protecting the communities they are employed in. It should also be noted that law enforcement personnel from the various agencies in Montana have strongly supported a firearm policy for Montana Probation/Parole Officers.

Citizens of the State of Montana should know the parole officer in their cities and counties deal with very dangerous and sometimes unpredictable clients. Home visits are required and many times the probation officer will run into very serious and confrontive problems. These dilemmas will not go away and have to be dealt with right away. It is impossible to have a police officer with you on every home visit and bar surveillance.

If a new policy were adopted by the state, the department could provide training through the law enforcement academy, the state prison or with the local Sheriff's Office. All three could provide the necessary training needed for a firearms policy.

It's a nice thought to believe the Probation/Parole Officer's main and total function is rehabilitative and treatment oriented, but anyone who has worked in the field knows this concept is far from true. The Probation/Parole Officer many times during the day has to accept the role of a police officer. Many clients do not respond to the rehabilitation and treatment. The Probation/Parole Officer's first responsibility to his community is to protect society from those who do not respond to the system.

Randy R. Gowen

Randy R. Gowen, District
Probation/Parole Officer II
Billings, MT

SENATE JUDICIARY
EXHIBIT NO. 6-14
DATE 3-27-87
BILL NO. H.B. 611

MEMORANDUM

March 12, 1987

TO WHOM IT MAY CONCERN:

I wish to express my support of HB610, with the following guidelines suggested. All officers must first have the proper training in the use of a firearm and secondly the insurance issue must be satisfied. Once this is accomplished the authority should lie with the Region Supervisor as that position best knows their community, officers, clients and circumstances and is in the best position to make the decision to grant or deny the request.

I have been in the Parole and Probation system for approximately twenty years and I know the type of people these officers are supervising. These are people that for the most part all other support and rehabilitative systems have failed and now they are asking these officers to control them by means of their arrest and search authority. This requires the officers to go to their homes and conduct interviews, searches and make arrests, usually without a "backup".

I am pleasantly surprised that during my twenty year career we have not had an officer killed or seriously injured. Part of the reason is perhaps because our clients as well as most law enforcement assumed that the parole officers were authorized to carry firearms. When I entered this profession in 1967, we were authorized to carry firearms and in fact were issued .38's.

In summary, I can personally attest to having been threatened more times than I care to remember and I have had guns pulled on me by clients that I was supervising.

Respectfully submitted,



Mr. Ralph Fisher
Supervisor, Region One
Missoula, Montana

RF:jh

SENATE JUDICIARY

EXHIBIT NO. 6 - I -

DATE 3-27-87

BILL NO. H.B. 610

HB 610 >

3/5/87

Mike McCarty

I have been a Prob/Pasale
officer for 15 years in Great Falls,
Vt and travel to Lewiston every other
week. I have personally been
threatened with my life on numerous
occasions. Most of these threats I
do not take seriously, but I do know
that approx 6 years ago Mr Pat
Ryan was an officer in this office
and he was shot at one night
while in his home. The gun misfired
but the potential for this happening again
is always just around the corner ^{at night} ^{in my custody}

Often we must go out and make
an arrest and when we are alone this
puts not only us in danger of our life
but also others. Even law enforcement
tend to ask us to stay back because
of the potential danger of a parolee or
probationer having a gun. I do not know
the percentage of our clients that are
carrying guns but I would guess we
receive calls at least once a month
that somebody is involved in the use
or sale of a firearm. I personally would
never carry a firearm except in a
special situation where I felt my life
was threatened.

Rich. H. H. H.

SENATE JUDICIARY

EXHIBIT NO. 6. J.

DATE 3-27-87

TO: Mike McCarty
RE: Bill NO: 577; 610

Mike,

While serving as a Probation and Parole Officer for the State of Montana, I have had numerous confrontations with my cliental being in possession of Deadly Weapons such as Knives, Throwing Stars, and Fire Arms. These individuals have no fear whatsoever of the consequences.

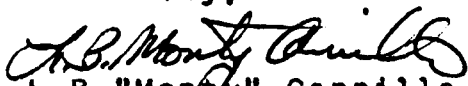
Officers in the Helena area have in the past have been accosted with a weapon, or, threatened with bodily injury should ~~we~~ pursue our duty in reporting their criminal activity.

I personally feel that we as Probation and Parole Officers are being more and more exposed to Cliental that have nothing to loose, therefore will commit more crimes with the use of a deadly weapon. Just recently (2/27/87), Broadwater County Sheriff, Agents from the Forest Service, and Fish and Game reported to me that one of my clients was stopped by them. In the clients possession was a 30 caliber Carbine. The clients excuse was "I was afraid that I would be attacked by a Bear while I was hiking in the Elk Horn Mountains."

I believe that we should be required to be trained in the use of Fire Arms, and be allowed to carry Fire Arms as part of our job requirements.

We are providing you with some incident reports where our cliental used or was in possession of a weapon in the commission of a crime.

Sincerely,


L.B. "Monty" Carrillo

SENATE JUDICIARY

EXHIBIT NO. 6 K

DATE 3-27-87

BILL NO. H.B. 610

Gentlemen:

I HAVE BEEN ASKED TO ADDRESS THE FIREARMS ISSUE. IT IS MY PRIVILEGE TO PRESENT TO YOU THE FOLLOWING INFORMATION AND CONCLUSIONS.

THERE DOES CURRENTLY EXIST A PHILOSOPHICAL DIFFERENCE OF OPINION BETWEEN OUR PRESENT ADMINISTRATION (THE DEPT OF INST.) AND ~~many~~ ^{many} ON THE INDIVIDUALS CHARGED WITH CARRYING OUT ITS DIRECTIVES. THE POSITION TAKEN BY THE ADMINISTRATION, ALTHOUGH WELL INTENDED, DOES NOT HOLD UP UNDER CLOSE EXAMINATION.

IN SHORT, THE ADMINISTRATION CONTENDS THAT WE AS PROBATION AND PAROLE OFFICERS ~~we~~ ARE FIRST AND FOREMOST, COUNSELORS, AND THAT OUR JOB DESCRIPTION PRECLUDES THE CARRYING OF FIREARMS.

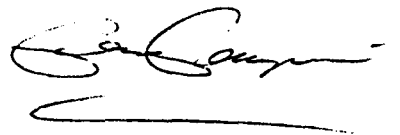
IT WOULD BE IDEALISTIC TO BELIEVE THAT WE ARE COUNSELORS BEFORE WE ARE ANYTHING ELSE. UNFORTUNATELY THAT ~~is the primary duty of the~~ ^{is not} BUT ADDRESS THE REALITY OF THE JOB OR OF THE SYSTEM ITSELF. MY CASELOAD AVERAGE AVERAGES ONE HUNDRED CHANTS AND IT IS CONSTANTLY GOING UP. WE HAVE LITTLE TIME FOR 'COUNSELING'. OUR PRIMARY FUNCTION IS THREE FOLD:

PREPARATION OF PRE-SENTENCE INVESTIGATIONS - ENFORCEMENT OF COURT JUDGMENTS - AND PROTECTION OF THE COMMUNITY. WE DEAL WITH MORE CONVICTED FELONS ON A DAILY BASIS THAN YOUR AVERAGE POLICE OFFICER SEES ~~in~~ IN A MONTHS TIME. MOST OF THE PEOPLE ON OUR CASELOADS ARE RESPONSIBLE FOR ~~many~~ VIOLENT CRIMES. TO THE EXTENTIVE USE OF

FIND OURSELVES IN SITUATIONS WHICH HAVE THE POTENTIAL FOR GRAVE CONSEQUENCES. WE ARE SPENDING TIME IN THE FIELD. AND IT IS SIMPLY NOT PRACTICAL TO EXPECT A TO HAVE A POLICE OFFICER AT OUR SIDE AT ALL TIMES. HOME VISITS ARE ESSENTIAL TO EFFECTIVENESS. THESE, AS WELL AS PROBATION & PAROLE VIOLATION INVESTIGATIONS CAN BE ~~BE~~ POTENTIALLY DANGEROUS PROCEDURES. THE RISKS INVOLVED CAN WELL BE IMAGINED.

CONTRARY TO AN OFTEN EXPLOITED MYTH, OUR CLIENTS DO NOT CONSIDER US TO BE THEIR FRIENDS. THE NATURE OF THE POSITION FORBIDS THAT TYPE OF RELATIONSHIP AND IN FACT, ~~CAUSES AND~~ OFTEN PLACES US IN AN ADVERSARY POSITION.

PROBATION AND PAROLE OFFICERS ACROSS THE STATE OF MONTANA ARE CHARGED WITH THE FORMIDABLE AND THANKLESS TASK OF PROTECTING YOU, YOUR FAMILIES AND YOUR PROPERTY FROM INDIVIDUALS WHO OFTEN HAVE NO INTENTION OF DISCONTINUING THEIR CRIMINAL BEHAVIOR.



SENATE JUDICIARY

EXHIBIT NO. 6-L

DATE 3-27-87

BILL NO. H.R. 610

Sheila A. Rebich
Box 703
Miles City, MT 59301

March 9, 1987

Mike McCarty
Missoula District Office
Probation & Parole
127 E. Main #303
Missoula, MT 59802

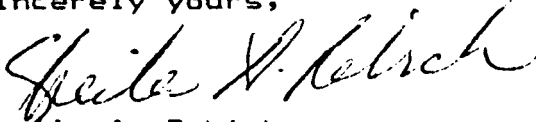
RE: Senate Bill #610

Dear Mike,

This letter is to advise you that I am in support of Senate Bill #610. I feel that Adult Probation and Parole Officers should have the legal right to carry a firearm when the situation warrants such. Of course, I feel that those officers choosing to exercise this right should be properly trained and deemed competent to carry a firearm.

If you need any further information on my opinion, please feel free to contact me. Good luck with your testimony before the Senate.

Sincerely yours,



Sheila A. Rebich
District Probation and Parole Officer
Miles City, MT

SAR/krc

SENATE JUDICIARY

EXHIBIT NO. 6 - M

DATE 3 - 27 - 87

BILL NO. H.B. 610

March 6, 1987

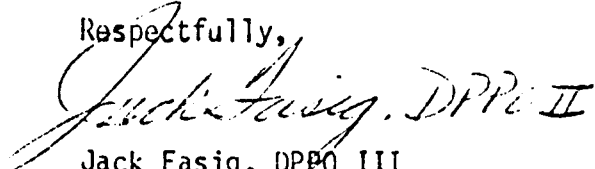
To Whom It May Concern;

Please be advised that I am in favor of Senate Bill 610. As a Probation and Parole Officer for the State of Montana, I am often required to arrest felons who are either on Probation or Parole for violation of Court ordered conditions.

In the past two (2) months, I have had two (2) incidents where the probationer/parolees were carrying concealed weapons.

Approval of Senate Bill 610 would at least allow the Probation/Parole Officers of the State of Montana to defend themselves in the situation warranted.

Respectfully,


Jack Fasig, DPP II
Adult Probation and Parole
104 2nd Avenue, S.W.
Sidney, Montana 59270

SENATE JUDICIARY
EXHIBIT NO. 6-N
DATE 3-27-87
BILL NO. H.B. 610

March 5, 1987

Michael McCarty
137 E. Main Street Suite 203
Missoula, MT 59801

SENATE JUDICIARY

EXHIBIT NO. 6-0

DATE 3-27-87

BILL NO. H. B. 610

Re: House Bill No. 610

I am in support of H. B. #610 which authorizes Probation and Parole Officers, who are properly trained, to carry firearms, in certain situations.

As a field officer for ten (10) years I am aware that there are certain areas in Montana that a Parole Officer must go that may be dangerous and because of the isolation of these remote areas, there may not be local law-enforcement officers. I am also acutely aware that in some areas/cities in Montana, that the Parole Officer may conduct searches of a client person, car or home and this is a dangerous situation, that may require the Parole Officer to carry a firearm.

I believe it is better to train Parole Officers ~~to~~ carry firearms in certain situations and keep law enforcement, and keep everyone

FIREARM POLICY

SENATE JUDICIARY
EXHIBIT NO. 7
DATE March 27, 1980
BILL NO. HB 610

I. INTRODUCTION

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administration sanctions. Violations of law will form a basis for civil and criminal sanctions in a recognized judicial setting.

II. POLICY GUIDELINES

- A. Parole Agents shall not be required to use, or possess any weapon while performing his/her official duties.
- B. Parole Agents shall not carry firearms routinely, but will be allowed the discretion to determine when it is necessary to be armed.
- C. Parole Agents shall not be allowed to be equipped with a firearm unless he/she has met all the requirements prescribed by the Criminal Justice Training and Statistics Division of the office of the Attorney General for the State of North Dakota.
- D. The sidearm that a Parole Agent may be equipped with shall be of the revolver type, with a barrel length no longer than six (6) inches, and a caliber no larger than .357 magnum.
- E. Pursuant to 12-62-02.6 of the NDCC and 10-06-01-11.6 of the articles of the ND Administrative Code the standard ammunition to be carried on duty shall be of the 125 grain jacketed hollow-point type in either .38 caliber or .357 magnum caliber. This ammunition

to be of new commercial manufacturer. Any other ammunition to be carried on duty or to be used for annual recertification must receive written permission from the Chief Parole Officer prior to use.

- F. Parole Agents that have the approval of this Department to be equipped with a firearm shall only discharge ammunition from the firearm under the following circumstances:
1. In defense of their lives or the lives of others;
 2. At a shooting range during practice, certification shoots, or authorized competitive shoots,
 3. As otherwise governed by North Dakota law.
- G. Parole Agents shall carry all firearms in a concealed manner.
- H. Parole Agents shall not use any firearm in a manner designed to frighten, threaten, or intimidate any person.
- I. The Bureau of Criminal Investigation shall make a complete investigation relative to any incident where the use of a firearm by a Parole Agent may have caused the physical injury or death of another, as well as cases where property damage resulted from the use of a firearm, or otherwise required by law.
- J. After any shooting related investigation, the Chief Parole Officer shall determine:
1. That the shooting was justified and the Parole Agent involved should be reinstated, or;
 2. That the shooting was not justified and that the Parole Agent involved should be disciplined or;
 3. That the shooting was not justified and that the Parole Agent involved should be dismissed from employment and/or arrested.

SENATE JUDICIARY
EXHIBIT NO. 7
DATE 3-27-87
BILL NO. HB. 610

1. Page 3, line 10.

Strike: "23%"

Insert: "23.5%"

2. Page 3, line 13.

Strike: "13%"

Insert: "12.5%"

3. Page 3, line 17.

Strike: "1%"

Insert: "0.1%" 46

4. Page 3, line 18.

Strike: "and"

5. Page 3, line 19.

Strike: "17%"

Insert: "16.9%"

6. Page 3, line 20.

Following: "fund"

Strike: "."

Insert: "; and

(g) 1% to the department of social and rehabilitation services special revenue account for the battered spouses and domestic violence grant program."

7. Page 49, line 8.

Following: line 7

Insert: "NEW SECTION. Section 66. Coordination instruction.

(1) If House Bill No. 679, including the section of that bill amending 46-18-235, is not passed and approved, subsection

(4)(g) of 3-10-601, as amended by this bill, is void and

subsection (4) of 3-10-601 shall read as follows:

"(4) The state treasurer shall distribute money received under subsection (3) as follows:

(a) 23% to the state general fund;

(b) 10% to the fish and game account in the state special revenue fund;

(c) 13% to the state highway account in the state special revenue fund;

(d) 36% to the traffic education account in the state special revenue fund;

(e) 1% to the department of livestock account in the state special revenue fund; and

(f) 17% to the crime victims compensation account in the state special revenue fund."

(2) If House Bill No. 28, including the section of that bill amending 61-10-148, is passed and approved, the amendment to 61-10-148 in this bill shall read: "This subsection does not apply to fines and forfeited bonds paid to justices' courts." "

Renumber: subsequent section

C:\LANE\WP\AMDHB740.

Proposed amendments to HB761, third reading copy (blue)

1. Title, line 5.

Following: "SET"

Insert: "IN JUSTICE COURT"

2. Title, line 6.

Following: "TO THE"

Strike: "CLERK OF THE"

3. Title, line 7.

Following: "TO"

Strike: "10 PERCENT"

Insert: "A PERCENTAGE"

4. Page 2, line 4.

Following: "set"

Insert: "in justice court"

5. Page 2, line 5.

Following: "fee"

Insert: "and promissory note"

Strike: "clerk of the"

Following: "court"

Insert: "as provided in subsection (6)."

(6) The senior district court judge and the senior prosecuting attorney in each county may, by written agreement, institute a justice court bail bonding program that allows a defendant to furnish bail by paying a nonrefundable fee to the court"

6. Page 2, line 6.

Strike: "10%"

Insert: "up to 20%"

Following: "a"

Insert: "secured or unsecured"

7. Page 7, line 9.

Strike: "clerk of the court"

Insert: "justice of the peace"

C:\LANE\WP\AMDHB761.

2. Page 2, line 10.
Strike: "10%"

House BILL NO. 761

INTRODUCED BY

Thompson

1 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHEN
 2 IN JUSTICE COURT
 3 BAIL IS SET AT \$1,000 OR LESS, THE DEFENDANT MAY FURNISH
 4 BAIL BY PAYING A FEE TO THE COURT IN AN AMOUNT
 5 OF CASH EQUAL TO ~~10~~ ¹ PERCENTAGE
 6 PROMISSORY NOTE FOR THE TOTAL AMOUNT OF THE REQUIRED BAIL,
 7 SIGNED BY THE DEFENDANT IN FAVOR OF THE COUNTY; PROVIDING
 8 THAT THE COUNTY SHALL USE THE CASH FEE TO FUND THE COUNTY
 9 PUBLIC DEFENDER'S OFFICE OR COURT-APPOINTED COUNSEL SYSTEM;
 10 AND AMENDING SECTION 46-9-401, MCA."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 46-9-401, MCA, is amended to read:
 13 "46-9-401. How bail furnished. Bail may be furnished
 14 by the defendant in any of the following ways:

- 15 (1) by a deposit with the clerk of the court of an
 16 amount equal to the required bail of cash, stocks, or bonds
 17 or any combination thereof approved by the judge;
- 18 (2) by real estate situated in this state with
 19 unencumbered equity not exempt owned by the accused or
 20 sureties worth double the amount of bail;
- 21 (3) by written undertaking executed by the defendant
 22 and by two sufficient sureties; or

1 (4) by a commercial surety bond executed by the
 2 defendant and by a qualified agent for and on behalf of such
 3 surety company; or

in justice court

4 (5) if the bail is set at \$1,000 or less, by paying a
 5 nonrefundable fee to the ~~clerk of the court~~ ^{justice of the peace} in cash in an ~~(6)~~ ⁽⁶⁾ the
 6 amount equal to ~~10~~ ¹ up to 20% ~~of the required bail, together with a~~
 7 promissory note due upon demand of the court for the total

8 amount of the required bail, signed by the defendant in
 9 favor of the county. The ~~note of the court~~ ^{justice of the peace} shall forward
 10 the ~~10~~ cash fee to the county treasurer. The board of
 11 county commissioners shall use the fee to compensate
 12 court-appointed counsel as required by 46-8-201 or to fund
 13 the county public defender's office provided for in
 14 46-8-202. If bail is forfeited, the note shall be declared
 15 due and the proceeds therefrom disposed of as provided by
 16 law. The county may collect on the note in any manner
 17 provided for by law."

-End-

SENATE JUDICIARY

EXHIBIT NO. 9

DATE 3-27-87

BILL NO. H.B. 761

THIRD READING

HB-761

SENATE JUDICIARY

EXHIBIT NO. 10
DATE March 27, 1987
BILL NO. HB 400

PROPOSED AMENDMENTS TO HB 400 BY VALENCIA LANE.

1. Title, lines 9 through 14.

Following: "MONTANA" on line 9

Strike: the remainder of line 9 through "MCA" on line 14

Insert: "REPLACING RULE 24.9.1107, ADMINISTRATIVE RULES OF MONTANA"

2. Page 2, line 19 through page 4, line 8.

Strike: section 1 in its entirety

Insert: "Section 1. Repealer. Rule 24.9.1107, Administrative Rules of Montana, is repealed."

Amend House Bill 400, Third Reading Copy (blue)
Rep. Manuel

1. Title, line 9.

Strike: "PROVIDING THAT"

Insert: "REPEALING THE ADMINISTRATIVE RULE THAT PROHIBITED"

2. Title, lines 11 and 12.

Strike: "MAY" on line 11 through "REFUSE" on line 12.

Insert: "FROM REFUSING"

3. Title, line 14.

Strike: "AMENDING SECTION 49-2-305, MCA"

Insert: "REPEALING RULE 24.9.1107 ADMINISTRATIVE RULES OF
MONTANA"

4. Page 1, line 16.

Insert: "WHEREAS, the Legislature finds that Rule 24.9.1107
Administrative Rules of Montana directly conflicts with the
public policy expressed by the Legislature."

5. Page 1, line 19 through page 4, line 8.

Strike: Section 1 in its entirety

Insert: "Section 1. Repealer. Rule 24.9.1107 Administrative
Rules of Montana, is repealed."

NAME: THOMAS C. LAWSON DATE: 3/27/87

ADDRESS: 16135 255TH S.E. ISSAQUAH, WA

PHONE: 206-392-0411

REPRESENTING WHOM? BURLINGTON NORTHERN R.R.

APPEARING ON WHICH PROPOSAL: NB 670

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date March 27 1987 Bill No. HB 478 Time _____

NAME	YES	NO
Senator Joe Mazurek, Chairman		X
Senator Bruce Crippen, Vice Chairman	X	
*Senator Tom Beck	X	
Senator Al Bishop		X
Senator Chet Blaylock		X
Senator Bob Brown	X	
Senator Jack Galt	X	
Senator Mike Halligan		X
Senator Dick Pinsoneault	X	
Senator Bill Yellowtail		X

Mary T. Huber
Secretary

Chairman

Motion: To pass the bill out.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date March 27 Bill No. HB 567 Time _____

NAME	YES	NO
Senator Joe Mazurek, Chairman		✓
Senator Bruce Crippen, Vice Chairman		✓
*Senator Tom Beck		✓
Senator Al Bishop	✓	
Senator Chet Blaylock	✓	
Senator Bob Brown		✓
Senator Jack Galt		✓
Senator Mike Halligan	✓	
Senator Dick Pinsoneault		✓
Senator Bill Yellowtail	✓	

Mary J. Huber
Secretary

Chairman

Motion: The motion of BE NOT CONCURRED IN -
motion failed

STANDING COMMITTEE REPORT

March 27

87

19.....

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on.....

having had under consideration..... HOUSE BILL No. 146

Third reading copy (blue)

Irrigation ditch employee civil suit immunity.
Speech (Hager)

Respectfully report as follows: That..... HOUSE BILL No. 146

~~XXXXXX~~
DO PASS

BE CONCURRED IN

~~XXXXXXXXXX~~
DO NOT PASS

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 27

19³⁷

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration..... HOUSE BILL No. 286

Third reading copy (blue)
color

Personal injury and property damage liability of irrigation districts.
Spaeth (Lybeck)

Respectfully report as follows: That..... HOUSE BILL No. 286

~~xxxx~~

be amended as follows:

1. Page 1, line 21.

Following: "goes"

Insert: "underground or"

2. Page 3, line 16

Following: "GOES"

Insert: "underground or"

~~XXXXXXXX~~

DO PASS

~~XXXXXXXXXX~~

DO NOT PASS

AND AS AMENDED

BE CONCURRED IN

.....
Senator Mazurek

.....
Chairman.

STANDING COMMITTEE REPORT

SCRHB400

March 27, 1967

MR. PRESIDENT

Judiciary

We, your committee on

House Bill

400

having had under consideration

third

blue

No.

reading copy ()

color

REQUIRE LEGISLATIVE APPROVAL OF HRC RULES GOVERNING HOUSING DISCRIMINATION

Manuel ~~XXXXXXXXXX~~ (Pinsonesault)

Respectfully report as follows: That House Bill No. 400

BE AMENDED AS FOLLOWS:

1. Title, line 3.

Strike: "PROVIDING THAT"

Insert: "REPEALING THE ADMINISTRATIVE RULE THAT PROHIBITED"

2. Title, lines 11 and 12.

Strike: "MAY" on line 11 through "REFUSE" on line 12.

Insert: "FROM REFUSING"

3. Title, line 14.

Strike: "AMENDING SECTION 49-2-305, MCA"

Insert: "REPEALING RULE 24.9.1107 ADMINISTRATIVE RULES OF MONTANA"

4. Page 1, line 16.

Insert: "WHEREAS, the Legislature finds that Rule 24.9.1107 Administrative Rules of Montana directly conflicts with the public policy expressed by the Legislature."

5. Page 2, line 19 through page 4, line 8.

Strike: Section 1 in its entirety

Insert: "Section 1. Repealer. Rule 24.9.1107 administrative Rules of Montana, is repealed."

~~XXXXXXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

AND AS AMENDED ~~XXXXXXXXXX~~
BE CONCURRED IN
NR

Chairman.

Senator Maxurek

STANDING COMMITTEE REPORT

March 27

1937

MR. PRESIDENT

We, your committee on ~~SENATE JUDICIARY~~ **SENATE JUDICIARY**

having had under consideration..... **HOUSE BILL** No. **577**

Third ~~THIRD~~ reading copy (**blue**)
color

**Training requirement for probation officers.
Brown, Dave (Halligan)**

Respectfully report as follows: That..... **HOUSE BILL** No. **577**

~~DO NOT PASS~~

~~DO NOT PASS~~

BE CONCURRED IN

.....
Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 27

19 27

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

having had under consideration..... HOUSE BILL 590 No.....

First reading copy (blue)
color

Extend crime of possession of weapon by prisoner to county and city jail.

~~FILE~~

Strick (Walker)

HOUSE BILL

590

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

~~DO NOT PASS~~

~~DO NOT PASS~~

~~BE CONCURRED IN~~

BE CONCURRED IN

.....Senator Masurek.....

Chairman.

STANDING COMMITTEE REPORT

SCRHB567

.....March 25,..... 1987.....

MR. PRESIDENT

Judiciary

We, your committee on.....

House Bill

567

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

child

blue

reading copy (.....)

color

REDUCTION OF TORT AWARD BY AMOUNT OF COLLATERAL SOURCE PAYMENTS

Ramirez (Mazurek)

Respectfully report as follows: That.....House Bill..... No. 567.....

BE AMENDED AS FOLLOWS:

1. Title, lines 5 through 17.

Following: "PROVIDING"

Strike: remainder of line 5 through "MCA" on line 17

Insert: "FOR THE REDUCTION OF JURY AWARDS BY THE TRIAL COURT FOR AMOUNTS PAID OR PAYABLE FROM COLLATERAL SOURCES"

2. Page 3, line 13 through page 5, line 9.

Strike: sections 2 and 3 in their entirety

Insert: "Section 2. Collateral source reductions in actions arising from bodily injury or death - - subrogation rights. (1) In an action arising from bodily injury or death when the total award against all defendants is in excess of \$100,000 and the plaintiff will be fully compensated for his damages, a plaintiff's recovery must be reduced by any amount paid or payable from a collateral source that does not have a subrogation right.

(2) Before an insurance policy payment is used to reduce an award under subsection (1), the amount the plaintiff paid and is obligated to pay to keep the policy in force must be deducted from the amount of the insurance policy payment.

~~DO PASS~~

~~DO NOT PASS~~

CONTINUED

.....
Chairman.

CONTINUED

SENATE JUDICIARY

HB 567

Page 2

March 27, 1987

(3) The jury shall determine its award without consideration of any collateral sources. After the jury determines its award, reduction of the award must be made by the trial judge at a hearing and upon a separate submission of evidence relevant to the existence and amount of collateral sources. Evidence is admissible at the hearing to show that the plaintiff has been or may be reimbursed from a collateral source that does not have a subrogation right. If the trial judge finds that, at the time of hearing, it is not reasonably determinable whether or in what amount a benefit from such a collateral source will be payable, he shall:

(a) order any person against whom an award was rendered and who claims a deduction under this section to make a deposit into court of the disputed amount, at interest; and

(b) reduce the award by the amount deposited. The amount deposited and any interest thereon are subject to the further order of the court, pursuant to the requirements of this section.

(4) Except for subrogation rights specifically granted by state or federal law, there is no right to subrogation for any amount paid or payable to a plaintiff from a collateral source if an award is reduced by that amount under subsection (1)."

Remember: subsequent section

AND AS AMENDED
BE CONCURRED IN

Senator Mazurek

STANDING COMMITTEE REPORT

March 27 1967

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **HOUSE BILL 598** No.

Third reading copy (**blue**)
color

Resistance not necessary to show lack of consent to sexual offense.
§ Rapp-Svrcek (Crippen)

Respectfully report as follows: That **HOUSE BILL 598** No.

~~DO NOT PASS~~

~~DO NOT PASS~~

BE CONCURRED IN

~~DO NOT PASS~~

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

March 27

19 37

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 670

Third reading copy (blue)
color

**Railroad employee as special peace officer.
Sachini (Iolstad)**

Respectfully report as follows: That HOUSE BILL No. 670

be amended as follows:

be amended as follows:

1. Page 2, line 23.

Following: "officer."

Insert: "The class I railroad corporation employing a special peace officer shall hold the state, its subdivisions, and the officers and employees thereof harmless and indemnify them from any claim or liability, including costs and attorney fees, arising out of any action of a special peace officer or the certification of the special peace officer by the state."

~~DO PASS~~

~~DO NOT PASS~~

AND AS AMENDED

BE CONCURRED IN

Senator Mazurek

Chairman.

STANDING COMMITTEE REPORT

SCRB 740

March 27, 1987

MR. PRESIDENT

Judiciary

We, your committee on

House Bill

740

having had under consideration

third

blue

No.

reading copy (

color

ACCOUNTING FOR AND DISTRIBUTING FINES, ETC. IN JUSTICE COURTS

Cobb (Newman)

Respectfully report as follows: That House Bill No. 740

BE AMENDED AS FOLLOWS:

1. Page 3, line 13.

Strike: "133"

Insert: "12.58"

2. Page 3, line 17.

Strike: "14"

Insert: "0.61"

3. Page 3, line 18.

Strike: "end"

4. Page 3, line 19.

Strike: "173"

Insert: "16.98"

5. Page 3, line 20.

Following: "fund"

Strike: "."

Insert: "; and

(g) to the department of social and rehabilitation services special revenue account for the battered spouses and domestic violence grant program."

CONTINUED

XXXXX
DO PASS

XXXXXXXXXX
DO NOT PASS

CONTINUED

Chairman.

March 27,

87

19.....

6. Page 42, line 8.

Following: line 7

Insert: NEW SECTION. Section 66. Coordination instruction.

(1) If House Bill No. 679, including the section of that bill amending 46-10-235, is not passed and approved, subsection (4)(g) of 3-10-601, as amended by this bill, is void and subsection (4) of 3-10-601 shall read as follows:

"(4) The state treasurer shall distribute money received under subsection (3) as follows:

(a) 23% to the state general fund;

(b) 10% to the fish and game account in the state special revenue fund;

(c) 13% to the state highway account in the state special revenue fund;

(d) 36% to the traffic education account in the state special revenue fund;

(e) 1% to the department of livestock account in the state special revenue fund; and

(f) 17% to the crime victims compensation account in the state special revenue fund."

(2) If House Bill No. 28, including the section of that bill amending 61-10-148, is passed and approved, the amendment to 61-10-148 in this bill shall read: "This subsection does not apply to fines and forfeited bonds paid to justices' courts." ~
Reamend: subsequent section

C:\LAKE\SP\ANDRE740.

AND AS AMENDED

BE CONCURRED IN

Senator MBRURCK