

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIR JAN BROWN, on January 22, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Jan Brown, Chair (D)
Vicki Cocchiarella, Vice-Chair (D)
Beverly Barnhart (D)
Gary Beck (D)
Ernest Bergsagel (R)
Fred "Fritz" Daily (D)
Ervin Davis (D)
Jane DeBruycker (D)
Roger DeBruycker (R)
Gary Feland (R)
Gary Forrester (D)
Patrick Galvin (D)
Harriet Hayne (R)
Betty Lou Kasten (R)
John Phillips (R)
Richard Simpkins (R)
Jim Southworth (D)
Wilbur Spring (R)
Carolyn Squires (D)

Staff Present: Sheri Heffelfinger, Legislative Council
Judy Burggraff, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: The Committee had a time deadline due to a caucus scheduled for 11:00 a.m. Rep. Roger DeBruycker was thanked for the cookies he brought for the Committee.

HEARING ON HB 180

Presentation and Opening Statement by Sponsor:

REP. DON LARSON, House District 65, Seeley Lake, introduced HB 180, an act to clarify the right of volunteer firefighters to deferred compensation and to amend Sect. 19-2-101, MCA. Some legal difficulty had been encountered with the bill as it may be in conflict with Internal Revenue Service regulations pertaining

to deferred income. It was requested the bill be tabled. All the proponents agreed to table the bill and come back at a later date with an acceptable piece of legislation.

Proponents' Testimony: None

Opponents' Testimony: None

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 180

Motion: REP. CAROLYN SQUIRES moved that HB 180 BE TABLED.

Recommendation and Vote: The motion CARRIED unanimously.

HEARING ON HB 79

Presentation and Opening Statement by Sponsor:

REP. LINDA NELSON, House District 19, Medicine Lake, introduced HB 79, to remove the requirement that the name and address of the printer be printed on all election materials. Dolores Colburg, Commissioner of Political Practices, was questioned about the reason for requiring the provision. Ms. Colburg had told Rep. Nelson that she was considering having the bill drafted too, saying, "This portion of statute dealing with elections creates more problems than any other." Rep. Nelson believes this requirement is unnecessary information and creates clutter. An example given: Her 7 X 3 bumper stickers have NELSON in big letters with Representative underneath in small letters. In addition she had to include: paid for by (the party paying for the sticker) and the name of the printer. "The law affords free advertising for the printer, creates animosity between the printers and it, unfortunately, reflects on the candidate. . . . In my own area, for instance, if I do not want to use one of the local newspapers to do my printing, which is twice as expensive as the competition, I run the risk of not having my news articles printed." If the printer's name did not have to appear on the material, then the candidate could go to the printer where they could find the best price without "rubbing salt into any wounds." If a candidate chooses not to comply with the law, all he or she must do is send a copy of the material to the Commissioner of Political Practices (PP) and say it was inadvertently omitted, and "you're off the hook." The printed material is already trackable through the candidate's disclaimer.

Proponents' Testimony:

Dolores Colburg, Commissioner of PP, presented written testimony.
EXHIBIT 1

Opponents' Testimony: None

Questions From Committee Members:

REP. SPRING asked Ms. Colburg if the law was put into effect during the last legislative session. Ms. Colburg said the law was amended in 1987, but requiring the printers name be on candidates' materials was not the amended portion. REP. ROGER DEBRUYCKER asked if there were any "teeth" in any of the election laws since Rep. Nelson has said this particular piece of legislation didn't have any. Ms. Colburg said there are "teeth" in the law. If complaints are appropriately filed at the office with the Commissioner of PP, then by law the matter must be investigated. The facts must be determined. If it is concluded that the law has been violated, by statute the matter must be turned over to the county attorney. She thinks the statute carries a criminal penalty if someone had intended in a deliberate manner to keep the name of the printer anonymous.

REP. DEBRUYCKER said, "If I don't put (the printer's name) on my campaign material, and write you a letter that I admitted this, that lets me off the hook?" Ms. Colburg responded, Yes, together with filing the piece of the campaign material. Because . . . it seems to me that logic says if somebody inadvertently left it off or the printer inadvertently left off information, which can happen . . . , there ought to be some way of correcting an inadvertent omission other than by taking somebody to court."

REP. GALVIN questioned if there would be any penalty if the deletion were made optional. Ms. Colburg said if it were left optional as to whether the candidate or political committee wished to indicate where the material could be printed, then "I believe there could be no penalty."

Closing by Sponsor:

REP. NELSON said she believes the bill to be a "very good one." She felt that there had been a good hearing with good questions and encouraged adoption of HB 79.

EXECUTIVE ACTION ON HB 79

Motion: REP. BETTY LOU KASTEN moved that HB 79 DO PASS.

Discussion: CHAIR BROWN requested Ms. Heffelfinger explain the history of the Political Practices Bill, which she did, saying:

The section of law was amended three times: once in 1947, once in 1977 and once in 1979. In 1987 it was amended, but the amending at that time did not have to do with printing. Dolores Colburg's opinion was that it was carried over from the old revised Montana codes and that it has been on the books for a long time.

REP. ROGER DEBRUYCKER said the Committee just considered the printing bill a short time ago. This bill puts the printing in local printing offices. He said the bill should stay the way it is.

REP. CAROLYN SQUIRES said she had a problem with the DO PASS motion as she believes the problem is "individual" and putting the name of the printer on the election materials is a necessity.

REP. FRED "FRITZ" DAILY remarked he would like to "echo what (Rep. Squires) said." He thinks there is "more to the bill than meets the eye."

REP. SIMPKINS said he is in favor of the bill because he believes that the printer is not necessary on the campaign materials since there will be campaign reports. If anyone wants to look into the matter, the information is fully available.

Recommendation and Vote: The motion CARRIED with a vote of 11 to 8. EXHIBIT 1A

HEARING ON HB 138

Presentation and Opening Statement by Sponsor:

REP. MARY LOU PETERSON, House District No. 1, Eureka, introduced HB 138, to establish qualifications for Public Safety Communications Officers and to allow for certification of these officers. Amendments were distributed. EXHIBIT 2 The amendments were brought to their attention by the Legislative Auditor to avoid a sunrise audit. Most of the amendments are technical in nature and will not change the substance of the language of the bill. It addresses a major concern that affects public safety and the delivery of emergency services. The purpose of the bill is to give the private and public agencies the ability to staff their emergency communication centers with people trained in standard procedure and who will be certified by the state as being qualified to perform as Public Safety Communication Officers. The certification procedure is not intended to be mandated by the state and would be voluntary by agencies employing them. The bill will also give a name to the dispatchers.

Proponents' Testimony:

Ted Huber, Bureau Chief, Professional Programs, Montana Law Enforcement Academy and represents the Montana Chapter, Associated Public Safety Communications Officers (APCO), presented written testimony EXHIBIT 3 and a handout entitled, Public Safety Communications Officer Voluntary Training Legislation Concept Paper. EXHIBIT 4

Larry Petersen, 9-1-1 Program Manager, Department of Administration, presented written testimony. EXHIBIT 5
Mr. Petersen added the following to his testimony: In the citations that Mr. Huber noted, there were two major causes for exposure liability. (1) Failure to train, (2) Failure to properly supervise

Midge Warrington, 25-year employee of Great Falls Police Department, said that she has been managing the Great Falls Dispatch Center for the last 10 years, and she is a member of the APCO training committee. Ms. Warrington said dispatchers are eager to be educated for their job. Primarily they receive on-the-job training by their dispatchers. If there are flaws in the system, that is the major one. Competent dispatchers that are not particularly good at training pass on their own failings to the newly trained dispatcher. There is a great need for standardized basic training. Ms. Warrington has a hard time finding dispatchers that have the same type and amount of training. She received basic certified training as a peace officer in the state in 1974 and has seen the results of the competence and confidence of the police officers improve. "We owe it to the dispatchers to give them the same opportunities."

Gene Kaiser, Director, Montana Peace Officers Standard and Training Council, said the Council, which certifies peace officers, is on record as supporting HB 138 and they view it as a completed part of the total system.

Ed Hall, Administrator, Board of Crime Control, said the 18 members of the Board, representing a broad spectrum of the Criminal Justice System, have fully reviewed the legislation and endorse it. The mission of the Board is to improve the justice system. Dispatchers are increasingly more crucial for the safety of the public as well as the safety of the medical, law or fire officers. "We need to make steps to improve dispatcher training and provide for some certification, and I think dispatching is a very hectic and demanding task not to be overlooked. . . . You need qualified people to take care of it."

Lyle Nagel, Montana State Volunteer Firefighter Association, said, "If you've ever looked through a rural telephone book for a fire number, you'll see a number beside an individual with the instructions if no answer call, -- and there usually will be about three numbers." With the 9-1-1 system being adopted around the state, there are now fewer instances of this, but they still

exist. Response time is crucial. He gave an example of when he worked with city and county dispatchers as follows: There hadn't been time for cross training. In error, the wrong fire department was dispatched to a fire. It appeared closer as it was only 14 miles from the fire, but these were straight-line miles, and they had to travel 60 miles by road. This is an instance when the dispatcher should have been trained. With the training system being adopted, problems such as this should not occur and lives may be saved.

REP. ERVIN DAVIS went on record as favoring the bill on behalf of over 1,600 amateur radio operators within the state. They work through public service and nearly all have computer capabilities and high and low frequency radios with authorization to transmit and receive and they are called on to help during emergencies.

Opponents' Testimony: None

Questions From Committee Members:

REP. BETTY LOU KASTEN asked for the cost and location of the training. Mr. Huber replied it is located at the Montana Law Enforcement Academy in Bozeman, and the cost would be minimum; they utilize people within Montana to conduct the training. Instructor's fees are \$10 per hour; cost to the student to attend the program is \$5 per day for dormitory space and \$10 per day for meals. Rep. Kasten asked how many days the training would take. Mr. Huber said the course that they wish to have certified is for 40 hours, a five-day course. Most students register on Sunday afternoon and the course is concluded Friday at 5:00 p.m.

REP. JOHN PHILLIPS stated he did not see any proponents or opponents from local governments. He is concerned with all the requirements being put into the statutes, such as "must be of good moral character." Rep. Phillips questioned what would happen if someone misjudges one case and each requirement is not made. Could the city or county entity that hired the dispatcher, then be found liable? Mr. Huber responded they have support of Miss Jane Jelinski, County Commissioner of Gallatin County and a member of APCO. The bill is asking for the Council to manage the hiring process to give local agencies a guideline to follow as they do not have one now. The bill is not asking that the guidelines be mandatory for hiring and training. REP. PHILLIPS said "the bill does not say that. It just says, a "person must . . . qualifications for Safety Communications Officers." A statement of intent does not mean much when the codes are written. Mr. Peterson said the amendments that were offered address that question. None of the minimum qualifications for certification come into effect until an individual applies for the certification. The minimum qualifications that are cited for Safety Communications Officers are exactly the first ones that are required for a peace officer in the state. When the Committee put together the minimum qualifications, they did not list the physical qualifications. The intent was that they will

deal with the same type of information that the peace officers do. "There was an incident 18 months ago in Yellowstone County where a dispatcher was providing confidential intelligence information to some drug dealers in that area. There are no minimum qualifications that can be applied. There must be some screening criteria or you open it up to all persons to apply. Ten years ago it was thought that 'any warm body could function as a dispatcher.'" The performance of "those" people caused harm to officers.

REP. GARY FORRESTER asked what a statement of intent was. Sheri Heffelfinger said it is only a guideline and does not have the force of law. It is up to the agency administering the program to enable them to adopt the rules and administer the program.

REP. RICHARD SIMPKINS questioned Ms. Warrant as to whether the dispatcher has the authority to transfer nonemergency calls. She said they are handled several ways within the Great Falls Police Department. There are two types of calls: emergency calls and those that are dispatchable calls, such as a "cold" burglary. "There is no reason for the caller to call another nonemergency number, with the same end result of reaching the same dispatcher." Their policy is to take only priority calls and refer or transfer others. She said that their agency does a thorough background and a records check for dispatchers similar, but not as extensive, to the Great Falls Police officer's. REP. SIMPKINS asked if Great Falls dispatchers are currently being sent to the Police Academy for training. Ms. Warrant said they have sent three. REP. SIMPKINS asked if there was a requirement that they be sent. Ms. Warrant responded "it is a policy . . . that we are going to try to get formal training for dispatchers." REP. SIMPKINS said, "If this bill passes, will we have to send (dispatchers) for training?" Ms. Warrant said no.

REP. ROGER DEBRUYCKER asked if the bill would affect the liability under the Good Samaritan Act in any way. Mr. Peterson said they have had that question arise. Looking at the statutes, there is no act under Montana law called the Good Samaritan Act. There is an act on the books to protect volunteer firefighter, ambulance attendants and peace officers. But if they receive more than 30 percent of their total compensation from this employment, they no longer are covered under that protection. The volunteer dispatchers exist only in Lincoln county, in Eureka and Troy. He did not know of any others that utilize unpaid dispatchers.

Ms. Heffelfinger was requested to research the liability issue on the Good Samaritan Act.

REP. PHILLIPS was concerned about causing local governments and districts additional requirements for funds. The Drake Amendment says, "anytime you make laws, you lay requirements on local governments, and you should be able to fund them." Local governments will be in asking for funds for this bill. He again

questioned the wisdom of putting all requirements into the statutes. Mr. Petersen responded, "It is a voluntary program for cities and counties . . . we are not mandating they do this." If they enter the program the qualifications will apply. 9-1-1 funds will pay part of the cost of the training.

Closing by Sponsor:

REP. PETERSON said Lincoln county is not a volunteer unit. The volunteer units are in Troy and Eureka within the district. A number of people from her district have been sent. They said it was "absolutely the best training they could have . . . and it was well worth the cost." The fiscal note states there is no impact with these assumptions: the program is already in place; the program is an ongoing training. When the dispatchers go for training, they upgrade all dispatchers unable to attend the training.

HEARING ON HB 158

Presentation and Opening Statement by Sponsor:

REP. DAVID WANZENRIED, House District 7, Kalispell, introduced the bill to remove limitations on amounts available for investment in short- and long-term investments from the Public Employees', Highway Patrol Officers', Sheriffs', and Game Wardens' Retirement systems. He said the bill is a housekeeping one and was requested by the Auditor. It was found that there were locally low limits of money that could be invested in short-term investments by the Public Employees Retirement Board (PERB) that administers the retirement fund for the systems. The three funds on the bill, are the only three of the eight funds subject to the \$25,000 limit that may be invested in short-term investment. The problem with the system is that the Board cannot invest in long-term investments and keep the money "whole" over a long period of time. If the Board invests in short term, there must be a small amount of money available to meet the monthly payroll and cash requirements. The bill will eliminate the limit that can be invested and give the Board the option of investing in longer term investments without a substantial penalty of early withdrawal. In the bill, on Pg. 1, Ln. 16, long-term investment fund is being stricken because that fund does not exist. "Unified investment fund" (the next words) does exist and has done so since 1973 when the Legislature implemented a comprehensive and centralized investment program in the state. The Board of Investments currently invests all retirement monies.

Proponents' Testimony:

Linda King, Assistant Administrator, Public Employees' Retirement Division, presented written testimony. EXHIBIT 6

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

REP. WANZENRIED said the bill would place the system into compliance with other funds in the state.

EXECUTIVE ACTION ON HB 158

Motion: REP. SQUIRES moved that HB 158 DO PASS.

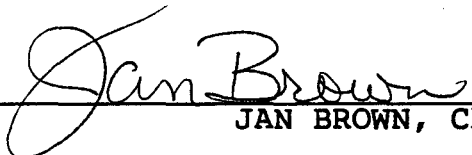
Recommendation and Vote: The motion CARRIED unanimously.

Motion: REP. PHILLIPS moved that HB 158 BE PLACED ON THE CONSENT CALENDAR.

Recommendation and Vote: The motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 10:20 a.m.


JAN BROWN, Chair


JUDY BURGGRAFF, Secretary

JB/jb

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 1/22/91

| NAME | PRESENT | ABSENT | EXCUSED |
|-------------------------------------|---------|--------|---------|
| REP. JAN BROWN, CHAIR | ✓ | | |
| REP. VICKI COCCHIARELLA, VICE-CHAIR | ✓ | | |
| REP. BEVERLY BARNHART | ✓ | | |
| REP. GARY BECK | ✓ | | |
| REP. ERNEST BERGSAGEL | ✓ | | |
| REP. FRED "FRITZ" DAILY | ✓ | | |
| REP. ERVIN DAVIS | ✓ | | |
| REP. JANE DEBRUYCKER | ✓ | | |
| REP. ROGER DEBRUYCKER | ✓ | | |
| REP. GARY FELAND | ✓ | | |
| REP. GARY FORRESTER | ✓ | | |
| REP. PATRICK GALVIN | ✓ | | |
| REP. HARRIET HAYNE | ✓ | | |
| REP. BETTY LOU KASTEN | ✓ | | |
| REP. JOHN PHILLIPS | ✓ | | |
| REP. RICHARD SIMPKINS | ✓ | | |
| REP. JIM SOUTHWORTH | ✓ | | |
| REP. WILBUR SPRING | ✓ | | |
| REP. CAROLYN SQUIRES | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

January 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 79 (first reading copy -- white) do pass .

Signed: Jan Brown
Jan Brown, Chairman

10:50 AM
1-22-91
JDB

HOUSE STANDING COMMITTEE REPORT

January 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 158 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: _____
Jan Brown, Chairman

HOUSE STANDING COMMITTEE REPORT

January 22, 1991

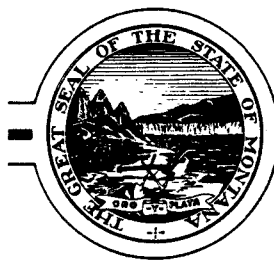
Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that House Bill 79 (first reading copy -- white) do pass.

Signed: Jan Brown
Jan Brown, Chairman

COMMISSIONER OF
POLITICAL PRACTICES

EXHIBIT 1
DATE 1/22/91
HB 79



STATE OF MONTANA

DOLORES COLBURG
COMMISSIONER
TELEPHONE (406) 444-2942

CAPITOL STATION
1205 EAST EIGHTH AVENUE
HELENA, MONTANA 59620-2401

January 22, 1991
House State Administration Committee

TESTIMONY IN SUPPORT OF HB 79

For the record, I am Dolores Colburg, Commissioner of Political Practices. I appear before the committee this morning in support of HB 79.

This bill would amend section 13-35-225, MCA, which is titled "Election materials not to be anonymous," by deleting the the requirement that commercially printed election materials must bear the name and address of the printer.

The printer requirement has proved to be a nuisance to both candidates and to political committees. Frequently, space does not easily permit the printing of the required printer information. Candidates and committees then file the election piece with my office, as the law permits, along with the name and address of the printer.

More importantly, the identification of the commercial printer is not a key element in determining the source of the election materials. The names and addresses of persons who pay for election materials that advocate the success or defeat of a candidate or issue are the critical pieces of information that

Ex. 1

11/22/91

HB 79

Dolores Colburg
Testimony on HB 79
Page two

must appear on election materials to assure that they are not anonymous. That requirement, of course, would remain intact under HB 79.

Whatever contributes to open, fair and decent political campaigns is deserving of support. However, requirements such as the printer designation on election materials currently in law does not, in my view, make such a contribution. Indeed, it has proved to be a nuisance requirement that candidates and political committees often trip over and that others delight in pointing out.

I urge the committee to act favorably on HB 79.

EXHIBIT 14
DATE 1/22/91
HB 79

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 1/22/91 BILL NO. HB 79 NUMBER 1

MOTION: DO PASS

| NAME | AYE | NO |
|--|-----|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIRMAN | ✓ | |
| REP. BEVERLY BARNHART | | ✓ |
| REP. GARY BECK | | ✓ |
| REP. ERNEST BERGSAGEL | ✓ | |
| REP. FRED "FRITZ" DAILY | | ✓ |
| REP. ERVIN DAVIS | | ✓ |
| REP. JANE DEBRUYCKER | ✓ | |
| REP. ROGER DEBRUYCKER | | ✓ |
| REP. GARY FELAND | ✓ | |
| REP. GARY FORRESTER | ✓ | |
| REP. PATRICK GALVIN | | ✓ |
| REP. HARRIET HAYNE | ✓ | |
| REP. BETTY LOU KASTEN | ✓ | |
| REP. JOHN PHILLIPS | ✓ | |
| REP. RICHARD SIMPKINS | ✓ | |
| REP. JIM SOUTHWORTH | | ✓ |
| REP. WILBUR SPRING | ✓ | |
| REP. CAROLYN SQUIRES | | ✓ |
| REP. JAN BROWN, CHAIR | ✓ | |
| TOTAL | 11 | 8 |

Amendments to HB Bill No. 138
First Reading Copy

Requested by Representative Peterson

Prepared by Sheri S. Heffelfinger
January 21, 1991

1. Page 2, line 17.
Following: "10-4-101,"
Strike: "and"

2. Page 2, line 18.
Following: "units"
Insert: ", and is certified under [section 3]"

3. Page 3, line 16.
Following: "appointed"
Insert: "to receive requests for emergency services, as defined
in 10-4-101, and dispatch the appropriate emergency service
units be certified by the board"

4. Page 3, lines 17 and 18.
Following: "officer"
Strike: "be certified by the board"

5. Page 5, line 24.
Following: "10-4-101,"
Strike: "and"

6. Page 5, line 25.
Following: "units"
Insert: ", and is certified under [section 3]"

Huber

EXHIBIT 3
DATE 1/22/91
HB 138

LEGISLATIVE INTRODUCTION
JANUARY 22, 1991

~~GOOD MORNING HONORABLE LADIES AND GENTLEMEN,~~ *Madam -* MS CHAIRPERSON AND MEMBERS OF THE SUB-COMMITTEE I AM TED HUBER, BUREAU CHIEF OF THE PROFESSIONAL PROGRAMS AT THE MONTANA LAW ENFORCEMENT ACADEMY; I ALSO REPRESENT THE MONTANA CHAPTER OF THE ASSOCIATED PUBLIC SAFETY COMMUNICATIONS OFFICERS (APCO) AS CHAIRMAN OF THE TRAINING COMMITTEE. THE CHAPTER AND THE APCO TRAINING COMMITTEE ARE THE MAJOR PROPONENTS OF THIS HOUSE BILL 138. WE HAVE RECEIVED SUPPORT FOR THIS BILL FROM THE HONORABLE MARY LOU PETERSON; THE MONTANA BOARD OF CRIME CONTROL; AND THE MONTANA PEACE OFFICERS STANDARDS AND TRAINING COUNCIL, AS WELL AS THE DEPARTMENT OF JUSTICE, ATTORNEY GENERALS OFFICE.....

THE MATERIALS WHICH HAVE BEEN PROVIDED TO YOU CONSIST OF #1.A CONCEPT PAPER WHICH SUPPORTS THE HISTORY OF PUBLIC SAFETY COMMUNICATIONS TRAINING IN MONTANA AND THE INTENT OF HB138.

#2. AN ARTICLE WHICH SUPPORTS THE NEED FOR CERTIFIABLE, DOCUMENTED TRAINING FOR PUBLIC SAFETY COMMUNICATORS AND #3. EXCERPTS FROM AN EXPLORATORY SURVEY OF PUBLIC SAFETY COMMUNICATORS CONDUCTED BY THE MONTANA LAW ENFORCEMENT ACADEMY IN THE SUMMER OF 1990.

PAGE 2

THE PUBLIC SAFETY COMMUNICATOR IS THE MOST IMPORTANT PERSON IN THE PUBLIC SAFETY SYSTEM..... OVER 90% OF ALL CRIMINAL INVESTIGATIONS, REPORTS OF FIRE, AND CALLS FOR EMERGENCY MEDICAL SERVICES, AND OTHER CALLS FOR PUBLIC SERVICE ARE HANDLED BY THE PUBLIC SAFETY COMMUNICATOR. THE PUBLIC SAFETY COMMUNICATOR HAS AT HIS OR HER FINGERTIPS THE RESPONSIBILITY TO AMASS MULTI-AGENCY AND MULTI-JURISDICTION UNIT CONFIGURATIONS AS WELL AS THE NORMAL DAY TO DAY AGENCY FUNCTIONS.

THE PSC MUST BE KNOWLEDGEABLE OF THE FUNCTIONS OF \$1,000,000 OF DOLLARS WORTH OF RADIO AND TELEPHONE EQUIPMENT.

THE PSC MUST BE KNOWLEDGEABLE OF THE PSYCHOLOGICAL IMPLICATIONS OF HANDLING PEOPLE IN TRAUMA OR IN A CRISIS OF ANY KIND.

IN ADDITION, AS YOU WILL SEE IN THE SURVEY, THEY ARE RESPONSIBLE FOR SOME 70 PLUS, OTHER JOB TASKS.

WE CANNOT OVERLOOK THE LIABILITY ASPECTS OF THE PSC FUNCTION THAT ARE BECOMING MORE PREVALENT DUE TO THE LACK OF TRAINING IN THIS ARENA; THE WISCONSIN APPEALS COURT, (DOMINO V WALWORTH COUNTY) HELD THAT THE DUTIES OF THE POLICE DISPATCHER WERE NOT DISCRETIONARY BUT RATHER WERE MINISTERIAL; THEREFORE, NO QUALIFIED IMMUNITY WAS APPLICABLE AND THE DISPATCHER'S ACTIONS WERE TO BE TESTED UNDER THE "REASONABLE PERSON" STANDARD AT TRIAL. IN THE CASE OF KIBBE V. CITY OF SPRINGFIELD, THE FEDERAL DISTRICT COURT, AFTER A JURY TRIAL, ENTERED JUDGEMENT AGAINST THE POLICE OFFICER AND THE CITY.

EXHIBIT 3
DATE 1-22-91
HB 138

PAGE 3

THE PSC IS ALSO RESPONSIBLE FOR HANDLING SENSITIVE AND CONFIDENTIAL INFORMATION FROM LOCAL AS WELL AS NATIONAL SOURCES.

IN JUST A FEW BRIEF MOMENTS I HAVE TRIED TO DESCRIBE THE FACTS THAT MAKE A PUBLIC SAFETY COMMUNICATOR THE MOST IMPORTANT PERSON IN THE PUBLIC SAFETY SYSTEM. OUR TRAINING COMMITTEE SUPPORTS THE VOLUNTARY COMPLIANCE ELEMENTS OF HB138 AND IT IS OUR DESIRE TO HAVE THE MONTANA BCC, AND THE PEACE OFFICERS STANDARDS AND TRAINING COUNCIL TO ACT AS THE CERTIFICATION ENTITY FOR PUBLIC SAFETY COMMUNICATIONS TRAINING.

ITEM #1

EXHIBIT 4

DATE 1/22/91

HB 138

**PUBLIC SAFETY COMMUNICATIONS OFFICER
VOLUNTARY TRAINING LEGISLATION
CONCEPT PAPER**

HISTORY

In 1974 the Montana Board of Crime Control requested that the Montana Law Enforcement Academy provide a training program to dispatchers (now known as Public Safety Communicators). Shortly after this first program was completed, the Montana Sheriffs and Peace Officers Association requested that all dispatcher training in the state be conducted through the Montana Law Enforcement Academy to ensure the quality of programming.

Since that time (1974) the Montana Law Enforcement Academy has continued to conduct a minimum of forty (40) hours of Basic Public Safety Communications training each year.

In 1985 the Montana Law Enforcement Academy asked the Montana Chapter of the (National) Associated Public Safety Communications Officers (APCO) to review the BASIC course and recommend a revised standardized course of instruction. In addition to asking for a standardized course of instruction, the Academy asked that MT APCO provide course certification for those students who attended and completed the course requirements.

In 1987 the MT APCO adopted and submitted it's recommended (40 hour) course of instruction to the Montana Law Enforcement Academy. However, since MT APCO is not a regulatory state agency, they could only supply a certificate of course completion for those students who attend the course.

In 1990 the Montana Law Enforcement Academy conducted an exploratory survey of Public Safety Communications personnel in Montana. The results of that survey indicate that over 50% of the now current personnel operating Public Safety communications base stations; interacting with the public in emergency (frequently life threatening); and non-emergency relationships; amassing public safety mobile units with multi-jurisdictional configurations (police, fire, ambulance, forest service, FBI, BIA, and others); are doing so without the fundamental basic skills that are necessary to perform their duties in a competent manner.

PROPOSAL

The Montana Chapter of APCO is proposing legislation (draft legislation enclosed) that would allow voluntary compliance with the current BASIC 40 hour course of instruction by those local agencies who provide Public Safety Communications. Through this legislation the Montana Board of Crime Control would be given the authority to control the certification process.

This certification process would be the same process that is now utilized by the Peace Officer's Standards and Training Council for Peace Officer and Detention Officer Certification. We believe that this legislation does not require a fiscal note. In discussions with Mr. Ed Hall, Administrator of the Montana Board of Crime Control, no additional costs would be associated with this bill.

FUTURE

With the passage and implementation of this proposed legislation, and voluntary compliance through the certification process, we believe that the public will be more effeciently and effectively served, Police, Fire, EMS, etc., will be utilized in a more cohesive and productive manner.

Recently, it appears that the law enforcement community has become more and more aware of the problems confronting the law enforcement dispatcher. Perhaps high turn-over rates, lawsuits, and the corresponding costs of those situations, have caused some law enforcement administrators to reassess the road traditionally traveled with dispatchers. This article will address two of the basic and most common instances involving dispatchers: training and supervision. Such issues as a municipality's liability and an individual dispatcher's liability are subjects which, perhaps, could be addressed in a future article if there is sufficient interest. This article, however, will address training and supervision.

Obviously, the Supreme Court's decision in *City of Canton, Ohio v. Geraldine Harris*, has had substantial impact upon municipal awareness and concern about law enforcement training. Edward J. Nowicki, executive director of the American Society of Law Enforcement Trainers (ASLET), notes: "Dispatcher training is beginning to be recognized as a definite and necessary adjunct to the providing of law enforcement services. The post-recruit (advanced) training of dispatchers has just started. There is a definite need for such training in both quality and quantity."

In addition to the professional recognition of the need for dispatcher training, both recruit and post-recruit, the courts are beginning to have an impact upon the liability aspect of law enforcement telecommunications. For example, in Wisconsin, a state trial court dismissed the lawsuit which had been filed against a dispatcher's employer. The Wisconsin appeals court, (*Domino v. Walworth County*) in reversing the trial court's dismissal of the complaint, held that the duties of the police dispatcher were not discretionary but rather were ministerial; therefore, no qualified immunity was applicable and the dispatcher's actions were to be tested under the "reason-

Supervisors are under greater public scrutiny.

Photo by Leslie O'Shaughnessy



Accountability of the DISPATCHER

Communications supervision has quietly crept into the police liability arena.

The dispatch-communications center of the police department is both the life line for the public and the officer. The reasoning of this Wisconsin case appears to send waves of "life-line liability" with respect to questions as to the actions of a dispatcher. This is what training theoretically is to address. Sharon Baganz, a communications trainer indicates, "The police dispatcher is the communications center of a law enforcement agency. The dispatcher frequently is the first person called, not only by the public, but also by the street officer. If your life or personal security depended upon a dispatcher," she asks "wouldn't you want the state-of-the-

Life-line dispatch communications training, she points out, includes intrapersonal, verbal, nonverbal, listening, and interpersonal skills.

"Communications training is a must for both professional and personal survival for dispatchers."

Interestingly, communications supervision has quietly crept into the police liability arena. In the case of *Kibbe v. City of Springfield*, the First Circuit Court of Appeals reviewed a case involving a suspect who was shot and killed by police during a high speed pursuit. The federal district court, after a jury trial, entered judgment against the police officer and the city.

The case involved a violation of a restraining order. The initial call came in on the 911 emergency line. At some point in time, the suspect and the police became mobile and a pursuit ensued.

The reported information is as follows:

"... a police officer reported to the dispatcher that (suspect) 'had

cer.' The dispatcher then broadcast: 'This is not only a violation of a restraining order, it's assault by means of a vehicle.'"

The substance, manner and method of this dispatch later became of import to the appeals court, which noted:

"The dispatcher's announcement that (suspect's) alleged attempt to run down a police officer means 'this is assault by means of a vehicle,' a deadly weapon, could be viewed as an indirect authorization for the use of deadly force, causing the officers to shoot precipitously. Captain Daniel Spellacy testified that he was monitoring the pursuit with the dispatcher, and so the jury could have found that the man in charge of the department that night approved the escalating intensity of the pursuit."

Consequently, the federal appeals court, at least in part, considered the issues of training, dispatching and dispatching supervision in affirming the judgment against both the police officer and the city. Of special interest is that this is one case which theoretically involved possible indirect liability of a police dispatcher in an officer involved shooting.

Accordingly, this concept of post-recruit (advanced) training of dispatchers and communications-dispatching supervisors will no doubt grow both in intensity and need. In the future, communications-dispatch supervisors will become involved in instances of greater public scrutiny and agency accountability. It is advanced supervisory/management training and quality dispatcher relations training which will govern the future course of dispatching and communications professionalism. □

Mark T. Bazanz, a former police officer, is now both a practicing attorney, and a police training specialist with the Milwaukee Area Technical College. He can be contacted by writing or calling: PO Box 341, Delafield WI 53018, 414/646-4441.

The interpretations and opinions expressed in this article are those of the author and not those of his affiliations. Due to differing laws among the states and federal circuits, as well as rapidly changing law, the author urges that appropriate legal counsel be retained as necessary. This column does not serve as legal counsel.

Ex. 4

1122191

HB 138

Montana Law Enforcement Academy
Survey Summer 1990

ITEM #3

EXHIBIT 4
DATE 1/22/91
HB 138

EDUCATION

N=123

| | | |
|-----------------------|--|--------------------------------------|
| LESS THAN 8TH GRADE=1 | ATTEND HIGH SCHOOL BUT DID NOT GRADUATE=0 | HIGH SCHOOL DIPLOMA OR GED= 44 |
|-----------------------|--|--------------------------------------|

ATTENDED COLLEGE OR TRADE SCHOOL
BUT DID NOT GRADUATE=50

COLLEGE DEGREE=28

COMMUNICATIONS TRAINING

N=187 RESPONSES AND 21 CATEGORIES LISTED

- 50 NONE
- 39 CJIN/NCIC
- 29 PUBLIC SAFETY COMM. BASIC
- 18 EMERGENCY MEDICAL DISPATCH
- 13 REGIONAL TRAINING PROGRAMS
- 7 LAW ENFORCEMENT TELEVISION NETWORK
- 5 HAZARDOUS MATERIALS
- 5 ON THE JOB TRAINING
- 5 INCIDENT MANAGEMENT
- 3 LEVEL II CJIN/NCIC
- 2 9-1-1
- 2 CRITICAL INCIDENTS
- 1 MUCR
- 1 CRISIS INTERVENTION
- 1 APCO CONFERENCE
- 1 BANK ROBBERY SEMINAR
- 1 TAC SEMINAR
- 1 COMPUTER
- 1 R-BASE
- 1 U.S. NAVY COMM SCHOOL

JOB TASK

N=433 RESPONSES AND 76 CATEGORIES

| | |
|---|----------------------------|
| 34 FILING REPORTS | 1 INTOXILIZER SUPERVISOR |
| 33 DETENTION OFFICER | 1 DETENTION INSTRUCTOR |
| 32 MATRON | 1 WESTERN UNION |
| 30 TYPE MISC. REPORTS | 1 WITNESS |
| 29 SECRETARIAL DUTIES | 1 CORONER FILE |
| 25 ANSWER PHONE | 1 TYPE ACC REPORTS |
| 25 JANITOR | 1 TAKE COMPLAINTS |
| 19 USE COMPUTER | 1 ISSUE FISH AND GAME |
| 18 WALK-IN TRAFFIC/RECEPTIONIST | LICENSE |
| 14 COOK MEALS | 1 MAKE COFFEE |
| 13 HANDLE WARRANTS | 1 ENTER GAS MILEAGE FOR |
| 9 WASH CLOTHES | OFFICERS |
| 8 CLERICAL | 1 ISSUE BURN PERMITS |
| 7 TAKE BONDS | 1 WAKE-UP CALLS |
| 7 RUN RADIOS | 1 BOOK PRISONERS |
| 7 ISSUE GVW PERMITS | 1 INTELLIGENCE ANALYST |
| 7 ISSUE 20-DAY STICKERS | 1 SCHEDULING |
| 6 NONE | 1 PAYROLL |
| 5 FAX MACHINE OPERATOR | 1 JUVENILE FILES |
| 5 TRANSCRIBE REPORTS | 1 CALL JURORS |
| 4 DAILEY LOG | 1 NAWAS MONITOR |
| 4 ELECTRONIC DOOR MONITOR | 1 PATROL |
| 4 TYPE REPORTS FOR OFFICERS | 1 POLICY DEVELOPMENT |
| 3 WRITE MINISTERIAL TICKETS | 1 EQUIPMENT TROUBLESHOOTER |
| 3 MONITOR CB RADIO | 1 RESERVE DEPUTY |
| 3 TELETYPE | |
| 3 MONITOR VIDEO CAMERA STATIONS/DETENTION, ETC. | |
| 3 SUPERVISE DISPATCHERS | |
| 3 MONITOR/ANSWER AFTER HOURS GOVERNMENT PHONES | |
| 3 TRAINING | |
| 3 BOOKEEPER | 1 PATROL OFFICER |
| 3 JUDICIAL DOCKET | 1 MEDIA REPORTS |
| 3 SERVE PAPERS | 1 SPECIAL DEPUTY |
| 2 INVESTIGATIVE | 1 ANSWER EVERYONE'S |
| 2 9-1-1 | QUESTIONS |
| 2 HIRING | |
| 2 TAKE FINGERPRINTS | |
| 2 WEATHER WATCH | |
| 2 MAINTAIN DEPARTMENT STATISTICS | |
| 2 SPECIAL ENFORCEMENT | |
| 2 BRAND INSPECTOR | |
| 2 MINUTEMAN ALERTS | |
| 2 PUBLIC RELATIONS | |
| 2 BICYCLE/ANIMAL LOG | |
| 2 DISPATCHER | |
| 2 KEEP TRACK OF GYM USE | |
| 1 DARKROOM TECHNICIAN | |
| 1 SHERIFF | |

HB 138
Prepared by Larry Petersen
9-1-1 Program Manager
MT Dept. of Administration

As we work with local government and the emergency service providers planning 9-1-1 emergency telephone systems, we are constantly asked about the liability associated with 9-1-1. We have researched this question and have not found any instances where 9-1-1, the telephone system was determined to be at fault.

We did find that the human response in any emergency communications system is where the exposure to liability is the greatest. This exposure depends on the manner in which the emergency caller and the request for assistance is handled after the call is received. This exposure existed in emergency communications systems even before the advent of 9-1-1.

However, with the implementation of 9-1-1 emergency telephone systems there is a public expectation that the total emergency response capability will improve. The total emergency response capability, itself, does not necessarily improve; the public's ability to call for help does improve by eliminating a multitude of emergency telephone numbers and replacing them with just 9-1-1.

Fueled by television programs and the fact that 9-1-1 is advertised as the number to call in any emergency heightens the public's expectations of our emergency response systems. If the emergency call taker is not properly trained in how to respond to a multitude of emergency situations and an individual relies to his detriment upon a specific assurance for aid, whether real or perceived, the result is an added exposure to liability.

For any area to fully realize the benefits of 9-1-1, requires a thoroughly planned approach to public safety call answering and communications. The 9-1-1 dispatcher is the vital link between public safety and the community they serve. Even as communications networks grow to new levels of sophistication, today's dispatcher continues to be an irreplaceable lifeline: to the citizen, a voice symbolizing service and protection; to the emergency service provider, a key to information and support.

We believe the exposure to liability by our emergency communications systems can be decreased by:

- (1) Good screening and hiring practices;
- (2) Developing job descriptions that accurately portray the duties involved; and
- (3) Providing public safety communications personnel with proper training and supervision.

How well our public safety personnel perform depends on the training they receive and that is what House Bill 138 addresses.

TESTIMONY OF THE
PUBLIC EMPLOYEES' RETIREMENT BOARD
ON HB 158

Presented by: Linda King,
Ass't Administrator, Public
Employees' Retirement Div.

The Public Employees' Retirement Board, at the recommendation of the Office of the Legislative Auditor, is requesting amendments to the statutes governing investments of the PERS, Highway Patrol Officers', Sheriffs', and Game Wardens' Retirement Systems Trust Funds.

The language governing investments of these four trust funds is archaic, having been drafted and enacted in the days prior to the Montana Board of Investments taking over investment management of these funds. There is no longer a "long-term investment fund" or a "short-term investment fund." And, the implied limit of no more than \$25,000 to be invested in short-term investments is insufficient to meet the monthly cash flow requirements of any retirement system administered by the Board.

This bill recommends standardized language for all four systems, providing that all funds shall be invested in the unified investment fund of the State of Montana by the State Board of Investments.

This bill sets no minimum or maximum dollar amounts for any particular investment vehicle. To do so would not only insure that the retirement board would be back during each succeeding Legislature to request increases in these limits as retirement benefits increased with increasing numbers of retirees, it would also unfairly limit the Board of Investments' ability to respond to changes in financial markets.

On behalf of the Public Employees' Retirement Board, I request your favorable consideration of this bill.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 180
 DATE 1/22/91 SPONSOR(S) Rep. Don Larson

PLEASE PRINT

PLEASE PRINT

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| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 79
 DATE 1/22/91 SPONSOR(S) Rep. Linda Nelson

PLEASE PRINT

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| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|------------------|--|------|--------|---------|
| DOLORES COLBURG | COMMISSIONER OF POLITICAL PRACTICES | HB79 | | X |
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 138
 DATE 1/22/91 SPONSOR(S) Rep Mary Lou Peterson

PLEASE PRINT

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| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|---|-----------------------------------|------|--------|---------|
| TED Huber 20 S. 16 th Helena | Dept of Justice - APCO | 138 | | X |
| ES Hall Helena | MBCC | 138 | | ✓ |
| James Day Helena | citizen/inspector | 138 | | X |
| LARRY PETERSEN Helena | Dept Admin | 138 | | X |
| Midge Warrington - GT Falls | APCO Training | 138 | | X |
| Shirley Gustin | MBCC | 138 | | X |
| Lyle Nagel | Mont. St. Vol. Fire Fighters Assn | 138 | | X |
| ERVIN DAVIS | SELF | 138 | | X |
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 158
 DATE 1/22/91 SPONSOR(S) Rep. David Wenzelried

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|-------------------|-----------------------|-------|--------|---------|
| LINDA KING - PERD | Public Employ. Ret Bd | HB158 | | ✓ |
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